COMMISSION REGULATION (EEC) No 1528/78

of 30 June 1978

laying down detailed rules for the application of the system of aid for dried fodder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1117/78 of 22 May 1978 on the common organization of the market in dried fodder [1], and in particular Article 6 (3) thereof,

Whereas when the average world market price for fodder dehydrated by artificial heat-drying is being determined, offers and quotations which are not considered to be representative of the real market trend should be disregarded;

Whereas provision should be made for adjusting the offers and quotations used to offset any differences by comparison with the presentation, the quality, the conditions or place of delivery for which the world market price must be determined;

Whereas for the application of Articles 2 and 3 of Council Regulation (EEC) No 1417/78 of 19 June 1978 on the aid system for dried fodder [2], provisions should be made for the necessary adjustments of the prices used;

Whereas a criterion should be established relating to the minimum frequency for fixing the supplementary aid; whereas it appears sufficient for the aid to be set at least once a month;

Whereas the trend for the forward prices to be used to calculate the corrective amount referred to in Article 11 of Regulation (EEC) No 1417/78 should be determined;

Whereas in the absence of offers of dehydrated fodder on the world market for the month during which the aid is to be applied, and for one or more of the following months, it is not possible to determine the trend of forward prices; whereas in consequence the pre-fixed aid should be fixed at zero for the month or months in question;

Whereas the period of validity of the supplementary aid certificates referred to in Article 10 of Regulation (EEC) No 1417/78 must be determined with due regard to the need to adapt the conditions of sale for fodder processed in the Community to those on the world market;

Whereas the said Article 10 makes the issue of the certificate subject to the lodging of a deposit which is forfeited if the fodder does not leave the undertaking during the period of validity of the certificate; whereas, to that end, the amount of the deposit should be fixed;

Whereas, having regard to the practice in the fodder trade, a certain tolerance should be allowed in respect of the quantity leaving the undertaking in comparison with that specified in the certificate;

Whereas to ensure uniform application of the aids system, the procedures for paying out the aids should be defined;

Whereas, having regard to the criteria laid down in Article 5 of Council Regulation (EEC) No 1417/78, the minimum quality prescribed for such products, expressed in terms of moisture and protein content, should be that recorded on the Community market; whereas, taking commercial practices into account, the moisture content should be differentiated according to the drying process used;

Whereas Article 13 of Regulation (EEC) No 1417/78 provides that Member States shall set up a supervisory system in order to verify, for each undertaking, whether the conditions set out in that Regulation have been complied with and whether the quantity of fodder in respect of which the aid is requested corresponds to the quantity of fodder of the minimum quality which had left the undertaking; whereas, consequently, the accounts of processing undertakings, declarations of area and applications for aid must include the minimum details necessary for such verification; whereas the other documentary evidence which may be required of processing undertakings for the purposes of such verification should also be indicated;

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[1] OJ No L 142, 30. 5. 1978, p. 1.
[2] OJ No L 171, 28. 6. 1978, p. 1.

Whereas, in order to ensure that such verification is effective, provision should be made to define the term 'processing undertaking' and also the date on which fodder is to be regarded as having left such plant; whereas, towards the same end, it should be laid down that any undertaking which produces both dehydrated and sun-dried fodder should carry out these activities on separate premises;

Whereas, in order to facilitate control of the entitlement to aid and so that Member States may know the estimated volume of production, provision should be made specifying a date by which contracts concluded between processing undertakings and farmers are to be lodged;

Whereas, in order to facilitate the marketing of fodder for processing, it should be provided that each contract must be concluded in writing and indicate in particular the date and term for which it is concluded and the names and addresses of the contracting parties;

Whereas this Regulation is intended to replace Commission Regulation (EEC) No 832/75 of 26 March 1975 laying down detailed rules for the application of the system of aid for dehydrated fodder [1], as amended by Regulation (EEC) No 1885/75 [2]; whereas this Regulation must therefore be repealed;

Whereas, in view of the delay to the starting date of the 1978/79 marketing year, the implementation at that date of the system provided for in this Regulation could meet with certain difficulties; whereas, to overcome those problems, the Member States should be authorized to take, for a limited period, measures derogating from those provided for in this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Dried Fodder,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the detailed rules for the application of the system of aid for dried fodder, set up by Regulation (EEC) No 1117/78.

