COMMISSION REGULATION (EC) No 382/2005

of 7 March 2005

laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation 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 1786/2003 of 29 September 2003 on the common organisation of the market in dried fodder [1], and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) No 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 [2], and in particular the second subparagraph of Article 71(2) thereof,

Whereas:

(1) As Regulation (EC) No 1786/2003 has replaced Council Regulation (EC) No 603/95 [3], new implementing rules should be adopted. Commission Regulation (EC) No 785/95 of 6 April 1995 laying down detailed rules for the application of Council Regulation (EC) No 603/95 on the common organisation of the market in dried fodder [4] should therefore be repealed.

(2) For the sake of clarity, a number of definitions should be laid down.

(3) Having regard to the conditions laid down in Article 9 of Regulation (EC) No 1786/2003, the minimum quality for the products in question, expressed in terms of moisture and protein content, should be laid down. Taking account of commercial practices, the moisture content should be differentiated according to certain production processes.

(4) Fodder from areas already benefiting from an aid provided for in Title IV of Regulation (EC) No 1782/2003 should be excluded from the aid provided for in Regulation (EC) No 1786/2003.

(5) Article 13 of Regulation (EC) No 1786/2003 requires Member States to carry out checks to verify that each processing undertaking and purchaser of fodder for dehydrating satisfy the conditions set out in that Regulation. In order to facilitate such checks and to ensure fulfilment of the conditions of eligibility for aid, processing undertakings and purchasers of fodder for dehydrating should be subject to an approval procedure. To the same end, the details to be included in aid applications, stock records and delivery declarations of processing undertakings should be specified. The other supporting documents to be supplied should be specified.

(6) Rigorous checks should be carried out to ensure fulfilment of the quality requirements for dried fodder based on regular sampling of finished products leaving undertakings. Where these products are mixed with other materials, samples must be taken before mixing.

(7) In order to verify that the quantities of raw materials delivered to undertakings tally with the quantities of dried fodder leaving them, the said undertakings should weigh all fodder for processing and determine its moisture content.

(8) In order to facilitate the marketing of fodder for processing and to enable the competent authorities to carry out the checks necessary for verifying entitlement to aid, contracts between processing undertakings and farmers should be concluded before delivery of the raw materials and lodged with the competent authorities before a certain date to enable them to know the expected volume of production. To that end, contracts must be in writing, indicate the date of conclusion, the period of validity, the names and addresses of the contracting parties and the nature of the products to be processed and identify the agricultural parcel on which the fodder to be processed was grown.

(9) In certain cases there are no such contracts, and delivery declarations, subject to the conditions applicable to contracts, must be drawn up by the processing undertaking.

(10) In order to ensure uniform application of the system of aid, the payment procedures should be defined.

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[1] OJ L 270, 21.10.2003, p. 114. Regulation as amended by Regulation (EC) No 583/2004 (OJ L 91, 30.3.2004, p. 1).
[2] OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 118/2005 (OJ L 24, 27.1.2005, p. 15).
[3] OJ L 63, 21.3.1995, p. 1.
[4] OJ L 79, 7.4.1995, p. 5. Regulation as last amended by Regulation (EC) No 1413/2001 (OJ L 191, 13.7.2001, p. 8).

(11) Regulation (EC) No 1786/2003 provides for a series of checks to be carried out at each stage of the production process, including through exchanges with the integrated administration and control system provided for in Regulation (EC) No 1782/2003. Checks on the identification of the agricultural parcels concerned should therefore be coordinated with the checks carried out under that system.

(12) As this scheme is referred to in Annex V to Regulation (EC) No 1782/2003, the competent authorities should carry out cross-checks on the agricultural parcels referred to in the contracts and/or delivery declarations and those declared by the producers in their single aid applications in order to prevent any unjustified aid being granted.

(13) To ensure compliance with the conditions laid down by Regulation (EC) No 1786/2003 and by this Regulation, in particular as regards eligibility for the aid, certain reductions of and exclusions from the aid should be laid down in order to prevent any infringements, having regard to the principle of proportionality and the special problems resulting from cases of *force majeure* or from exceptional circumstances. Reductions and exclusions should be modulated according to the seriousness of the irregularity committed and should go as far as total exclusion from aid for a specified period.

(14) In order to ensure efficient management of the market in dried fodder, certain information must be notified to the Commission on a regular basis.

(15) In order to prepare the report on the sector required in 2008 under Article 23 of Regulation (EC) No 1786/2003, notifications should be introduced in relation to forage areas and energy consumption in the production of dried fodder.

