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COMMISSION REGULATION (EC) No 473/2002

of 15 March 2002

amending Annexes I, II and VI to Council Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs, and laying down detailed rules as regards the transmission of information on the use of copper compounds

(OJ L 75, 16.3.2002, p. 21)

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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 2491/2001 ⁽²⁾, and in particular the first and second indents of Article 13 thereof,

Whereas:

- (1) It is necessary to define more precisely the time at which the conversion period is started in principle and to define the conditions which need to be satisfied in order to recognise retroactively a period before the start, as being part of the conversion period.
- (2) In exceptional circumstances, such as the outbreak of infectious diseases, accidental contaminations or natural phenomena, the stockbreeders can afford difficulties in obtaining supply of feedingstuffs of organic origin and an authorisation has to be granted, on temporary basis and in a limited way, by the competent authority of the Member State, in view of the use of feedingstuffs not originating from organic farming.
- (3) Part A of Annex II, on fertilisers and soil conditioners, provides for the possibility of using composted household waste during a provisional period expiring on 31 March 2002 only. The use of composted household waste meets a real need in certain Member States, and this product is strictly regulated as regards the origin of the waste, the operation of the collection system, which must have been accepted by the Member State, and the maximum content of heavy metals, without prejudice to any other requirements for use of such product in general agriculture. These requirements may need to be reconsidered in the framework of new common legislation of household wastes. The current authorisation can therefore be prolonged for a limited period of four years.
- (4) Pyrethroids (deltamethrin and lambda-cyhalothrin) are used in organic farming only in traps and their use thus meets the criteria of Article 7(1) of Regulation (EEC) No 2092/91. The use of these substances has been shown to meet a real need in certain crops and should therefore be authorised for an indefinite period.
- (5) Germany has asked that ferric phosphate be included in Annex II to Regulation (EEC) No 2092/91 so that it can be used as a molluscicide in organic agriculture. Having examined this request, the conditions laid down in Article 7(1) of that Regulation have been found being satisfied. Moreover, ferric phosphate was recently evaluated for compliance with the criteria on human health and the environment under Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Commission

⁽¹⁾ OJ L 198, 22.7.1991, p. 1.

⁽²⁾ OJ L 337, 20.12.2001, p. 9.

⁽³⁾ OJ L 230, 19.8.1991, p. 1.

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Directive 2002/18/EC ⁽¹⁾. This product should accordingly be added to Annex II, Part B.

- (6) Metaldehyde is authorised for use as a molluscicide in organic farming for a period expiring on 31 March 2002. This period should be extended for a limited transitional period of 4 years which would permit to replace, in the Member States, metaldehyde as molluscicide by iron (III) orthophosphate.
- (7) The use of copper in the form of copper hydroxide, copper oxychloride, (tribasic) copper sulphate and cuprous oxide and the use of mineral oils as fungicides are considered to be traditional organic farming practices in accordance with the provisions of Article 7(1a) of Regulation (EEC) No 2092/91. It has appeared that these substances are, at this point of time, indispensable to the cultivation of various crops and that only by increased research efforts it will be possible to find on medium or long term appropriate alternative solutions. Therefore, these substances should be authorised for the time being. This authorisation will be reviewed in the light of new developments and evidence with regard to available alternatives.
- (8) The use of copper in the forms referred to above may have long-term consequences due to its accumulation in the soil, which appears incompatible with organic farming's objective of environmentally friendly farming. The conditions for using copper should therefore be restricted by fixing a ceiling on use expressed in terms of kilograms of copper per hectare per year. This ceiling should start at the level of 8 kg copper per ha, and should after a limited transitional period of four years be reduced to 6 kg copper per ha, unless it would be demonstrated that for certain crops such lower ceiling is not efficacious. Member States should have the possibility to apply this ceiling on an average basis over a period of five years. Member States making use of this possibility should report on the implementation of this measure and on the quantities effectively used, in view of a possible review of this regime where necessary.
- (9) Extension of the period of use of plant protection products by this Regulation is without prejudice to the decisions taken on the use of these products in agriculture in general as part of the review programme provided for in Article 8(2) of Directive 91/414/EEC. The Commission has presented to Council and Parliament the report provided in Article 8(2) for examination. The deadlines set in this regulation will be reviewed without delay if this is necessary in the light of the conclusions of the examination of the report.
- (10) Under Article 5 of Regulation (EEC) No 2092/91 the labelling and advertising of a product may refer to organic production methods only where the product or its ingredients of agricultural origin have not been subjected to treatments involving the use of substances not listed in Section B of Annex VI. However, sodium hydroxide is listed in that Annex for use in the production of oil from rapeseed (*Brassica* spp.) during a period expiring on 31 March 2002 only. The use of this substance has been shown to meet a real need in the production of certain types of organic rapeseed oil used in foodstuffs. Therefore, the use of this product shall be authorised for an indefinite period.
- (11) Commission Regulation (EEC) No 207/93 ⁽²⁾, as last amended by Regulation (EC) No 2020/2000 ⁽³⁾ has defined the content of Annex VI to Regulation (EEC) No 2092/91 and established the implementation conditions of Article 5(4) of this Regulation. The Member States have asked for the inclusion in Annex VI, part C, of animal casings; after examination it has been established that the request for inclusion satisfies the requirements of