World prices

Article 2

For the determination of the average world market price for fodder dehydrated by artificial heat-drying, the Commission shall take into account the offers and quotations:

- ascertained during the first 25 days of the month in question, and
- related to shipments which can be effected during the following calendar month.

The average world market price thus determined shall be used to fix the supplementary aid applicable for the following month.

Article 3

1. Where the average world market price is determined in accordance with Article 1 of Regulation (EEC) No 1417/78, and where the offers and quotations used relate to:

(a) products presented as meal, they shall be reduced by one unit of account per tonne of product;

(b) products presented otherwise than in bulk, they shall be adjusted be deducting the additional value resulting from that presentation;

(c) a quality other than the standard quality for which the guide price was fixed, they shall be adjusted by plus or minus 2 % for each point of protein less or more than the standard quality;

(d) products delivered c. and f., they shall be increased by 0·2 %, to take insurance costs into account;

(e) products delivered cif Regensburg, they shall be adjusted by four units of account per tonne of product;

(f) products delivered cif to any place other than Rotterdam or Regensburg, they shall be adjusted on the basis of transport and insurance costs;

(g) products delivered cif, they shall be increased by two units of account per tonne to take unloading and forwarding costs into account;

(h) products delivered fas, fob, or otherwise, they shall be increased, as appropriate, by loading, transport and insurance costs from the point of shipment or loading to the frontier crossing point.

2. For the purposes of applying paragraph 1, the Commission shall only take account of the loading, transport and insurance costs which to its knowledge are the lowest.

3. Where the average world market price is determined in accordance with Article 2 of Regulation (EEC) No 1417/78, the offers and quotations used are

- adjusted, as appropriate, in accordance with paragraph 1, except for the adjustment provided for in point (c), and
- increased by three units of account per tonne of products.

[1] OJ No L 79, 28. 3. 1975, p. 42.
[2] OJ No L 191, 24. 7. 1975, p. 26.

4. Where the average world market price is determined in accordance with Article 3 of Regulation (EEC) No 1417/78, the offers and quotations used :

— when they relate to products of Community origin, shall be adjusted to equate them with the stage 'delivered Rotterdam',

— when they relate to competitive products offered on the world market, shall refer in particular to soya cake with a total crude protein content of 44 %, and a moisture content of 11 %, and delivered Rotterdam.

The adjustments provided for in Article 3 of Commission Regulation (EEC) No 1526/78 of 30 June 1978 laying down detailed rules for the application of the special measures for peas and field beans used in the feeding of animals [1], shall apply, as appropriate, to the offers and quotations for soya cake.

Aid

Article 4

The Commission shall fix the amount of the supplementary aid for dried fodder once a month, and in such a way as to ensure that the aid is applied from the first day of the month following the date on which it is fixed.

Article 5

1. Where the average world market price is determined in accordance with Article 1 of Regulation (EEC) No 1417/78, the corrective amount referred to in Article 11 of that Regulation shall be equal to the difference between :

(a) the said average world market price, and

(b) the average forward world market price, determined by applying the criteria referred to in Article 1 of that Regulation, and valid for a shipment to be effected during a month other than that for which the supplementary aid is applied,

adjusted by the percentage fixed, under Article 5 (2) of Regulation (EEC) No 1117/78 for the product concerned.

2. If, however, the average forward world market price for one of the months following that for which the supplementary aid is applied, cannot be determined by applying the criteria referred to in Article 1 of Regulation (EEC) No 1417/78, the price determined for the preceding month shall be used to calculate the difference referred to in paragraph 1 above.

3. If the average forward world market prices for at least two consecutive months following that for which the supplementary aid is applied cannot be determined by applying the criteria referred to in Article 1 of Regulation (EEC) No 1417/78, the prices determined previously for those months, adjusted in accordance with the difference between the price referred to in paragraph 1 (a) and the last forward price determined for that month, shall be used to calculate the difference referred to in paragraph 1 and referring to each of the months in question.

Article 6

When the average world market price is determined in accordance with Articles 2 and 3 of Regulation (EEC) No 1417/78 :

(a) the corrective amount referred to in Article 11 of that Regulation shall be equal to the difference between :

— the said average world market price, and

— the average forward world market price, determined by applying the criteria referred to in Articles 1 and 2 of that Regulation and valid for a shipment to be effected during a month other than that for which the supplementary aid is applied,

adjusted by the percentage fixed, under Article 5 (2) of Regulation (EEC) No 1117/78 for the product concerned ;

(b) if the average forward world market price for one or more months cannot be determined by applying the criteria referred to in Articles 1 and 2 of Regulation (EEC) No 1417/78, the corrective amount shall be fixed, for the month or months in question, at a level such that the supplementary aid is equal to zero.

Article 7

The Commission shall communicate to the Member States the amount of aid to be granted per tonne of dried fodder, as soon as it is fixed, and in any case before the date from which it shall be applied.

Article 8

1. The supplementary aid certificate shall be made out in at least two copies, the first of which shall be issued to the applicant and the second kept by the issuing body.

2. The certificate is valid, subject to Article 9, from the first day of the month following the day on which the application is lodged.

3. The period of validity of the supplementary aid certificate is set out in the Annex.

[1] See page 1 of this Official Journal.

Article 9

The certificate shall be issued, subject to Article 12 of Regulation (EEC) No 1417/78, no sooner than the afternoon of the third working day following the day on which the application is lodged.

Article 10

1. The amount of the deposit referred to in Article 10 (2) of Regulation (EEC) No 1417/78 shall be :

— five units of account per tonne for the products referred to under Article 1 (b) first indent and under (c) of Regulation (EEC) No 1117/78,

— three units of account per tonne for the products referred to under Article 1 (b) second indent of that Regulation.

2. The deposit shall be lodged, at the applicant's choice, in cash or in the form of a guarantee given by an establishment meeting the criteria fixed by the Member State from which the certificate is applied for.

Article 11

The obligations referred to in Article 10 (2) of Regulation (EEC) No 1417/78 shall be considered to have been fulfilled when the quantity of products leaving the undertaking is no more than 1 % less or more than the quantity indicated in the supplementary aid certificate.

Article 12

The supplementary aid, and the flat-rate aid referred to in Article 3 of Regulation (EEC) No 1117/78, shall be granted for dried fodder leaving the undertaking during a month, to a processing undertaking which lodges its application at latest 60 days following the month during which the product leaves the undertaking.

Every application for the flat-rate aid referred to in Article 3 of Regulation (EEC) No 1117/78 and for the supplementary aid shall contain at least the following :

— the name, forename, address and signature of the applicant ;

— particulars of the quantity in respect of which application for each aid is made ;

— the month during which each quantity left the plant.

Article 13

The Member State concerned shall pay the amount of the aid within 120 days following that on which the application is lodged.

Eligibility for aid

Article 14

1. For the purposes of this Regulation, 'processing undertaking' as referred to in Article 1 of Regulation (EEC) No 1117/78 shall mean :

(a) any establishment where :

— either drying of fresh fodder is carried out by means of a drier which satisfies the following requirements :

(aa) air temperature at the entry point not less than 93 °C ;

(bb) residence time of the fodder being dehydrated not exceeding three hours :

(cc) in case of drying in layers of fodder, bed depth of each layer no deeper than one metre ;

— or sun-dried fodder is processed using in particular equipment for milling ;

— or protein obtained from lucerne or grass juice is manufactured ;

(b) in the case of mobile drying equipment, any establishment where dehydration is carried out using a dryer which satisfies the requirements set out in (a), first indent.

