COMMISSION REGULATION (EC) No 1838/95

of 26 July 1995

amending Regulation (EEC) No 1558/91 laying down detailed rules for the application of the system of production aid for products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables (1), as last amended by Commission Regulation (EC) No 1032/95 (2), and in particular Article 3 (4) thereof,

Whereas the tomato processing industry must have access to a large volume of capital over a very short period in order to be able to purchase raw materials; whereas, in order to resolve its cash-flow problems, it has recourse to seasonal loans and has to bear heavy financial burdens; whereas, in these circumstances, provision should be made for advance payment of production aid; whereas such payment should be subject to the lodging of a security guaranteeing its reimbursement in cases where the conditions for obtaining advance production aid are not met; whereas, in the interests of the producers, it is appropriate to penalize processors for not submitting the definitive aid application;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Article 13 of Commission Regulation (EEC) No 1558/91 (3) is hereby replaced by the following:

'*Article 13*

1. In respect of tomato-based products, the processor may submit each marketing year, between 1 September and 30 November, a provisional aid application. This application shall include, in particular:

(a) the name and address of the applicant;

(b) the net weight of the finished products processed before 15 November which are the subject of the provisional aid application, broken down according to products for which a given rate of aid is applicable;

(c) the net weight of the tomatoes used for processing each of the products referred to in (b);

(d) a copy of the bank or postal orders proving the payment of a price of 50 % or more of the minimum price for the quantities of tomatoes referred to in point (c) and the references of the contracts to which they relate;

(e) a declaration in which the processor specifies that the products referred to in (b) comply with the quality requirements laid down by the Community.

The provisions of the second subparagraph of Article 12 (4) shall apply.

2. The production aid for the quantity of finished products referred to in paragraph 1 (b) shall be paid to the processor. The aid payment shall be subject to the lodging of a security guaranteeing the reimbursement of an amount equal to the aid paid out plus 10 % thereof.

Payment of the advance aid by the competent body shall take place wihtin 30 days from the date of lodging of the application.

3. If the producer does not submit the definitive aid application referred to in Article 12 (4), the security referred to in paragraph 2 shall be forfeited in whole and the processor shall also be excluded from the production aid system provided for in Article 2 of Regulation (EEC) No 426/86 for the following marketing year.

The security shall be forfeited in proportion to the aid corresponding to the quantity of finished products included in the provisional aid application for which it is established, before the payment of production aid on the basis of the application referred to in Article 14, that the quantity concerned was not eligible for production aid on 15 November.

4. Without prejudice to the provisions of paragraph 3, the security shall be released when productions aid based on the aid application referred to in Article 14 has been paid by the competent authorities.

5. Where the provisions of this Article are implemented, the information and documents referred to in Article 14 (1) and (2) must cover the entire production of the processor during the marketing year concerned and the aid applications must specify that a provision aid application has been submitted.'

Article 2

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

(1) OJ No L 49, 27. 2. 1986, p. 1.
(2) OJ No L 105, 9. 5. 1995, p. 3.
(3) OJ No L 144, 8. 6. 1991, p. 11.

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

Done at Brussels, 26 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission