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COMMISSION

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**COMMISSION REGULATION (EU) .../...**

**of **XXX****

**amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards the prohibition to feed non-ruminant farmed animals, other than fur animals, with protein derived from animals**

(Text with EEA relevance)

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

# COMMISSION REGULATION (EU) .../...

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies <sup>1</sup>, and in particular the first paragraph of Article 23 thereof,

Whereas:

- (1) Regulation (EC) No 999/2001 lays down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs). It applies to the production and placing on the market of live animals and products of animal origin and in certain specific cases to exports thereof.
- (2) Article 7(1) of Regulation (EC) No 999/2001 prohibits the feeding to ruminants of protein derived from animals. Article 7(2) of that Regulation extends that prohibition to animals other than ruminants, as laid down in Annex IV, Chapter I, while Chapters II to V set out and detail certain derogations to the prohibitions provided for in Chapter I under specific conditions.
- (3) The Communication from the Commission to the European Parliament and the Council of a Strategy paper on TSEs for 2010-2015 ('the TSE Road Map 2') <sup>2</sup> outlines possible amendments to Union legislation to align the TSE's prevention, control and eradication measures with the evolution of the epidemiological situation on Bovine Spongiform Encephalopathy (BSE). It also emphasises that any review of the TSE rules should be primarily driven by scientific advice. The TSE Road Map 2 addresses the revision of the current feed ban provisions for non-ruminant animals laid down in Union legislation.
- (4) Based on the contents of two scientific opinions issued by the Panel on Biological Hazards (BIOHAZ) of the European Food Safety Authority ('the Authority') on 24 January 2007 and on 17 November 2007 respectively, the TSE Road Map 2 acknowledges that no TSE have been identified as occurring in non-ruminant farmed animals under natural conditions.
- (5) On 7 June 2018, the Authority adopted a scientific opinion on the revision of the quantitative risk assessment (QRA) of the BSE risk posed by processed animal

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<sup>1</sup> OJ L 147, 31.5.2001, p. 1.

<sup>2</sup> COM/2010/0384 final, 16.7.2010.

proteins <sup>3</sup>. The QRA estimated a total BSE infectivity four times lower than that estimated in 2011, with less than one new case of BSE expected to arise each year.

- (6) On 22 September 2020, the Authority adopted a scientific opinion on the potential cattle BSE risk posed by the use of ruminant collagen and gelatine in feed for non-ruminant farmed animals <sup>4</sup>. The Authority concludes that the probability that no new case of BSE in the cattle population would be generated through any of the three risk pathways identified in that opinion is larger than 99% (almost certain).
- (7) At the same time, an estimated 100 000 tonnes of former foodstuffs containing ruminant collagen and/or gelatine go yearly for disposal in the Union, since they cannot be used in the feed of farmed animals under the current feed ban rules.
- (8) The prohibition to feed non-ruminant farmed animals with collagen and gelatine of ruminant origin should therefore be repealed.
- (9) Article 11 of Regulation (EC) No 1069/2009 of the European Parliament and of the Council <sup>5</sup>, prohibits the feeding of terrestrial animals of a given species other than fur animals with processed animal protein from the bodies or parts of bodies of animals of the same species (intra-species recycling).
- (10) The TSE Road Map 2 also acknowledges that the transmission risk of BSE from non-ruminants to non-ruminants is negligible as long as intra-species recycling is avoided. Consequently, it concludes that a lifting of the ban on the use of processed animal protein from non-ruminants in non-ruminant feed, respecting the existing prohibition on intra-species recycling, could be considered.
- (11) On 29 November 2010, the Council adopted conclusions on the TSE Road Map 2 <sup>6</sup>. Those conclusions consider that it should be a prerequisite of any possible reintroduction of the use of non-ruminant processed animal protein to feed for other non-ruminant species that effective and validated analytical techniques are available to distinguish between processed animal protein originating from different species and also that there has been an analysis of the risks of such reintroduction, regarding animal and public health.
- (12) The European Union Reference Laboratory for Animal Proteins in feeding stuffs (EURL- AP) validated in 2012 a new diagnostic DNA-based method (PCR) which is able to detect ruminant material that may be present in feed. The validation of this method permitted the re-authorisation in 2013 of the use of non-ruminant processed animal protein in feed for aquaculture animals as set out in Commission Regulation (EU) No 56/2013 <sup>7</sup>.
- (13) Subsequently, in 2015 and 2018 respectively, PCR methods able to detect the presence of porcine or poultry material in feed were also validated by the EURL-AP. Therefore, they enable the control of the correct implementation of the prohibition on intra-species recycling in porcine animals and poultry.

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<sup>3</sup> <https://efsa.onlinelibrary.wiley.com/doi/full/10.2903/j.efsa.2018.5314>

<sup>4</sup> <https://efsa.onlinelibrary.wiley.com/doi/full/10.2903/j.efsa.2020.6267>

<sup>5</sup> Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009, laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (OJ L 300, 14.11.2009, p. 1).

<sup>6</sup> <http://register.consilium.europa.eu/pdf/en/10/st13/st13889-ad01re01.en10.pdf>

<sup>7</sup> Commission Regulation (EU) No 56/2013 of 16 January 2013 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 21, 24.1.2013, p. 3).

- (14) The Report from the Commission to the Council and the European Parliament on the development of plant proteins in the European Union <sup>8</sup>, published on 22 November 2018, highlights the need to reduce the Union dependence on third countries for its protein supply. From the nutritional point of view, processed animal proteins are an excellent feed material, with high concentration of highly digestible nutrients such as amino acids and phosphorous, and a high content in vitamins. Re-authorisation of processed animal proteins from non-ruminant origin in non-ruminant animals would reduce this dependence on third countries' protein.
- (15) The use of processed animal protein of porcine origin in poultry feed and of processed animal protein of poultry origin in the feed of porcine animals should be re-authorised. Strict requirements during the collection, transport and processing of those products should apply, and regular sampling and analysis be performed, in order to avoid any risk and contribute to the verification of the absence of cross-contamination with prohibited ruminant protein and intra-species recycling.
- (16) Commission Regulation (EU) 2017/893 <sup>9</sup> authorised the use of processed animal protein derived from insects and compound feed containing such processed animal protein for feeding aquaculture animals. Poultry are insectivorous animals, porcine animals are omnivorous, and there are no concerns with this feed material. As a consequence, processed animal protein derived from insects should be authorised to feed poultry and porcine animals, under the same conditions as required for feeding aquaculture animals.
- (17) Annex IV to Regulation (EC) No 999/2001 should therefore be amended accordingly.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex IV to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

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<sup>(8)</sup> [https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/plants\\_and\\_plant\\_products/documents/report-plant-proteins-com2018-757-final\\_en.pdf](https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/plants_and_plant_products/documents/report-plant-proteins-com2018-757-final_en.pdf)

<sup>(9)</sup> Commission Regulation (EU) 2017/893 of 24 May 2017 amending Annexes I and IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council and Annexes X, XIV and XV to Commission Regulation (EU) No 142/2011 as regards the provisions on processed animal protein (OJ L 138, 25.5.2017, p. 92).

Done at Brussels,

*The President*  
*Ursula VON DER LEYEN*

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