

COMMISSION REGULATION (EC) No 223/2003**of 5 February 2003****on labelling requirements related to the organic production method for feedingstuffs, compound feedingstuffs and feed materials and amending Council Regulation (EEC) No 2092/91****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 473/2002 ⁽²⁾, and in particular Article 1(3) and the second indent of Article 13 thereof,

Whereas:

- (1) Under Article 1(3) of Regulation (EEC) No 2092/91 a Regulation must be adopted providing for labelling requirements as well as inspection requirements and precautionary measures for feedingstuffs, compound feedingstuffs and feed materials, as far as these requirements are related to the organic production method.
- (2) The petfood market and the market in feed for fur animals are separate from the market in feedingstuffs for other farmed livestock. Moreover, the labelling, production and inspection rules provided for in Articles 5, 6, 8 and 9 respectively of Regulation (EEC) No 2092/91 do not apply to aquaculture animals or aquaculture products. This Regulation should therefore apply only to feedingstuffs for organically-reared livestock, excluding petfood, feed for fur animals and feed for aquaculture animals.
- (3) The specific measures on labelling feedingstuffs for organically-reared livestock must allow producers to identify feed that may be used in accordance with the provisions on the organic production method. The indication referring to the organic production method should not be presented in a way that draws more attention to it than to the description or the name of the feedingstuff referred to respectively in Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs ⁽³⁾, as last amended by Directive 2002/2/EC of the European Parliament and of the Council ⁽⁴⁾, and in Council Directive 96/25/EC of 29 April 1996 on the circulation and use of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC ⁽⁵⁾, as last amended by Directive 2001/46/EC of the European Parliament and of the Council ⁽⁶⁾.

- (4) The percentage of organically-produced feed materials, the percentage of in-conversion products and the total percentage of feedingstuffs of agricultural origin should moreover be indicated by weight of dry matter so that producers may comply with the daily rationing rules laid down in Part B of Annex I to Regulation (EEC) No 2092/91. Part B of Annex I to that Regulation should therefore be amended also.
- (5) A number of trade marks of products intended for animal feed which do not meet the requirements of Regulation (EEC) No 2092/91 carry indications which may be considered by operators to be a reference to the organic production method. Provision should be made for a transitional period to allow holders of those trade marks to adapt to the new rules. However, this transitional period should be granted only to trade marks bearing the above indications where an application for registration was made before the publication of Council Regulation (EC) No 1804/1999 of 19 July 1999 supplementing Regulation (EEC) No 2092/91 to include livestock production ⁽⁷⁾, and where the operator has been duly informed of the fact that the products have not been produced by the organic production method.
- (6) The minimum inspection requirements and precautionary measures applicable to units preparing feedingstuffs require the implementation of special measures, which should be incorporated into Annex III to Regulation (EEC) No 2092/91.
- (7) The principle of separating all equipment used in units preparing organic compound feedingstuffs from equipment used in the same unit for conventional compound feedingstuffs is considered to be an effective means of preventing the presence of products and substances not allowed by the organic production method. That principle should hence be incorporated as a provision into Annex III to Regulation (EEC) No 2092/91. The immediate implementation of that provision however is assumed to have an important economic impact on the compound feedingstuffs industry in several Member States and consequently on the organic farming sector. For that reason, and in order to allow the organic sector

⁽¹⁾ OJ L 198, 22.7.1991, p. 1.

⁽²⁾ OJ L 75, 16.3.2002, p. 21.

⁽³⁾ OJ L 86, 6.4.1979, p. 30.

⁽⁴⁾ OJ L 63, 6.3.2002, p. 23.

⁽⁵⁾ OJ L 125, 23.5.1996, p. 35.

⁽⁶⁾ OJ L 234, 1.9.2001, p. 55.

