COMMISSION REGULATION (EC) No 620/96

of 9 April 1996

amending Regulation (EC) No 785/95 laying down detailed rules for the application of Council Regulation (EC) No 603/95 on the common organization of the market in dried fodder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 603/95 of 21 February 1995 on the common organization of the market in dried fodder (1), as last amended by Regulation (EC) No 1347/95 (2), and in particular Articles 8, 9 and 18 thereof,

Whereas Commission Regulation (EC) No 785/95 (3), as amended by Regulation (EC) No 1362/95 (4), lays down detailed rules for application of Regulation (EC) No 603/95; whereas Regulation (EC) No 785/95 should be amended in the light of experience gained, with a view to better management of the arrangements in question;

Whereas the 'similar fodder products' referred to in Article 1 of Regulation (EC) No 603/95 on which the aid to dehydrated fodder may be paid should be defined more clearly;

Whereas, with a view to preventing the multiple receipt of aid under different schemes, provision should be made that the aid for processing into dried fodder may only be paid on whole fodder plants harvested green;

Whereas the concept of mixtures of dried fodder and other products should be defined more clearly so that aid for processing is granted solely on products meeting the conditions laid down in the abovementioned Regulation (EC) No 603/95;

Whereas sound administration of the aid for the dehydrating and/or grinding of fodder demands that the aid be granted solely on agricultural products deriving from parcels, the agricultural purpose of which can be verified by the competent authorities of the Member States;

Whereas rules must be laid down governing the introduction into processing undertakings of products other than fodder to be dehydrated and/or ground;

Whereas processing undertakings must be approved by the competent authorities in accordance with a special procedure, in order to ensure equal treatment of all Community undertakings;

Whereas the intervals at which aid applications for fodder processing are to be submitted, and the particulars which undertakings need to supply to the competent authorities in such applications, should be laid down;

Whereas it should be made clear that the penalties laid down to cover cases of late submission to the competent authorities of contracts and declarations relating to fodder delivered for processing apply solely in respect of products covered by documents submitted outside the deadline;

Whereas small undertakings located in less accessible regions should qualify for derogations in respect of particularly heavy investments;

Whereas undertakings should determine on a more regular basis the average moisture content of the fodder they dehydrate, and should notify this to the competent authorities;

Whereas the rules for taking samples for analysis should be made clearer, in particular where the undertaking manufactures mixtures;

Whereas, with a view to the effective monitoring of the activities of processing undertakings, a minimum production percentage should be fixed as being subject to systematic checks by the competent authorities;

Whereas, in the light of experience gained, the minimum quantities making up lots of finished products subject to compulsory sampling should be defined more clearly;

Whereas processing undertaking should be required to enter in their stock accounts the products they use in the manufacture of mixtures and the effect such products have on the total crude protein content of the dried fodder they produce;

Whereas the competent authorities of the Member States should forward to the Commission the figures on the moisture content of fodder to be dehydrated, as reported by undertakings;

Whereas the Management Committee for Dried Fodder has not delivered an opinion within the time-limit set by its chairman,

(1) OJ No L 63, 21. 3. 1995, p. 1.
(2) OJ No L 131, 15. 6. 1995, p. 1.
(3) OJ No L 79, 7. 4. 1995, p. 5.
(4) OJ No L 132, 16. 6. 1995, p. 6.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 785/95 is hereby amended as follows:

1. Article 2 is amended as follows:

(a) point (a) paragraph 1 is replaced by the following:

'(a) "dehydrated fodder", which means the products listed in the first and third indents of Article 1 (a) of that Regulation which have undergone artificial heat-drying; the "similar fodder products" referred to in the third indent of point (a) of that Article being understood to cover:

— herbage legumes,

— herbage grasses,

— whole plants, harvested green with unripe grain, of the cereals listed in point I of Annex I to Regulation (EEC) No 1765/92 and having been cultivated on land which was not declared in the area aid application with a view to the aid for arable crops provided for in that Regulation,

— *Chenopodium quinoa,*

in so far as those species are covered by CN codes 1214 90 91 and 1214 90 99;'

(b) the following subparagraph is added to paragraph 1:

'Aid for processing into dried fodder shall not be payable on fodder plants the seeds of which have been harvested';

(c) the following point 5 is added:

'(5) "mixture" means an animal feed product containing fodder covered by Article 1 of Regulation (EC) No 603/95, dried and/or ground by the processing undertaking, and other products, termed "additives", of a different type, or of the same type but dried and/or ground elsewhere.

However, dried fodder containing no more than 3 % additives as a percentage of the total weight of the finished product shall not be regarded as a mixture where the total nitrogen content, relative to the dry matter of the additive, does not exceed 2,4 %.'

2. Article 3 is replaced by the following:

'Article 3

1. For the purposes of this Regulation, the aid provided for in Article 3 of Regulation (EC) No 603/95 shall be payable on products covered by Article 2 (1) which are of sound, genuine and merchantable quality, which meet the requirements for marketing for use as animal feed, and which:

(a) leave, either without further processing or as a mixture as defined in the first subparagraph of Article 2 (5):

— the premises of the processing undertaking,

— where they cannot be stored on the latter, a storage location outside the same which provides adequate guarantees of proper supervision of the stored fodder and which has been approved in advance by the competent authority,

— in the case of mobile drying equipment, such equipment, and, where stored by the person carrying out dehydration, any storage location satisfying the conditions laid down in the second indent; and

(b) display the following characteristics on departure from the processing undertaking as referred to in (a):

(i) maximum moisture content:

— 12 % in the case of sun-dried fodder, ground dehydrated fodder, protein concentrates and dehydrated products,

— 14 % in the case of other dehydrated fodder;

(ii) minimum total crude protein content of the dry matter:

— 15 % in the case of dehydratred fodder, sun-dried fodder and dehydrated products,

— 45 % in the case of protein concentrates.

The aid shall be payable solely on quantities of products obtained by drying fodder produced on parcels which on inspection can be shown, to the satisfaction of the competent authority, to be utilized for agriculture.

2. Before bringing onto its premises products other than fodder to be dried and/or ground for the manufacture of mixtures within the meaning of Article 2 (5), the processing undertakings shall so inform the competent authorities of the Member State concerned, specifying the type and quantities thereof.

Where the products being brought is consist of fodder dried and/or ground by another processing undertaking, such undertaking shall also inform the competent authorities of their origin and intended utilization; in such cases, they may be brought onto the said premises solely under the supervision of and on conditions laid down by such authorities.

Dried fodder leaving a processing undertaking may only re-enter it for the purpose of repackaging or reprocessing, under the supervision of and on the conditions set by the competent authority.

Products entering or re-entering the premises of processing undertakings in accordance with this paragraph may not be stored with fodder dried and/or ground by the undertaking in question; furthermore, they shall be entered in the undertaking's stock accounts as specified in Article 12 (1).'

3. Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. For the purposes of approval as referred to in Article 2 (2), processing undertakings must:

(a) provide the competent authority with a file comprising:

— a plan of their premises, showing in particular entry points for products to be processed, exit points for dried fodder, storage locations for products awaiting processing and finished products, and processing sites,

— a description of the technical installations for carrying out the operations specified at Article 2 (2) (a), (b) and (c), and in particular the dehydration ovens and grinding units, with details of hourly evaporation capacity and operating temperature, and weighing equipment,

— a list of the additives used before or during the dehydration process and an illustrative list of the other products used in manufacture, and the finished products,

— model stock accounts, which must permit a daily tracking of quantities of products entering for dehydration and/or grinding, quantities produced and quantities of binding agents and any other additives used in manufacture. A specific entry shall be made in the stock accounts covering dried fodder entering or re-entering the premises of approved undertakings.

Undertakings shall notify the competent authority within days of any change or changes to the files, with a view to obtaining confirmation of the approval;

(b) comply with:

— the requirements laid down in Regulation (EC) No 603/95,

— the requirements laid down herein.

Where a processing undertaking fails to fulfil any of the requirements of point (a) or (b) above, it shall forfeit approval for a period to be determined by the competent authority in line with the gravity of the breach.';

(b) the following paragraph 3 is added:

'3. Approval as referred to in Article 2 (2) and (3) shall be granted before the beginning of the marketing year by the competent authority of the Member State on application by the party concerned.

Exceptions from this provision may be allowed by the Commission departments in exceptional cases for a period of up to two months following the beginning of the marketing year in question. In such cases, the undertaking shall be deemed approved on a temporary basis pending the granting of definitive approval by the competent authority.'

4. Article 5 is amended as follows:

(a) the first subparagraph of paragraph 1 is replaced by the following:

'1. Within 45 days of the end of the month, processing undertakings shall lodge applications for aid as referred to in Article 3 of Regulation (EC) No 603/95 covering the quantities leaving the undertaking during that month.';

(b) paragraphs 2 and 3 are replaced by the following:

'2. Aid applications shall include at least:

— the applicant's first name, surname, address and signature,

— the quantities covered by the aid application, broken down by lot,

— the date on which each quantity left the undertaking,

— confirmation that samples were taken of each lot in accordance with Article 11 (3) on departure from the undertaking or when the dried fodder was mixed in, and apply particulars required to identify the samples,

— a list by lot of all additives referred to in Article 2 (5), specifying the type, name, total nitrogenous matter content in the dry matter and rate of incorporation in the finished product,

— in the case of mixtures within the meaning of the first subparagraph of Article 2 (5), the total crude protein content in each lot of the fodder dried by the undertaking, after deduction of the total nitrogenous matter content provided by the additives.

3. The aid shall be granted to processing undertakings solely in respect of fodder dried and/or ground on its premises, less the weight of additives as defined in Article 2 (5).'

5. The second subparagraph of Article 8 (5) is replaced by the following:

'Except in cases of *force majeure,* the submission of the abovementioned documents after the deadline shall entail a reduction of 1 % per working day in the aid on the products covered by the documents submitted late. Undertakings shall not be entitled to aid on products covered by documents submitted more than 20 working days late.'

6. Article 9 is replaced by the following:

'Article 9

1. The processing undertakings shall systematically weigh fodder to be dehydrated and, where applicable, sun-dried fodder delivered to them for processing, in order to determine the exact quantities thereof.

2. The obligation to weigh such fodder systematically shall not apply where:

(a) the fodder is to be dehydrated in a mobile dehydration unit; in such cases, the quantities delivered may be estimated on the basis of the areas sown;

(b) the production of the undertaking concerned does not exceed 1 000 tonnes per marketing year and the undertaking proves to the satisfaction of the competent authority of the Member State that it cannot make use of public weighing facilities located within a radius of five kilometres; in such cases, the quantities delivered may be determined by any other method approved in advance by the competent authority of that Member State.

3. The processing undertakings shall determine the average moisture content of fodder to be dehydrated on the basis of a comparison of the quantities used and the quantities of dried fodder obtained.

4. In the first ten working days of each quarter, the processing undertakings shall notify the competent authority of the average moisture content, as referred to in paragraph 3, recorded during the previous quarter in respect of the fodder they have dehydrated.'

7. Article 11 is amended as follows:

(a) the second subparagraph of paragraph 1 is replaced by the following:

'However, where dried fodder is mixed within the meaning of Article 2 (5) in processing undertakings, sampling and weight determination shall be carried out before mixing.

Where mixing is carried out before or during drying, a sample shall be taken after drying; it shall be accompanied by a statement to the effect that it relates to a mixture and specifying the type and name of the additive, its total nitrogenous content in the dry matter and the rate of incorporation in the finished product.';

(b) the second subparagraph 2 is replaced by the following:

'The competent authorities shall regularly take samples covering, and shall carry out weight determination in respect of, at least 5 % by weight of dried fodder leaving the undertaking and at least 5 % by weight of dried fodder mixed within the meaning of Article 2 (5) each marketing year.';

(c) paragraph 3 is amended as follows:

(i) in the first subparagraph, the words 'mixed on its premises with raw materials other than those referred to in Article 1 of Regulation (EC) No 603/95' are replaced by 'mixed on its premises within the meaning of Article 2 (5)';

(ii) in the first and second subparagraphs, '100 tonnes' is replaced by '110 tonnes'.

8. The following indent is added to Article 12 (1):

'— the products mixed with or added to fodder dried and/or ground by the undertaking, specifying the type and name of the products, their total nitrogenous matter content in the dry matter and their rate of incorporation in the finished product.'

9. The following point (e) is added to Article 15:

'(e) during the month following the end of each six-month period, of the average moisture contents recorded during the previous six months in fodder to be dehydrated and notified by processing undertakings in accordance with Article 9 (4).'

Article 2

This Regulation shall enter into force on 1 April 1996.

Article 1 (3) (b) shall apply from 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, 9 April 1996.

For the Commission

Franz FISCHLER

Member of the Commission