COMMISSION REGULATION (EEC) No 625/78

of 30 March 1978

on detailed rules of application for public storage of skimmed-milk powder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products (1), as last amended by Regulation (EEC) No 2560/77 (2), and in particular Articles 7 (5) and 28 thereof,

Having regard to Council Regulation (EEC) No 1055/77 of 17 May 1977 on the storage and movement of products bought in by an intervention agency (3), and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 1108/68 of 27 July 1968 on detailed rules of application for public storage of skimmed-milk powder (4), as last amended by Regulation (EEC) No 1457/75 (5), has been amended several times ; whereas, in view of the experience acquired since its introduction, it should be further amended ; whereas, for the sake of clarity, this Regulation should be repealed and replaced by a new text ;

Whereas Council Regulation (EEC) No 1014/68 of 20 July 1968 laying down general rules for public storage of skimmed-milk powder (6), as last amended by Regulation (EEC) No 1211/69 (7), laid down general rules for the public storage of skimmed-milk powder ; whereas the detailed rules of application to be laid down must include conditions for the buying-in of the skimmed-milk powder by the intervention agency ;

Whereas Article 1 (1) of Regulation (EEC) No 1014/68 lays down that intervention agencies are to buy in only first-quality skimmed-milk powder which reaches certain standards as to keeping quality and satisfies certain requirements in respect of minimum quantity, packaging and labelling ; whereas in order to ensure the quality of the product offered for intervention, in particular the absence of any additives, and its keeping properties, standards should be laid down for plants producing skimmed-milk powder and a system introduced for inspecting the said plants and for monitoring the manufacture and quality of the skimmed-milk powder ;

Whereas the maximum age of skimmed-milk powder offered for intervention should be laid down ; whereas its characteristics must be defined in the light of the quality and packaging requirements applying in international trade ; whereas the requirements which experience has shown to be necessary to the proper functioning of the intervention system should also be borne in mind ; whereas, in order to achieve this aim and in particular to permit uniform application of the rules, methods of analysing the product should be determined and, as regards administration, certain rules of application and the time limits for the receipt of the offer to sell, the taking-over of and the payment for the skimmed-milk powder by the intervention agency should be laid down, together with the conditions of reimbursement of the intervention agency for the costs incurred, where, after quality control, it is ascertained that the skimmed-milk powder does not meet the requirements laid down in this Regulation ;

Whereas, in accordance with Article 3 (3) of Regulation (EEC) No 1014/68, additional transport costs must be borne by the intervention agency whenever delivery is made to a storage depot further than a given distance away ; whereas that distance must be determined on the basis of normal conditions ; whereas the flat rate for additional transport costs per tonne/kilometre must be fixed by reference to average costs in the Community ;

Whereas under Article 1 (1) of Regulation (EEC) No 1055/77 an intervention agency may be authorized to store the skimmed-milk powder outside the territory of the Member State under whose jurisdiction it falls ; whereas monetary compensatory amounts do not apply in such a case ;

Whereas, in order to ensure the smooth operation of this system, provision must be made to make the products concerned available to the intervention agency before they cross the frontier ; whereas, however, this rule must not infringe the principle laid down in Article 3 (2) of Regulation (EEC) No 1014/68 ;

Whereas, where skimmed-milk powder is removed from storage and delivered ex storage depot, provision should be made for it to be made available by the intervention agencies of the various Member States in accordance with common rules ;

(1) OJ No L 148, 28. 6. 1968, p. 13.
(2) OJ No L 303, 28. 11. 1977, p. 1.
(3) OJ No L 128, 24. 5. 1977, p. 1.
(4) OJ No L 184, 29. 7. 1968, p. 34.
(5) OJ No L 145, 6. 6. 1975, p. 17.
(6) OJ No L 173, 22. 7. 1968, p. 4.
(7) OJ No L 155, 28. 6. 1969, p. 13.