⁽⁷⁾ OJ L 222, 24.8.1999, p. 1.

to adapt to the new requirements of separated production lines, a possibility of derogation to this provision should be foreseen for a period of five years. Moreover, this issue has to be re-examined thoroughly in the near future on the basis of further information and experience gained.

- (8) Regulation (EEC) No 2092/91 should therefore be amended.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 14 of Regulation (EEC) No 2092/91,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to the feedingstuffs, compound feed and feed materials referred to in Article 1(1)(c) of Regulation (EEC) No 2092/91, where these products carry or are intended to carry references to the organic production method. This Regulation shall not apply to pet foods, feed for fur animals or feed for aquaculture animals.

Article 2

For the purpose of this Regulation, the definitions laid down in Article 4 of Regulation (EEC) No 2092/91 shall apply.

In addition:

1. 'feed materials from the organic production method' shall mean organically-produced feed materials or prepared from such materials,
2. 'feed materials from products in conversion to organic farming' shall mean in-conversion feed materials or products prepared from such materials.

Article 3

1. The labelling, advertising and commercial documentation relating to the products referred to in Article 1 may refer to organic production methods only where:

- (a) the products have been produced, prepared or imported by an operator who is subject to the inspection measures laid down in Articles 8 and 9 of Regulation (EEC) No 2092/91;
- (b) the products and the materials of which they are composed and any other substance used in the preparation of those products have not been subjected to treatments involving the use of ionising radiation;
- (c) the conditions referred to in points 4.12, 4.13, 4.14, 4.16, 4.17 and 4.18 of Part B of Annex I to Regulation (EEC) No 2092/91 are met as required;

- (d) feed materials from the organic production method do not enter simultaneously with the same feed materials produced by conventional means into the composition of the product;
- (e) feed materials from products in conversion to organic farming do not enter simultaneously with the same feed materials produced by conventional means into the composition of the product.

2. Without prejudice to Articles 4 and 5, the reference to the organic production method referred to in paragraph 1 shall be made solely by the following indication:

- (a) 'organically-produced', where at least 95 % of the product's dry matter is comprised of organically-produced feed material(s);
- (b) 'may be used in organic production in accordance with Regulation (EEC) No 2092/91' in the case of products comprising variable quantities of feed materials from the organic production method and/or feed materials from products in conversion to organic farming and/or conventional materials.

Article 4

1. The indication referred to in Article 3(2):

- (a) must be separate from the wording referred to in Article 5 of Directive 79/373/EEC or in Article 5(1) of Directive 96/25/EC;
- (b) must not be presented in a colour, format or character font that draws more attention to it than to the description or name of the animal feedingstuff referred to in Article 5(1)(a) of Directive 79/373/EEC or Article 5(1)(b) of Directive 96/25/EC respectively;
- (c) must be accompanied, in the same field of vision, by an indication by weight of dry matter referring:
 - (i) to the percentage of feed material(s) from the organic production method,
 - (ii) to the percentage of feed material(s) from products in conversion to organic farming,
 - (iii) to the total percentage of animal feed of agricultural origin,
- (d) must be accompanied by the name and/or the code number of the inspection body or authority to which the operator who carried out the final preparation is subject;
- (e) must be accompanied by a list of names of feed materials from the organic production method;
- (f) must be accompanied by a list of names of feed materials from products in conversion to organic farming.

2. The indication referred to in Article 3(2) may be also accompanied by a reference to the requirement to use the feedingstuffs in accordance with the rules laid down in Part B of Annex I to Regulation (EEC) No 2092/91 on the composition of daily rations.

3. Member States shall decide on the name and/or code number for the inspection body or authority referred to in paragraph 1(d) and shall notify the Commission accordingly.

Article 5

The trade marks and sales descriptions bearing an indication referred to in Article 2 of Regulation (EEC) No 2092/91 may be used only if at least 95 % of the product's dry matter is comprised of feed material from the organic production method.