⁽¹⁾ OJ L 55, 26.2.2002, p. 29.

⁽²⁾ OJ L 25, 2.2.1993, p. 5.

⁽³⁾ OJ L 241, 26.9.2000, p. 39.

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Article 5(4) of Regulation (EEC) No 2092/91 and of Article 3(4) of Regulation (EEC) No 207/93.

- (12) 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

Annexes I, II and VI to Regulation (EEC) No 2092/91 are amended in accordance with the Annex to this Regulation.

Article 2

Where a Member State decides to implement the derogation provided for the maximum levels of copper compounds in Annex II, part B, of Regulation (EEC) No 2092/91, the following shall be communicated to the Commission and the other Member States:

- before 30 June 2002, information on the measures taken to implement this provision and to ensure its compliance, in particular at the level of individual holdings,
- before 31 December 2004, a report on the implementation and on the results of these measures, in particular the quantities actually required in each cultivation period since the entering into force of this provision.

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For the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the date referred to in the first indent of the first paragraph shall be 1 August 2004 and the date referred to in the second indent of the first paragraph shall be 31 December 2005.

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If necessary, the Commission shall take appropriate measures according to the procedure foreseen in Article 14 of Regulation (EEC) No 2092/91.

Article 3

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

However, the Member States may continue to apply the provisions of paragraph 1 of part A of Annex I to Regulation (EEC) No 2092/91, which were applicable before the entry into force of the present Regulation:

- for parcels for which the conversion period commenced before 31 December 2002,
- for all parcels which are part of a conversion plan, of a maximum duration of five years, agreed with the competent authorities and which commenced before 1 September 2002; this derogation does not apply for parcels added to the plan after its initial agreement.

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

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ANNEX

1. Annex I to Regulation (EEC) No 2092/91 is amended as follows:
 - 1.1. Paragraph 1 of part A of Annex I 'Plants and plant products' is replaced by the following:
 - 1.1.1. The principles laid down in Article 6(1)(a), (b) and (d) and set out in particular in this Annex must normally have been applied on the parcels during a conversion period of at least two years before sowing, or, in the case of grassland, at least two years before its exploitation as feedingstuff from organic farming, or, in the case of perennial crops other than grassland, at least three years before the first harvest of products as referred to in Article 1(1)(a). The conversion period shall commence at the earliest on the date on which the producer notified his activity in accordance with Article 8 and submitted his holding to the inspection system provided for in Article 9.
 - 1.2. However, the inspection authority or body may decide, in agreement with the competent authority, to recognise retroactively as being part of the conversion period any previous period in which:
 - (a) the land parcels were part of a programme implemented pursuant to Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (*) or Chapter VI of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations (**), or as part of another official programme, provided that the programmes concerned guarantee that products not listed in parts A and B of Annex II have not been used on those parcels; or
 - (b) the parcels were natural or agricultural areas which were not treated with products not listed in parts A and B of Annex II. This period can be taken into consideration retroactively only under the condition that satisfactory proof has been furnished to the inspection authority or body allowing it to satisfy itself that the conditions were met for a period of at least three years.
 - 1.3. The inspection authority or body may, with the approval of the competent authority, decide, in certain cases, to extend the conversion period beyond the period laid down in paragraph 1.1 having regard to previous parcel use.
 - 1.4. In the case of parcels which have already been converted to or were in the process of conversion to organic farming, and which are treated with a product not listed in Annex II, the Member State may reduce the length of the conversion period to less than the period laid down in paragraph 1.1 in the following two cases:
 - (a) parcels treated with a product not listed in part B of Annex II as part of a compulsory disease or pest control measure imposed by the competent authority of the Member State within its own territory or in certain parts thereof for a specific crop production;
 - (b) parcels treated with a product not listed in parts A or B of Annex II as part of scientific tests approved by the competent authority of the Member State.