(16) In accordance with Article 21 of Regulation (EC) No 1786/2003, transitional measures should be adopted for stocks held on 31 March 2005.

(17) Where the optional transitional period provided for in Article 71 of Regulation (EC) No 1782/2003 is applied, the conditions of the aid referred to in that Article should be laid down.

(18) Regulation (EC) No 1786/2003 applies from 1 April 2005, the date on which the 2005/06 marketing year begins. This Regulation should therefore apply from the same date.

(19) The measures provided for in this Regulation are in accordance with the opinion of the Joint Management Committee for Cereals and Direct Payments,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

PURPOSE, DEFINITIONS AND CONDITIONS OF ELIGIBILITY FOR THE AID

Article 1

Purpose

This Regulation lays down detailed rules for the application of Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder.

Article 2

Definitions

For the purposes of this Regulation:

1. 'dried fodder' means the products referred to in Article 1 of Regulation (EC) No 1786/2003, drawing a distinction between the following categories:

   (a) 'dehydrated fodder', which means the artificially heat-dried products referred to in the first and third subparagraphs of point (a) of that Article, including 'similar fodder products', in other words all artificially heat-dried herbage fodder products falling within CN code 1214 90 90 and in particular:

   — herbage legumes,

   — herbage grasses,

   — whole plants, harvested green with unripe grain, of the cereals listed in point I of Annex IX to Regulation (EC) No 1782/2003;

   (b) 'sun-dried fodder', which means the products otherwise dried and ground referred to in the second and fourth indents of Article 1(a) of Regulation (EC) No 1786/2003;

   (c) 'protein concentrates', which means the products referred to in the first subparagraph of Article 1(b) of Regulation (EC) No 1786/2003;

   (d) 'dehydrated products', which means the products referred to in the second subparagraph of Article 1(b) of Regulation (EC) No 1786/2003;

2. 'processing undertaking' means the dried fodder processing undertaking referred to in Article 7 of Regulation (EC) No 1786/2003, duly approved by the Member State in which it is located, which carries out one of the following:

   (a) dehydration of fresh fodder by means of a drier which satisfies the following requirements:

   — air temperature at the entry point not less than 250 °C; however, horizontal belt driers producing an air temperature at the entry point of not less than 110 °C approved before the beginning of the 1999/2000 marketing year need not comply with this requirement,

   — residence time of the fodder being dehydrated not exceeding three hours,

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

   (b) milling of sun-dried fodder;

   (c) manufacture of protein concentrates;

3. 'purchaser of fodder for drying and/or grinding' means the natural or legal person referred to in Article 10(c)(iii) of Regulation (EC) No 1786/2003, duly approved by the Member State where he/she is established, who purchases fresh fodder from producers in order to deliver it to processing undertakings;

4. 'lot' means a specific quantity of fodder of uniform quality as regards composition, moisture content and protein content, leaving a processing undertaking at the same time;

5. 'mixture' means an animal feed product containing dried fodder which has been dried and/or ground by the processing undertaking, and additives.

   'Additives' are products of a different type from dried fodder, including binding agents and caking agents, 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 %;

6. 'agricultural parcels' means the parcels identified in accordance with the identification system for agricultural parcels in the integrated management and verification system referred to in Articles 18 and 20 of Regulation (EC) No 1782/2003 and in Article 6 of Commission Regulation (EC) No 796/2004 [1];

7. 'single aid application' means the aid application referred in Article 22 of Regulation (EC) No 1782/2003 and Articles 12 and 14 of Regulation (EC) No 796/2004;

8. 'final consignee of a lot of dried fodder' means the last person to have received that lot in the form in which it left the processing undertaking, with a view to processing the dried fodder or using it in animal feed.

Article 3

Products eligible for aid

For the purposes of this Regulation, the aid provided for in Article 4 of Regulation (EC) No 1786/2003 shall be payable on dried fodder meeting the requirements for being placed on the market as feedingstuffs which:

(a) leave, in the unaltered state or as a mixture, the premises of the processing undertaking, or, 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;

(b) display the following characteristics on departure from the processing undertaking:

   (i) a maximum moisture content of:

   — 12 % for sun-dried fodder, dehydrated fodder having undergone a milling procedure, protein concentrates and dehydrated products,

   — 14 % for other dehydrated fodder;

   (ii) a minimum crude protein content in comparison to dry matter of:

   — 15 % for dehydrated fodder, sun-dried fodder and dehydrated products,

   — 45 % for protein concentrates.