Article 6

Notwithstanding Articles 3, 4 and 5, the trade marks bearing an indication referred to in Article 2 of Regulation (EEC) No 2092/91 may still be used until 1 July 2006 in the labelling

and advertising of the products referred to in Article 1 which do not comply with this Regulation if the following conditions are met.

- (a) registration of the trade mark was applied for before 24 August 1999 and the trade mark is in conformity with Council Directive 89/104/EEC ⁽¹⁾; and
- (b) the trade mark is already reproduced with a clear, prominent, and easily readable indication that the products are not produced according to the organic production method as laid down in Regulation (EEC) No 2092/91.

Article 7

Part B of Annex I and Annex III to Regulation (EEC) No 2092/91 are amended in accordance with the Annex hereto.

Article 8

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 6 August 2003.

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

Done at Brussels, 5 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 40, 11.2.1989, p. 1.

ANNEX

1. The following sentence is added at the end of point 4.4 of Part B of Annex I to Regulation (EEC) No 2092/91:
'These figures shall be expressed as a percentage of the dry matter of feedingstuffs of agricultural origin.'
2. Annex III to Regulation (EEC) No 2092/91 is amended as follows.
 - 2.1. The text of Point 2 of the General Provisions is replaced by the following:
'the operators already in activity at the date mentioned in Article 2 of Regulation (EC) No 2491/2001 shall also be subject to the provisions referred to in point 3 and to the initial inspection provisions foreseen in sections A, B, C, D and E of the specific provisions of this Annex.'
 - 2.2. The text of Point 4 of the General Provisions is replaced by the following:
'the operator responsible must notify any change in the description or of the practical measures referred to in point 3 and in the initial inspection provisions foreseen in sections A, B, C, D and E of the specific provisions of this Annex to the inspection body or authority in due time.'
 - 2.3. The following words are added after 'Article 11' in the first indent of the third subparagraph of point 3 of the General Provisions:
'and/or Regulation (EC) No 223/2003'
 - 2.4. The following is added at the end of the second indent of point 6 of the General Provisions:
'and, where relevant, the composition of the compound feedingstuffs.'
 - 2.5. Point 7(b) of the General Provisions is replaced by the following:
'the name of the product or a description of the compound feedingstuff accompanied by a reference to the organic production method in accordance with, as applicable, Article 5 of this Regulation or Article 3 of Regulation (EC) No 223/2003.'
 - 2.6. The title of Part C of the Specific Provisions is replaced by the following:
'C. Imports of plants, plant products, livestock, livestock products and foodstuffs comprising plant and/or livestock products, animal feedingstuffs, compound feedingstuffs and feed materials from third countries.'
 - 2.7. The following part E is inserted:
'E — UNITS PREPARING ANIMAL FEEDINGSTUFFS, COMPOUND FEEDINGSTUFFS AND FEED MATERIALS

This section applies to any unit involved in the preparation, as defined in Article 4 point 3 of products referred to in Article 1(1)(c) on its own account or on behalf of a third party.

1. INITIAL INSPECTION

The full description of the unit referred to under point 3 of the General Provisions of this Annex must:

- indicate the facilities used for the reception, preparation and storage of the products intended for animal feed before and after the operations concerning them,
- indicate the facilities used for the storage of other products used to prepare feedingstuffs,
- indicate the facilities used to store products for cleaning and disinfection,
- indicate, where necessary, the description of the compound feedingstuff that the operator intends to produce, in accordance with Article 5(1)(a) of Directive 79/373/EEC, and the livestock species or class for which the compound feedingstuff is intended,
- indicate, where necessary, the name of the feed materials that the operator intends to prepare.

The measures to be taken by operators, referred to in point 3 of the General Provisions of this Annex, to guarantee compliance with this Regulation must include:

- in particular an indication of the precautionary measures to be taken in order to reduce the risk of contamination by unauthorised substances or products, the cleaning measures implemented and the monitoring of their effectiveness,
- identification of all elements of their activities crucial for guaranteeing at all times that the products referred to in Article 1(1)(c) prepared in such units comply with this Regulation and with Regulation (EC) No 223/2003,
- the establishment and implementation of, compliance with and updating of appropriate procedures, based on the principles of the HACCP (Hazard Analysis and Critical Control Points) system.