2. For the purposes of this Regulation, dried fodder shall be considered to have left the processing undertaking where :

(a) it leaves in the unaltered state :

— any premises or other place within the precincts of the processing undertaking ;

— where the dried fodder cannot be stored in those precincts, any storage place outside it offering adequate safeguards for purposes of controlling the fodder stored and which has been approved in advance by the authority responsible for control ;

(b) in the case of mobile drying equipment, it leaves in the unaltered state :

— the equipment in which the dehydration is carried out ;

— if the dehydrated fodder is stored by the person having dried it, any storage place which satisfies the conditions of (a) second indent, or

(c) it has been mixed within that undertaking with raw materials, other than those specified in Article 1 of Regulation (EEC) No 1117/78 except, however, for those used for binding, with a view to the manufacture of feed.

3. By way of derogation from paragraph 2, where a processing undertaking uses fodder dried by it for the purposes of a farming enterprise belonging to it, the dried fodder produced during a month shall be considered to have left the processing undertaking on the last day of the month in question,

4. The determination of the weight of the dried fodder and the drawing of samples shall be carried out as near as possible to the time at which it leaves the plant.

5. The aid to be granted for compounds containing both dried fodder and raw materials other than those referred to in Article 1 of Regulation (EEC) No 1117/78, and for dried fodder containing binding matter, shall be calculated on a *pro rata* basis for the quantities of dried fodder contained in these products.

6. The products specified in Article 1 (a) of Regulation (EEC) No 1117/78 shall be regarded as 'unfit for human consumption' when they are obtained from potatoes with their peels.

Article 15

1. The maximum moisture content as referred to in Article 5 (a) of Regulation (EEC) No 1417/78 shall be :

— 12 % for products as specified in Article 1 (b) of Regulation (EEC) No 1117/78 which have undergone a milling process and for products referred to in Article 1 (c) of that Regulation ;

— 14 % for other dried fodder.

2. The minimum crude protein content in the dry matter referred to in Article 5 (b) of Regulation (EEC) No 1417/78 shall be for the 1978/79 marketing year respectively 8 %, 13 % and 45 %.

Article 16

1. In addition to the details referred to in Article 6 (a) of Regulation (EEC) No 1417/78, the stock accounts of processing undertakings shall include at least details of :

— the quantities and the quality of dried fodder entering the plant ;

— the stock of dried fodder at the end of each marketing year ;

— the dates on which the dried fodder left the plant.

Separate stock accounts shall be kept in respect of each of the products falling within subheadings ex 07.04 B, ex 11.05, ex 12.10 B first indent, ex 12.10 B second indent and ex 23.07 C of the Common Customs Tariff, set out in Article 1 of Regulation (EEC) No 1117/78.

2. Where a processing undertaking also dries or processes products other than fodder as referred to in Article 1 of Regulation (EEC) No 1117/78, it shall keep separate accounts in respect of these other drying or processing activities.

Article 17

1. The other documentary evidence to be supplied by processing undertakings shall be as follows :

(a) in the case of all processing undertakings :

— details whereby the production capacity of the plant may be determined,

— details of the fuel stocks held in the plant at the beginning of the production period,

— invoices for the purchase of fuel and the meter readings of consumption of electricity during the production period,

— details of fuel stocks held at the end of that period,

— details of the number of hours worked by the staff of the plant ;

(b) in the case of processing undertakings which sell their own output, the invoices in respect of their sales of dried fodder, with details in particular of :

— the quantity and quality of the fodder sold,

— the name and address of the purchaser ;

(c) in the case of undertakings processing for their members fodder produced by those members, the delivery orders or any other accounting document acceptable to the authority responsible for control, with details in particular of :

— the quantity and quality of the processed fodder delivered,

— the names of the persons to whom such fodder was delivered ;

(d) in the case of undertakings processing for farmers fodder supplied by those farmers, invoices in respect of their processing charges, with details in particular of :

— the quantity and quality of dried fodder produced,

— the names of the farmers concerned ;

(e) in the case of processing undertakings using, on farms which belong to them, fodder dried by them :

— details of the number of livestock on such farms on 1 April of each year,

— details of any change in such livestock numbers in the course of the following 12 months.