Whereas pursuant to Article 4 of Regulation (EEC) No 1014/68 the conditions to be met by storage depots must be determined ;

Whereas, provision should be made for Regulation (EEC) No 1108/68 to continue to apply in respect of Commission Regulation (EEC) No 2058/77 of 16 September 1977 laying down detailed rules for the application of Regulation (EEC) No 1621/77 on the transfer to the Italian intervention agency of skimmed-milk powder held by the intervention agencies of other Member States [1], since the quantities concerned thereunder have not yet been disposed of ;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

Article 1

1. There may be offered for sale to intervention agencies only first-quality skimmed-milk powder which :

(a) has been produced in production plants identified by a serial number allotted subsequent to the granting of approval, in accordance with Article 3, by the competent agency of the Member State on whose territory they are situated ;

(b) meets the conditions laid down in the Annexes to this Regulation with regard to quality, packaging and marking ;

(c) does not contain other products, in particular buttermilk or whey, and is produced from skimmed milk without the addition of other products ; and

(d) is not, on the day on which the offer to sell is received by the intervention agency, more than one month old or, in the case referred to in the second subparagraph of Annex III (f), more than four weeks old calculated from the first day of the week following that of manufacture.

2. For the purposes of this Regulation :

(a) 'buttermilk' shall mean the by-product of butter manufacture obtained after churning of the cream (by batch process or continuous process) and separating the solid fat ;

(b) 'whey' shall mean the by-product of cheese or casein manufacture obtained by the action of acids, rennet and/or chemico-physical processes.

3. The minimum quantity bought in shall be 20 tonnes. This figure may be increased by the Member States.

4. The day, as referred to in paragraph 1 (d), on which the offer to sell is received, the quantity offered and the date of manufacture shall be registered by the intervention agency.

Article 2

1. The intervention agency shall fix the date of the taking-over of the skimmed-milk powder which shall be within one month from the day, as referred to in Article 1 (1) (d), on which the offer to sell is received.

For the purposes of this Regulation, the day of taking-over shall be the day on which the skimmed-milk powder enters the storage depot designated by the intervention agency.

2. Payment for the skimmed-milk powder shall be made not later than two months from the day on which the offer is received by the intervention agency.

3. By his offer the seller shall undertake, in the event of the quality control showing that the skimmed-milk powder does not comply with the requirements set out in Article 1 (1) :

— to take back the goods in question,

— to reimburse the intervention agency for the price of the defective goods calculated on the basis of the buying-in price, and

— to pay the storage costs for the quantities concerned from the day of taking-over to the day of removal.

These storage costs are hereby fixed at a flat rate per tonne as follows :

(a) 7·52 units of account for fixed costs,

(b) 0·041 unit of account per day of storage for warehouse costs, and

(c) if payment has been made, financial costs calculated from the day of payment on the basis of the buying-in price with interest at 8 %.

The amounts referred to in the preceding subparagraph shall be those valid on the day of taking-over. They shall be converted into national currency at the rate in force on that day.

They shall be credited to the appropriate EAGGF account together with, where appropriate, any reimbursement as referred to in the second indent of the first subparagraph.

[1] OJ No L 239, 17. 9. 1977, p. 16.

Article 3

1. The approval referred to in Article 1 (1) (a) may be granted only to production plants which :

(a) have the appropriate technical equipment ;

(b) undertake to keep permanent records in the form determined by the competent agency of each Member State, listing the origin of the constituents, the quantities of skimmed milk, of buttermilk and of the whey treated, the type of heat treatment for the skimmed milk, the quantities of products obtained, the market preparation and identification of each lot of skimmed-milk powder, buttermilk powder and whey powder and the date on which it left the plant ;

(c) agree to sumit their production of skimmed-milk powder liable to be offered for intervention to a specific official inspection.

2. The procedures for the inspection referred to in paragraph 1 (c), to be determined by the competent agency concerned, shall, as a minimum requirement,

— include frequent on-the-spot visits to the undertaking without prior notice to inspect in particular the conditions of manufacture and the keeping of the registers mentioned in paragraph 1 (b),

— provide for a system of temporary suspension of approval and its withdrawal until new approval is obtained if any serious infringements of paragraph 1 or of Article 1 (1) are discovered.

As regards the frequency of inspections, particular account shall be taken of the quantities of skimmed-milk powder delivered to intervention by the production plants concerned.