The inspection body or authority shall use these procedures to carry out a general evaluation of the risks attendant on each preparation unit and to draw up an inspection plan. This inspection plan must provide for a minimum number of random samples depending on the potential risks.

2. Documentary accounts

For the purposes of proper inspection of the operations, the documentary accounts referred to in point 6 of the General Provisions of this Annex shall include information on the origin, nature and quantities of feed materials, additives, sales and finished products.

3. Preparation units

When preparing products, operators must ensure that:

- (a) organically-produced feedingstuffs or feedingstuffs derived therefrom, in-conversion feedingstuffs or feedingstuffs derived therefrom, and conventional feedingstuffs are effectively physically separated;
- (b) all equipment used in units preparing compound feedingstuffs covered by this Regulation is completely separated from equipment used for compound feedingstuffs not covered by this Regulation.

Notwithstanding the provisions of point (b) of the first subparagraph, until 31 December 2007, operations may take place using the same equipment provided that:

- separation in terms of time is guaranteed and suitable cleaning measures, the effectiveness of which has been checked, have been carried out before commencing preparation of the products covered by this Regulation; operators must record these operations,
- operators must ensure that all appropriate measures are implemented, depending on the risks evaluated in accordance with point 1, and, where necessary, guarantee that products which do not conform to this Regulation cannot be placed on the market with an indication referring to organic farming.

The derogation provided for in the second subparagraph is subject to prior authorisation by the inspection body or authority. Such authorisation might be provided for one or more preparation operation(s).

The Commission will start to examine the provisions of point (b) of the first subparagraph before 31 December 2003. Account being taken from that examination, the date of 31 December 2007 may be revised if necessary.

4. Inspection visits

In addition to the complete annual visit, the inspection body or authority must make targeted visits based on a general evaluation of the potential risks of non-compliance with this Regulation; the inspection body or authority shall pay particular attention to the critical control points pointed out for the operator, with a view to establishing whether the surveillance and checking operations are carried out as they should be. All the premises used by the operator for the conduct of his activities may be inspected as frequently as the attendant risks warrant.

5. Transporting products to other production/preparation units or storage premises

Operators must ensure that the following conditions are met:

- (a) during transport, organically-produced feedingstuffs or feedingstuffs derived therefrom, in-conversion feedingstuffs or feedingstuffs derived therefrom, and conventional feedingstuffs must be effectively physically separated;
- (b) the vehicles and/or containers which have transported products that are not covered by this Regulation may be used to transport products covered by this Regulation if:
 - suitable cleaning measures, the effectiveness of which has been checked, have been carried out before commencing the transport of products covered by this Regulation; operators must record these operations,
 - operators must ensure that all appropriate measures are implemented, depending on the risks evaluated in accordance with point 1, and, where necessary, guarantee that products which do not conform to this Regulation cannot be placed on the market with an indication referring to organic farming,
 - the inspection body or authority of the operator has been informed of such transport operations and has agreed thereto. Such agreement might be provided for one or more transport operation(s);
- (c) the finished products referred to in this Regulation are transported separately from other finished products physically or in time;
- (d) during transport, the quantity of products at the start and each individual quantity delivered in the course of a delivery round must be recorded.

6. Receipt of products

On receipt of a product referred to in Article 1, operators must check the closure of the packaging or container where it is required and the presence of the indications referred to in point 7 of the General Provisions of this Annex. Operators must carry out a cross-check of the information on the label referred to in point 7 of the General Provisions against the information on the accompanying documents. The results of this verification must be explicitly mentioned in the accounts referred to in point 6 of the General Provisions.'
