COMMISSION DECISION

of 4 May 1995

establishing uniform criteria for the grant of derogations to certain establishments manufacturing milk-based products

(95/165/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products [1], as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 11 (2) thereof,

Whereas the Member States have sent the Commission, pursuant to the second subparagraph of Article 11 (1) of Directive 92/46/EEC, the information they considered appropriate for establishing uniform criteria for the grant of derogations to certain establishments manufacturing milk-based products;

Whereas, in view of the variety of milk-based products and manufacturing processes, the total quantity of milk used in a given year by an establishment to manufacture one or more milk-based products should be taken as a basis; whereas the criteria adopted reflect the limited nature of the production of an establishment;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The uniform criteria provided for in Article 11 (2) of Directive 92/46/EEC for the grant of derogations from Article 7 (A) (2) and Article 14 (2) of Directive 92/46/EEC to certain establishments manufacturing milk-based products are established in Annex A hereto. These derogations shall be granted only if they do not affect the hygienic conditions of production.

Article 2

The uniform criteria provided for in Article 11 (2) of Directive 92/46/EEC for the grant of derogations from Chapters I and V of Annex B to Directive 92/46/EEC to certain establishments manufacturing milk-based products are established in Annex B hereto. These derogations shall be granted only if they do not affect the hygienic conditions of production.

Article 3

This Decision shall apply from 1 January 1996.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 4 May 1995.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ No L 268, 14. 9. 1992, p. 1.

ANNEX A

Uniform criteria as provided for in Article 11 (2) of Directive 92/46/EEC for the grant of derogations from Articles 7 (A) (2) and 14 (2) of Directive 92/46/EEC to certain establishments manufacturing milk-based products

1. Establishments must hold documents which can be used to determine the quantity of milk processed by them during the previous year. They must be able to produce these documents for the competent authority to inspect.

2. Establishments must have processed during the previous year a quantity of milk of less than 500 000 litres or must give an undertaking in writing to the competent authority that the quantity processed annually will not exceed that amount.

3. Establishments must present to the competent authority an application in writing for a derogation as provided for in Article 11 of Directive 92/46/EEC. Without prejudice to specific information which the competent authority may wish to receive, applications must indicate :

   — the name and address of the establishments,

   — the quantity of milk processed by it during the year preceding that in which the application is made or an undertaking not to process a quantity in excess of 500 000 litres annually,

   — the nature of the documents which can be used to determine the quantity of milk processed by the establishment,

   — the type and quantity of milk-based products manufactured by the establishment during the year preceding that in which the application is made,

   — the type of derogations which the establishment would like to receive.

   Applications must, in addition, contain an undertaking to notify the competent authority immediately in writing where an establishment no longer satisfies the criterion in point 2 of this Annex.

ANNEX B

Uniform criteria as provided for in Article 11 (2) of Directive 92/46/EEC for the grant of derogations from Chapters I and V of Annex B to Directive 92/46/EEC to certain establishments manufacturing milk-based products

1. Establishments must hold documents which can be used to determine the quantity of milk processed by them during the previous year. They must be able to produce these documents for the competent authority to inspect.

2. Establishments must have processed during the previous year a quantity of milk of less than 2 million litres or must give an undertaking in writing to the competent authority that the quantity processed annually will not exceed that amount.

3. Establishments must present to the competent authority an application in writing for a derogation as provided for in Article 11 of Council Directive 92/46/EEC. Without prejudice to specific information which the competent authority may wish to receive, applications must indicate :

   — the name and address of the establishments,

   — the quantity of milk processed by it during the year preceding that in which the application is made or an undertaking not to process a quantity in excess of 2 million litres annually,

   — the nature of the documents which can be used to determine the quantity of milk processed by the establishment,

   — the type and quantity of milk-based products manufactured by the establishment during the year preceding that in which the application is made,

   — the type of derogations which the establishment would like to receive.

   Applications must, in addition, contain an undertaking to notify the competent authority immediately in writing where an establishment no longer satisfies the criterion in point 2 of this Annex.