[1] OJ L 141, 30.4.2004, p. 18.

The aid shall be payable solely on quantities of products obtained by drying fodder produced on parcels utilised for agriculture within the meaning of Article 51 of Regulation (EC) No 1782/2003.

Article 4

Exclusion

Fodder from areas already benefiting from an aid scheme provided for in Title IV of Regulation (EC) No 1782/2003 shall not be eligible for the aid provided for in Article 4 of Regulation (EC) No 1786/2003.

However, on areas in receipt of seed aid as referred to in Chapter 9 of Title IV of Regulation (EC) No 1782/2003, only fodder plants on which the seed has been harvested shall be excluded from the aid.

Conversely, areas in receipt of an arable crops area payment as referred to in Chapter 10 of Title IV of Regulation (EC) No 1782/2003 shall be eligible for the aid for processing into dried fodder provided that they have been sown entirely with arable crops in accordance with local conditions.

CHAPTER 2

PROCESSING UNDERTAKINGS AND PURCHASERS OF FODDER FOR DRYING AND/OR GRINDING

Article 5

Approval of processing undertakings

For the purposes of the approval referred to in Article 2(2), the processing undertaking shall:

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

(i) 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;

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

(iii) a list of the additives used before or during the dehydration process and an illustrative list of the other products used in manufacture and of the finished products;

(iv) the model stock records referred to in Article 12;

(b) make available to the competent authority its up-to-date stock records and accounts;

(c) facilitate the verification procedures;

(d) comply with the conditions laid down in Regulation (EC) No 1786/2003 and in this Regulation.

Processing undertakings shall notify the competent authority within 10 days of any change to the file referred to in point (a) of the first subparagraph, with a view to obtaining confirmation of the approval.

Article 6

Approval of purchasers of fodder for drying and/or grinding

For the purposes of approval as referred to in Article 2(3), a purchaser of fodder for drying and/or grinding must:

(a) keep a register of the products in question, showing at least the daily purchases and sales of each product and, in respect of each lot, the quantity involved, a reference to the contract with the producer who delivered the product and, where applicable, the processing undertaking for which the product is intended;

(b) make available to the competent authority its up-to-date stock records and accounts;

(c) facilitate the verification procedures;

(d) comply with the conditions laid down in Regulation (EC) No 1786/2003 and in this Regulation.

Article 7

Granting and withdrawal of approval

Approval as referred to in Article 2(2) and (3) shall be requested by the party concerned before the beginning of the marketing year.

Approval shall be granted by the competent authority of the Member State before the beginning of the marketing year. In exceptional cases, provisional approval may be granted by the competent authority during a period not exceeding two months after the beginning of the marketing year in question. In such cases, the undertaking shall be deemed approved pending the granting of definitive approval by the competent authority.

Notwithstanding Article 30, where one or more of the conditions laid down in Articles 5 or 6 are no longer met the competent authority shall withdraw approval, unless the processing undertaking or purchaser of fodder for drying and/or grinding does what is required to comply once more with those conditions within a time limit to be fixed in accordance with the seriousness of the problem.

Article 8

Obligations concerning the manufacture of fodder

Where a processing undertaking carries out the manufacture, on the one hand, of dehydrated fodder and/or protein concentrates and, on the other hand, of sun-dried fodder:

(a) the dehydrated fodder must be manufactured in premises or places separate from those where sun-dried fodder is manufactured;

(b) products obtained from the two manufacturing operations must be stored in different places;

(c) a product belonging to one of the groups shall not be mixed within the undertaking with a product belonging to the other group.

Article 9

Obligations concerning products entering and leaving

Before bringing onto its premises products other than fodder to be dried and/or ground for the manufacture of mixtures, the processing undertaking shall so inform the competent authority of the Member State concerned, specifying the type and quantities thereof.

Where the products being brought in consist of fodder dried and/or ground by another processing undertaking, that undertaking shall also inform the competent authority of their origin and destination. In such cases, they may be brought onto the premises solely under the supervision of the competent authority and on conditions laid down by it.

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

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

Article 10

Weight determination, sampling and analysis of dried fodder

1. The processing undertaking shall weigh the dried fodder and take samples when it leaves the undertaking, as provided for in Article 13(2) of Regulation (EC) No 1786/2003.

However, where the dried fodder is mixed on the premises of the processing undertaking, weighing and sampling shall be carried out before mixing takes place.

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.

2. The competent authority may require each processing undertaking to notify it at least two working days in advance each time dried fodder leaves the undertaking or is mixed, specifying the dates and quantities, to enable the latter to carry out the necessary checks.