3. Member States shall communicate to the Commission the measures taken with regard to the inspection referred to in paragraph 2.

Article 4

The agency responsible for ensuring compliance with the provisions laid down in Article 1 (1) (b), (c) and (d) shall record the results of the analysis of each lot offered, specifying each of the characteristics of the product listed in paragraph 1 of Annex I. These results shall later be entered on a certificate to be issued on request, in particular in the case of trade between Member States or when the powder is exported.

Article 5

1. The maximum distance referred to in Article 3 (2) of Regulation (EEC) No 1014/68 shall be 100 kilometres.

2. The additional transport costs referred to in Article 3 (3) of Regulation (EEC) No 1014/68 shall be 0·034 unit of account per tonne per kilometre.

3. However, as regards the application of Article 3 (3) of Regulation (EEC) No 1014/68, when the purchasing intervention agency comes under the jurisdiction of a Member State other than that on whose territory the skimmed-milk powder offered is stored, the distance between the storage depot of the seller and the frontier of the Member State of the purchasing intervention agency shall not be taken into account for the calculation of the maximum distance referred to in paragraph 1.

Article 6

Where the nearest available storage depot designated by the intervention agency in accordance with Article 3 (1) of Regulation (EEC) No 1014/68 and Article 1 of Regulation (EEC) No 1055/77 is situated outside the territory of the Member State of the intervention agency which has bought in the skimmed-milk powder, the following provisions shall apply :

1. The intervention agency shall, in accordance with Article 1, buy in the skimmed-milk powder offered to it ; the transfer of ownership shall take place before the powder is exported to another Member State or to a non-member State.

2. The purchase contract shall :

(a) specify :

— the date of transfer of ownership of the skimmed-milk powder, and

— the storage depot to which it is to be delivered ;

(b) provide that the vendor shall undertake :

— to transport the skimmed-milk powder to the storage depot referred to in the second indent under (a), the additional transport costs being reimbursed him in accordance with Article 5 (2) ; in that case, Article 5 (3) shall not apply,

— to insure at his own expense the skimmed-milk powder to be transported,

— to pay the monetary compensatory amounts if the payment referred to under (c) has not been made ;

(c) provide that the payment of the buying-in price and the additional transport costs referred to under (b) be conditional upon the arrival of the product concerned at its destination in the same condition as that recorded before it was bought in pursuant to paragraph 1.

Article 7

1. The storage depots referred to in Article 4 of Regulation (EEC) No 1014/68 shall fulfil the following conditions :

(a) they shall be dry, in a good state of maintenance and free from vermin ;

(b) they shall be free from extraneous odour ;

(c) they shall have adequate ventilation ; and

(d) they shall have sufficient capacity and equipment corresponding to this capacity.

2. Products shall be stored on suitable pallets or equipment offering equivalent protection.

Article 8

At the time of removal from storage, the intervention agency shall, in the case of delivery ex-storage depot, make the skimmed-milk powder available :

— loaded at the storage depot on to the means of transport, but not stowed, in the case of a lorry or a railway wagon,

— loaded at the storage depot, in the case of any other means of transport, such as a container.

Article 9

1. Regulation (EEC) No 1108/68 is hereby repealed. However, it shall continue to apply in respect of Article 2 (3) of Regulation (EEC) No 2058/77.

2. Any references to Regulation (EEC) No 1108/68 shall be construed as references to this Regulation.

Article 10

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 March 1978.

For the Commission

Finn GUNDELACH

Vice-President

ANNEX I

QUALITY OF SKIMMED-MILK POWDER

1. Characteristics

(a) Fat content :	1·25 % maximum (1)
(b) Water content :	4·0 % maximum
(c) Titratable acidity :	
— in ml of decinormal sodium hydroxide solution :	3·0 maximum
— in lactic acid :	0·15 % maximum
(d) Test for neutralization agents :	negative
(e) Additives :	none
(f) Phosphatase test :	negative, i.e. equal or less than µg/g of reconstituted milk
(g) Solubility index :	0·5 ml maximum
(h) Degree of purity :	disc B minimum (15·0 mg)
(i) Total colony count :	50 000 per g maximum
(k) Coli aerogenes organisms :	negative in 0·1 g
(l) Detection of buttermilk :	negative
(m) Detection of whey (2) :	negative
(n) Taste and smell :	clean
(o) Appearance :	white or slightly yellowish colour, free from impurities or coloured particles

2. Control methods

(a) Without prejudice to the relative measures concerning the harmonization of the analytical methods, the following reference methods are obligatory for the application of this Regulation :

— fat content :	International Standard FIL 9A : 1969
— water content :	International Standard FIL 26 : 1964
— acidity :	ADMI Standard Methods ED, 1971, page 31
— test for neutralization agents :	International Standard FIL 69 : 1972 or an enzymatic method giving equivalent results
— phosphatase test :	International Standard FIL 63 : 1971
— solubility index :	ADMI Standard Methods ED, 1971, page 26
— degree of purity :	ADMI Standard Methods ED, 1971, page 28
— Total colony count :	International Standard FIL 49 : 1970
— Coli aerogenes organisms :	International Standard FIL 64 : 1971

(b) As regards the detection of :

— buttermilk :	the absence of buttermilk can be ensured either by an on-the-spot inspection, without prior notice, of the production plant carried out at least once a week, or by a laboratory analysis of the end product (3)
— whey (2) :	determination of sialic acid or of the complex cysteine-cystine in cases where whey glycomacropeptides determined by a simplified test, lactates content and ash content are higher than 3 %, 150 mg/100 g and 8 % respectively

(1) However, until 31 October 1978, the maximum content shall be 1·50 %.

(2) Until the date given in the following paragraph, Member States shall inform the Commission each month of the maximum and minimum values observed and the average value established in the previous month as regards the determination of the sialic acid content or the cysteine-cystine complex referred to in Section 1 (m) and in the second indent of Section 2 (b), stating the methods of analysis used and the limits applied in order to evaluate the requirement mentioned in Section 1 (m).

The Commission shall adopt provisions regarding the said limits at the latest one year after the entry into force of this Regulation.

(3) The Member States shall notify the Commission of the method chosen. In addition, the Member States shall notify the Commission each month of the maximum and minimum values observed and the average value established during the previous month as a result of the laboratory analysis.

ANNEX II

PACKAGING

1. **Packaging**

Packaging shall be new, clean, dry and intact with a net content of 25 kg and made up in one of the following ways :

(a) four kraft paper bags of a strength of at least 70 g/m^2,
one interposed tar-lined bag, of a strength of at least 140 g/m^2,
one polyethylene inner bag at least 0·08 mm [1], thick, welded or double bound ;

(b) one kraft paper bag of a strength of at least 70 g/m^2,
one kraft paper bag with a polyethylene lining, of a strength of at least 80 plus 15 g/m^2,
three kraft paper bags of a strength of at least 70 g/m^2,
one polyethylene inner bag at least 0·08 mm [1], thick, welded or double bound ;

(c) one kraft paper outer bag of a strength of at least 85 g/m^2,
one kraft paper bag with a polyethylene lining, of a strength of at least 70 plus 15 g/m^2,
two kraft paper bags of a strength of at least 70 g/m^2,
one polyethylene inner bag at least 0·12 mm thick, welded or double bound.

2. **Filling**

When filling, the powder should be well pressed down. Loose powder must on no account be allowed to penetrate between the various layers.

[1] With regard to the thickness of the polyethylene bag referred to in paragraph 1 (a) and (b), Member States may until 31 December 1978 permit the use of packaging meeting the standards laid down in Section 2 (a) and (b) of the Annex to Regulation (EEC) No 1108/68, i.e. 0·06 mm.

ANNEX III

MARKING

(a) Description in one of the official languages of the Community 'Spray skimmed-milk powder'.

(b) Net weight.

(c) Member State of manufacture.

(d) Manufacture lot number.

(e) Serial number of production plant.

(f) Date of manufacture, which may be coded.

If the skimmed-milk powder is stored in silos, the date of manufacture is replaced by the week of manufacture.