2. The documentary evidence referred to in paragraph 1 shall be supplied by the undertaking at the request of the authority responsible for controlling entitlement to aid.

Article 18

Where a processing undertaking carries out the manufacture of the products referred to in Article 1 (b) first and second indents of Regulation (EEC) No 1117/78 :

— each of these activities shall be carried out on a premises or other place separate from where the other activity is carried out ;

— the products obtained from the two activities must be stored in different places ;

— it is forbidden to mix within the undertaking a product belonging to one of these categories with a product belonging to another one.

Article 19

The declaration of areas referred to in Article 8 of Regulation (EEC) No 1417/78 shall be submitted each year not later than 31 October following the beginning of the marketing year concerned.

Each declaration shall include at least the following :

— particulars of the area in hectares and ares and broken down by crop ;

— the cadastral register number of the areas or a reference recognized as equivalent by the authority responsible for the control of the areas.

Article 20

Processing undertakings shall lodge with the authority responsible for controlling the entitlement to aid, not later than one month after the date on which they are concluded, contracts as referred to in Article 7 of Regulation (EEC) No 1417/78.

However, contracts concluded before 1 July 1978 shall be lodged not later than 31 July 1978.

In the case of the drying of potatoes, contracts concluded with producers by natural or legal persons other than drying plants shall be regarded as equivalent to the contracts referred to above, provided that such persons are authorized by a drying plant to conclude such contracts on its behalf.

Article 21

1. Contracts shall be in writing. They shall be made in respect of a specified crop area or of an estimated quantity of either fresh, or where appropriate, sun-dried fodder.

2. In addition to the provisions specified in Article 7 of Regulation (EEC) No 1417/78, each contract shall include *inter alia* the following :

(a) the names, forenames and addresses of the contracting parties ;

(b) the date on which it is concluded ;

(c) the term for which it is concluded ;

(d) the type or types of crop concerned ;

(e) where the contract is in respect of a specified area, the particulars necessary for the identification of the area concerned ;

(f) where the contract is concluded by a person acting on behalf of a processing undertaking, the name and address of the processing undertaking concerned.

Article 22

1. The sampling referred to in Article 13 (2) of Regulation (EEC) No 1417/78 shall be carried out for each lot of dried fodder in accordance with a standard Community method.

However, until Community provisions are adopted in this matter, Member States shall use a method of their own choice.

2. A 'lot' shall mean a specific quantity of fodder leaving a processing undertaking at the same time.

3. However, where fodder leaves in quantities :

— of less than 500 tonnes in the case of the products referred to in Article 1 (a) of Regulation (EEC) No 1117/78,

— of less than 100 tonnes in the case of the products referred to in Article 1 (b) and (c) of the said Regulation,

and during a period to be fixed by the Member States, it shall be regarded as a single lot in so far as the overall quantity of such fodder does not exceed as the case may be 500 or 100 tonnes.

Each sample shall be representative of the quantities concerned.

4. The determination of moisture and crude protein content shall be carried out for each lot in accordance with the method laid down in the Community provisions establishing Community methods of analysis for the official control of feedingstuffs.

Article 23

Member States shall inform the Commission, not later than one month after the date on which they are put into effect, of the provisions adopted by it for the purposes of the control provided for in Article 13 (1) of Regulation (EEC) No 1417/78.

Article 24

Regulation (EEC) No 832/75 is hereby repealed.

Article 25

1. Where, at the start of the 1978/79 marketing year, the implementation of the aid system provided for in this Regulation meets with serious difficulties, Member States may, for the period 1 to 31 July 1978, derogate from the measures provided for in Articles 8 to 10 in order to ensure that only those products which qualify for aid benefit from it.

2. When paragraph 1 is applied, the Member States concerned shall forthwith inform the Commission of the measures taken by them.

Article 25

This Regulation shall enter into force on 1 July 1978.

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

Done at Brussels, 30 June 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX

The supplementary aid certificates issued as the result of an application lodged :

— between 1 March and 31 October of each year, shall be valid until 31 March of the following year ;

— between 1 November and the last day of February of the following year, shall be valid until 31 October of that year.