The competent authority shall regularly take samples and weigh a quantity relating to at least 5 % by weight of dried fodder leaving the undertaking and at least 5 % by weight of dried fodder mixed each marketing year.

3. The determination of moisture and crude protein content provided for in Article 3 shall be carried out by taking a sample for every 110 tonnes maximum of each lot of dried fodder leaving the processing undertaking or mixed on its premises in accordance with the method laid down in Commission Directives 76/371/EEC [1], 71/393/EEC [2] and 72/199/EEC [3].

Where several lots of the same quality with regard to composition, moisture content and protein content, together weighing 110 tonnes or less, leave the undertaking or are mixed on its premises, a sample shall be taken from each lot. However, the analysis shall be carried out on a representative mixture of these samples.

[1] OJ L 102, 15.4.1976, p. 1.
[2] OJ L 279, 20.12.1971, p. 7.
[3] OJ L 123, 29.5.1972, p. 6.

Article 11

Weighing the fodder and determining the moisture content of fodder to be dehydrated

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

2. The obligation to weigh such fodder systematically shall not apply where 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 undertaking 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. Before the end of the first month of each quarter, the processing undertaking 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 it has dehydrated.

Article 12

Stock records of processing undertakings

1. The stock records of processing undertakings provided for in Article 10(a) of Regulation (EC) No 1786/2003 shall be kept in conjunction with the accounts and shall permit daily tracking of:

(a) quantities of products entering for dehydration and/or grinding and, in respect of each delivery:

— the date of entry,

— the quantity,

— the type or types referred to in Article 1 of Regulation (EC) No 1786/2003 of fodder to be dehydrated and, where applicable, sun-dried fodder,

— the moisture content of fodder to be dehydrated,

— the references of the contract and/or delivery declaration provided for in Article 14 or 15 of this Regulation;

(b) the quantities produced and any quantities of all additives used in manufacture;

(c) the quantities leaving, and, for each lot, the date of leaving, the moisture content and protein content recorded;

(d) the quantities of dried fodder in respect of which a processing undertaking has already benefited from aid, and which have entered or re-entered the premises of the undertaking;

(e) the stock of dried fodder at the end of each marketing year;

(f) 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.

2. Processing undertakings shall keep separate stock records for dehydrated fodder, sun-dried fodder, protein concentrates and dehydrated products.

3. Where a processing undertaking also dehydrates or processes products other than dried fodder, it shall keep separate stock records in respect of such other dehydrating or processing activities.

Article 13

Supporting documents for stock records

1. The supporting documents to be made available by processing undertakings to the competent authority at the latter's request shall include:

(a) details whereby the production capacity of the plant may be determined;

(b) details of the fuel stocks held in the plant at the beginning and end of production;

(c) invoices for the purchase of fuel and the meter readings for electricity consumption during the production period;

(d) details of the number of hours the driers and, in the case of sun-dried fodder, the grinders were in operation;

(e) a comprehensive record of energy consumption, in accordance with Annex I;

(f) the contracts and/or delivery declarations.

2. Processing undertakings which sell their own output shall make available to the competent authority, in addition to the documents referred to in paragraph 1, the invoices in respect of their purchases of fodder for drying and/or grinding, and the invoices in respect of the sales of dried fodder, indicating in particular the quantity and composition of the product sold, and the name and address of the purchaser.

Undertakings processing the fodder produced by their members and delivering them dried fodder shall make available to the competent authority, in addition to the documents referred to in paragraph 1, the delivery orders or any accounting document acceptable to the competent authority, indicating in particular the quantity and composition of the product delivered, and the name and address of the persons to whom it was delivered.

Undertakings producing for farmers fodder supplied by and delivered back to those farmers shall make available to the competent authority, in addition to the documents referred to in paragraph 1, invoices in respect of their production costs, indicating in particular the quantity and composition of the dried fodder produced, and the name of the farmer.

CHAPTER 3

CONTRACTS AND DELIVERY DECLARATIONS

Article 14

Contracts

1. In addition to the information specified in Article 12 of Regulation (EC) No 1786/2003, each contract as referred to in Article 10(c)(i) and (iii) of that Regulation shall include, in particular:

(a) the names and addresses of the parties to the contract;

(b) the date on which it is concluded;

(c) the marketing year concerned;

(d) the type or types of fodder to be processed and the quantity likely to be involved;

(e) the identification of the agricultural parcel(s) on which the fodder for processing is grown, with reference to the single aid application in which these parcels have been declared, in accordance with Article 14(1) of Regulation (EC) No 796/2004 and, where a contract has been concluded or a delivery declaration made before the date of submission of the single aid application, an undertaking to declare those parcels in the single aid application.

2. Where a processing undertaking is executing a processing contract as referred to in Article 12(2) of Regulation (EC) No 1786/2003 concluded with an independent producer or with one or more of its own members, the contract shall also indicate:

(a) the finished product to be delivered,

(b) the costs to be paid by the producer.

Article 15

Delivery declarations

1. Where an undertaking processes its own production or a group processes that of its members, a delivery declaration shall be drawn up giving at least the following information:

(a) the date of delivery or, where appropriate, an indicative date if delivery is to take place after the date on which the delivery declaration is submitted to the competent authority;

(b) the quantity of fodder received or to be received;

(c) the type or types of fodder to be processed;

(d) where applicable, the name and address of the member of the group making the delivery;

(e) the identification of the agricultural parcel(s) on which the fodder for processing is grown, with reference to the single aid application in which these parcels have been declared, in accordance with Article 14(1) of Regulation (EC) No 796/2004 and, where a contract has been concluded or a delivery declaration made before the date of submission of the single aid application, an undertaking to declare those parcels in the single aid application.

2. Where an undertaking obtains supplies from an approved purchaser, a delivery declaration shall be drawn up giving at least the following information:

(a) the identity of the approved purchaser;

(b) the date of delivery or, where appropriate, an indicative date if delivery is to take place after the date on which the declaration is submitted to the competent authority;

(c) the quantity of fodder received or to be received, broken down according to the producers with whom contracts were concluded by the approved purchaser, specifying the reference of the contracts;

(d) the type or types of fodder to be processed;

(e) the identification of the agricultural parcel(s) on which the fodder for processing is grown, with reference to the single aid application in which these parcels have been declared, in accordance with Article 14(1) of Regulation (EC) No 796/2004 and, where a contract has been concluded or a delivery declaration made before the date of submission of the single aid application, an undertaking to declare those parcels in the single aid application.

Article 16

Date of the contract or declaration

The contracts and delivery declarations provided for in Articles 14 and 15 shall be drawn up in writing at least two working days before the delivery date.

However, the Member States may provide for a period of between two and eight working days before the date of delivery.

Article 17

Notifications

Processing undertakings and purchasers of fodder for drying and/or grinding shall send the competent authority, not later than the 15th of each month, a list of contracts concluded in the previous month and delivery declarations drawn up during the previous month.

The list shall include:

(a) the identity of the co-contractor of the processing undertaking or approved purchaser or of the declarant in the case of an undertaking processing its own production or a group processing the production of its member;

(b) the date of the contract or of the delivery declaration;

(c) the identification references of the agricultural parcels;

(d) the references of the single aid application in question.

The competent authority may request that this list be sent by e-mail.

CHAPTER 4

AID APPLICATIONS AND PAYMENT

Article 18

Date of lodging of aid applications

1. Within 45 days of the end of the month, processing undertakings shall lodge applications for aid as referred to in Article 4 of Regulation (EC) No 1786/2003 covering the quantities leaving the undertaking during that month.

2. Except in cases of *force majeure* or exceptional circumstances:

(a) the submission of an aid application after the time limit referred to in paragraph 1 shall lead to a reduction of 1 % per working day in the amounts to which the undertaking would have been entitled if the application had been lodged within the time limit;

(b) if the delay amounts to more than 25 days the application shall be considered inadmissible.

3. However, no aid applications for a marketing year may be submitted after 15 April following the end of the marketing year in question, except in cases of *force majeure* or exceptional circumstances.

Article 19

Content of applications

1. Aid applications shall include at least:

(a) the applicant's first name, surname, address and signature;

(b) the quantities covered by the aid application, broken down by lot;

(c) the date on which each quantity left the undertaking;

(d) confirmation that samples were taken of each lot in accordance with Article 10(3) on leaving the undertaking or when the dried fodder was mixed in, and any particulars required to identify the samples;

(e) a list by lot of any additives, specifying the type, name, total nitrogenous matter content in the dry matter and rate of incorporation in the finished product;

(f) in the case of mixtures, 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.

2. 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.

Article 20

Advance payments

1. In order to qualify for an advance in accordance with Article 7(1) of Regulation (EC) No 1786/2003, the applicant shall accompany the aid application by a certificate showing that the corresponding security has been lodged.