In these cases the length of the conversion period shall be fixed taking into account all of the following points:

- the process of degradation of the plant protection product concerned must guarantee, at the end of the conversion period, an insignificant level of residues in the soil and, in the case of a perennial crop, in the plant,
- the harvest following the treatment may not be sold with reference to organic production methods,

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— the Member State concerned must inform the other Member States and the Commission of its decision to require compulsory treatment.

(*) OJ L 215, 30.7.1992, p. 85.

(**) OJ L 160, 26.6.1999, p. 80.

- 1.2. Part B 'Livestock and livestock products from the following species: bovine (including bubalus and bison species), porcine, ovine, caprine, equidae, poultry' is amended as follows:
- 1.2.1. The text of paragraph 4.9 is replaced by the following: 'By derogation from paragraph 4.8. when forage production is lost or when restrictions are imposed, in particular as a result of exceptional meteorological conditions, the outbreak of infectious diseases, the contamination with toxic substances, or as a consequence of fires, the competent authorities of the Member States can authorise for a limited period and in relation to a specific area, a higher percentage of conventional feedingstuffs where such authorisation is warranted. Upon approval by the competent authority, the inspection authority or body shall apply this derogation to individual operators. Member States will inform each other and the Commission on the derogations they have granted'.
- 1.2.2. In paragraph 7.4 the word 'exclusively' is included after the word 'cooperation'. 2. Annex II to Regulation (EEC) No 2092/91 is amended as follows:
- 2.1. Part A 'Fertilisers and soil conditioners' is amended as follows: In the table, the expiry date of '31 March 2002' for the use of composted or fermented household waste is replaced by '31 March 2006'.
- 2.2. Part B 'Pesticides' is amended as follows:
- 2.2.1. In table III 'Substances to be used only in traps and/or dispensers', the restriction on the use of pyrethroids for a period expiring on 31 March 2002 is deleted.
- 2.2.2. In table III 'Substances to be used only in traps and/or dispensers', the expiry date of '31 March 2002' for metaldehyde is replaced by '31 March 2006'.
- 2.2.3. In table IV 'Other substances from traditional use in organic farming', the provisions relating to copper are replaced by the following:

'Name	Description; compositional requirements; conditions for use
Copper in the form of copper hydroxide, copper oxychloride, (tribasic) copper sulphate, cuprous oxide	<p>Fungicide</p> <p>Until 31 December 2005 up to a maximum of 8 kg copper per hectare per year, and from 1 January 2006 up to 6 kg copper per ha per year, without prejudice to a more limited quantity if laid down under the specific terms of the general legislation on plant protection products in the Member State where the product is to be used</p> <p>For perennial crops, Member States may, by derogation to the previous paragraph, provide that the maximum levels apply as follows:</p> <ul style="list-style-type: none"> — the total maximum quantity used from 23 March 2002 until 31 December 2006 shall not exceed 38 kg copper per ha — from 1 January 2007, the maximum quantity which may be used each year per ha shall be calculated by subtracting the quantities actually used in the 4 preceding years from,

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'Name	Description; compositional requirements; conditions for use
	<p>respectively, 36, 34, 32 and 30 kg copper for the years 2007, 2008, 2009 and 2010 and following years</p> <p>Need recognised by the inspection body or inspection authority'</p>

2.2.4. In table IV 'Other substances from traditional use in organic farming', the restriction on the use of mineral oils for a period expiring on 31 March 2002 is deleted.

2.3. A new table IIIa entitled 'Preparations to be surface-spread between cultivated plants' is added, with the following content:

'Name	Description; compositional requirements; conditions for use
Iron (III) orthophosphate	Molluscicide'

3. Annex VI to Regulation (EEC) No 2092/91 is amended as follows:

3.1. Section B 'Processing aids and other products which may be used for processing of ingredients of agricultural origin from organic production, referred to in Article 5(3)(d) and Article 5(5a)(e) of Regulation (EEC) No 2092/91' is amended as follows: the restriction on the use of sodium hydroxide to a period expiring on 31 March 2002 is deleted.

3.2. In section C 'Ingredients of agricultural origin which have not been produced organically, referred to in Article 5(4) of Regulation (EEC) No 2092/91', the following is added to paragraph C.3: 'Casings, until 1 April 2004 only'.