

COMMISSION REGULATION (EC) No 37/2005

of 12 January 2005

on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption⁽¹⁾, and in particular Article 11 thereof,

Whereas:

- (1) Commission Directive 92/1/EEC of 13 January 1992 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption⁽²⁾ provides requirements in order to ensure that temperatures required by Directive 89/108/EEC are fully maintained.
- (2) When Commission Directive 92/1/EEC was adopted, no European standard for instruments for monitoring temperatures in means of transport, warehousing and storage of quick-frozen foodstuffs had been established.
- (3) The European Committee for Standardisation established standards regarding the instruments for recording air temperatures and thermometers in 1999 and 2001. The use of those uniform standards would ensure that the equipment used for monitoring temperatures of foodstuffs complies with a harmonised set of technical requirements.
- (4) In order to facilitate a gradual application of those measures by operators, the use of measuring instruments installed according to legislation in force before the adoption of this Regulation should be allowed during a transitional period.
- (5) Commission Directive 92/1/EEC provides for a derogation as regards transport of quick-frozen foodstuffs by rail. This derogation is no longer justified and should be terminated after a transitional period.
- (6) The imposition of temperature-recording requirements on small equipment used in retail trade would be excessive and therefore the existing derogations for

retail display cabinets and small cold chambers used in retail outlets for storing stocks should be maintained.

- (7) It is advisable to ensure the direct applicability of the new standards for measuring equipment and of the technical rules already contained in Directive 92/1/EEC. In the interest of consistency and uniformity of Community legislation it is appropriate to repeal Directive 92/1/EEC and replace it by this Regulation.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation concerns the monitoring of the temperature in the means of transport, warehousing and storage used for quick-frozen foodstuffs.

Article 2

Monitoring and recording of the temperature

1. The means of transport, warehousing and storage of quick-frozen foodstuffs shall be fitted with suitable recording instruments to monitor, at frequent and regular intervals, the air temperature to which the quick-frozen foodstuffs are subjected.

2. From 1 January 2006, all measuring instruments used for the purpose of monitoring the temperature, as provided for in paragraph 1, shall comply with EN 12830, EN 13485 and EN 13486 standards. Food operators shall keep all relevant documents permitting verification that the instruments referred to above conform to the relevant EN standard.

However, measuring instruments installed up to 31 December 2005, according to legislation in force before the adoption of this Regulation, may continue to be used until 31 December 2009 at the latest.

3. Temperature recording shall be dated and stored by the food operator for a period of at least one year, or for a longer period taking into account the nature and the shelf life of the quick-frozen foodstuffs.

⁽¹⁾ OJ L 40, 11.2.1989, p. 34. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 34, 11.2.1992, p. 30.

*Article 3***Derogations from Article 2**

1. By way of derogation from Article 2, the air temperature during storage in retail display cabinets, and in the course of local distribution, shall only be measured by at least one easily visible thermometer.

In the case of open retail cabinets:

- (a) the maximum load line of the cabinet shall be clearly marked;
- (b) the thermometer shall indicate the temperature at the air return side at the level of that mark.

2. The competent authority may grant derogations from the requirement laid down in Article 2 in the case of cold store facilities of less than 10 m³ for storing stock in retail outlets, so

as to permit the air temperature to be measured by an easily visible thermometer.

*Article 4***Repeal**

Commission Directive 92/1/EEC is repealed.

*Article 5***Entry into force and applicability**

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

However, for transport by rail it shall apply from 1 January 2006.

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

Done at Brussels, 12 January 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission
