COMMISSION REGULATION (EEC) No 449/79

of 7 March 1979

amending for the fifth time Regulation (EEC) No 1528/78 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 Articles 6 (3) and 10 thereof,

Having regard to Council Regulation (EEC) No 1417/78 of 19 June 1978 on the said system for dried fodder (2), and in particular Article 10 (3) thereof,

Whereas the second subparagraph of Article 10 (2) of Regulation (EEC) No 1417/78 provides that the issue of the supplementary aid certificate shall be subject to the provision of security designed to ensure that the obligation to remove the dried fodder from the processing plant during the period of validity of the certificate is complied with ; whereas, except in cases of *force majeure*, the security is to be wholly or partly forfeited if the fodder does not leave the plant during this period or if it leaves only in part ;

Whereas, with a view to the uniform application of the system of supplementary aid, detailed rules should be laid down concerning the total or partial forfeiture of this security and the action to be taken in the event of *force majeure* ;

Whereas the corrected version (3) of Article 5 of Regulation (EEC) No 1417/78 provides that with effect from the 1979/80 marketing year the total minimum crude protein content of the dry matter may not be less than 14 % in respect of the products referred to in Article 1 (b) of Regulation (EEC) No 1117/78 ; whereas, in view of the qualities marketed, this minimum content should be fixed at 14 % ;

Whereas, therefore, Commission Regulation (EEC) No 1528/78 (4), as last amended by Regulation (EEC) No 3074/78 (5), should be amended accordingly ;

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

(1) OJ No L 142, 30. 5. 1978, p. 1.
(2) OJ No L 171, 28. 6. 1978, p. 1.
(3) OJ No L 189, 12. 7. 1978, p. 27.
(4) OJ No L 179, 1. 7. 1978, p. 10.
(5) OJ No L 367, 28. 12. 1978, p. 1.

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 1528/78 is amended as follows :

1. Article 11 is replaced by the following text :

'*Article 11*

1. The obligation 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 varies by not more than 1 % in either direction from the quantity indicated in the supplementary aid certificate.

2. Subject as provided in paragraph 3, where the obligation referred to in Article 10 (2) as aforesaid has not been fulfilled, the security shall be forfeit in respect of a quantity equal to the difference between :

(a) 99 % of the quantity stated on the supplementary aid certificate, and

(b) the quantity which left the processing plant.

However, if the quantity which left the processing plant amounts to less than 1 % of the quantity stated on the certificate, the security shall be wholly forfeit.

3. If it is not possible to fulfil the obligation specified in Article 10 (2) of the above Regulation during the period of validity of the certificate as a result of *force majeure*, the competent authority of the Member State issuing the certificate shall decide, at the request of the titular holder, either that this obligation shall be cancelled, the deposit being released, or that the period of validity of the certificate shall be extended for the period of time considered necessary in the circumstances. Extension may occur after the certificate has expired. The decision to cancel or extend shall be limited to the quantity of product in respect of which the abovementioned obligation could not be fulfilled owing to *force majeure*. Any extension of the certificate shall be the subject of an endorsement thereon by the issuing authority, and of any necessary adaptations.

If the competent authority recognizes a case of *force majeure*, the Member State under whose jurisdiction it comes shall immediately advise the Commission, which shall inform the other Member States thereof.

The holder of the certificate shall furnish proof of the circumstance considered to constitute a case of *force majeure.*

4. If the validity of the certificate is extended in accordance with paragraph 3 above, the amount of the supplementary aid fixed in advance to be granted shall be that determined in respect of the last month of the period referred to in Article 8 (2).'

2. A paragraph 3 as follows is added to Article 15:

'3. The minimum total protein content in the dry matter referred to in Article 5 (b) of Regulation (EEC) No 1417/78 shall be with effect from the 1979/80 marketing year:

— 14 % for the products referred to in Article 1 (b) of Regulation (EEC) No 1117/78,

— 45 % for the products referred to in Article 1 (c) of that Regulation.'

Article 2

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

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

Done at Brussels, 7 March 1979.

For the Commission

Finn GUNDELACH

Vice-President