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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 392/2004

of 24 February 2004

amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto in agricultural products and foodstuffs

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) Regulation (EEC) No 2092/91 [2] provides for a harmonised framework for the labelling, production and inspection of agricultural products, which bear or are intended to bear indications referring to the organic production method.

(2) Regulation (EEC) No 2092/91 also provides for Community-wide protection of certain terms used to indicate to consumers that a food or feed product, or its ingredients, are obtained in accordance with the organic production method laid down in that Regulation. That protection also applies to the usual derivatives or diminutives of those terms, whether they are used alone or combined, and independently of which language is used. In order to remove any possibility of misinterpretation as regards the scope of the protection it is appropriate to amend that Regulation correspondingly.

(3) Regulation (EEC) No 2092/91 also provides that operators producing, preparing or importing products from third countries, which fall within the scope of that Regulation are subject to an inspection system. In recent years, some products bearing indications referring to the organic production method have been placed on the market without complying with Regulation (EEC) No 2092/91. Moreover, contamination with herbicides has occurred recently during the storage of products from organic farming. It is therefore necessary to reinforce the inspection system and to submit to the inspection system all operators throughout the production and the preparation process.

(4) In conformity with the principle of a risk-based approach, it might appear in some cases disproportionate to apply notification and inspection requirements to certain types of retail operators. It is therefore appropriate to provide for the possibility for Member States to exempt such operators from those requirements.

(5) For the purpose of respecting the obligation of professional secrecy, the inspection authorities and bodies are required not to disclose information and data they obtain in their inspection activity. However, the exchange of information should be possible between inspection authorities and bodies in order to improve traceability and to guarantee compliance with Regulation (EEC) No 2092/91 throughout the production and preparation process.

(6) Since the Community logo indicating that products are covered by the specific inspection scheme may be used for products imported from third countries, it is appropriate to provide, for reasons of clarity, that equivalent inspection requirements are to be applied to those products.

(7) It is appropriate to provide for a deferred date of application of the new notification and inspection requirements in order to allow for the necessary adjustments, in particular in the Member States where no such requirements currently exist. This should be without prejudice to such inspection requirements which already exist at national level.

(8) Regulation (EEC) No 2092/91 should therefore be amended accordingly,

[1] Opinion delivered on 4 December 2003 (not yet published in the Official Journal).

[2] OJ L 198, 22.7.1991, p. 1. Regulation last amended by Commission Regulation (EC) No 2277/2003 (OJ L 336, 23.12.2003, p. 68).