2. Member States shall take the necessary measures for checking entitlement to the aid within 90 days of the date the application is lodged.

Article 21

Final amount of the aid

1. The Commission shall fix, in accordance with the procedure referred to in Article 18(2) of Regulation (EC) No 1786/2003, the final amount of the aid referred to in Article 4(2) of that Regulation. This amount shall be calculated on the basis of the notifications from the Member States, in accordance with the second subparagraph of Article 33(1) of this Regulation.

2. Where, as a result of subsequent checks, one or more Member States submits a second, duly substantiated, notification in accordance with the second subparagraph of Article 33(1) correcting the first upward, the second notification will be taken into consideration only if the final amount of the aid, calculated on the basis of the first notification, is not affected. The quantities of dried fodder which are not taken into consideration as a result will, in that case, be allocated to the following marketing year.

3. The balance provided for in Article 7(3) of Regulation (EC) No 1786/2003 shall be paid, where appropriate, within 60 days of the date on which the Commission publishes the final amount of the aid for the marketing year concerned in the *Official Journal of the European Union*.

Article 22

Exchange rate

The operative event for the exchange rate applicable to the aid laid down in Article 4 of Regulation (EC) No 1786/2003 shall occur on the first day of the month in which a given lot of dried fodder leaves the premises of the approved processing undertaking.

CHAPTER 5

INSPECTIONS

Article 23

General principles

1. The administrative and on-the-spot checks provided for in this Regulation shall be made in such a way as to ensure effective verification of compliance with the terms under which aid is granted.

2. The applications for aid in question shall be rejected if the processing undertaking prevents an on-the-spot check from being carried out.

Article 24

Administrative checks

1. Administrative checks shall permit the detection of irregularities, particularly via cross-checks.

The competent authorities shall carry out cross-checks between the agricultural parcels declared in the single aid application, in the contracts and/or in the delivery declarations and the reference parcels shown in the identification system for agricultural parcels to verify the eligibility for aid of the areas as such and to prevent any aid being granted without justification.

2. Indications of irregularities resulting from cross-checks shall be followed-up by any other appropriate administrative procedure, and where necessary, by an on-the-spot check.

Article 25

On-the-spot checks

1. On-the-spot checks shall be unannounced. However, provided that the purpose of the control is not jeopardised, advance notice may be given, limited to strictly the minimum period necessary. Such notice shall not exceed 48 hours, except in duly justified cases.

2. Where appropriate, the on-the-spot checks provided for in this Regulation, as well as any other checks provided for in Community rules, shall be carried out at the same time.

3. Should on-the-spot checks reveal significant irregularities in a region or in a processing undertaking, the competent authority shall accordingly increase the number, frequency and extent of on-the-spot checks on the undertakings concerned during the current year and in the following year.

4. The Member States shall establish the criteria for selection of the control sample. If the checks on that sample reveal irregularities, the size and scope of the sample shall be expanded appropriately.

Article 26

On-the-spot checks on processing undertakings

1. The competent authorities shall inspect, at least once each marketing year, the stock records referred to in Article 12 of all processing undertakings, and in particular the link between the stock records and the accounts.

2. The competent authorities shall carry out random checks on the supporting documents relating to the stock records of processing undertakings.

However, in the case of newly-approved undertakings, the inspection shall cover all applications submitted during the first year of operation.

Article 27

On-the-spot checks on other parties

1. The competent authorities shall undertake regular additional checks on suppliers of raw materials and on operators to whom dried fodder has been supplied.

These checks shall cover:

(a) at least 5 % of lots which have been the subject of an aid application to verify traceability up to the final consignee;

(b) at least 5 % of contracts and delivery declarations to verify the parcel of origin of the products supplied to processing undertakings.

2. Parties subject to on-the-spot checks shall be selected by the competent authority on the basis of risk analysis taking into account:

(a) the amount of aid;

(b) changes in the aid from the previous year;

(c) the findings of checks made in past years;

(d) other factors to be defined by the Member States.

Each year the competent authority shall assess the effectiveness of risk analysis parameters used in previous years.

3. The competent authority shall keep records on the reasons for the selection of each farmer for an on-the-spot check. The inspector carrying out the on-the-spot check shall be informed accordingly prior to the commencement of the on-the-spot check.

Article 28

Control report

1. Every on-the-spot check shall be the subject of a control report which makes it possible to review the various aspects of the checks carried out.

2. The subject of the checks shall be given the opportunity to sign the report and to add observations, and shall receive a copy of the control report.

CHAPTER 6

REDUCTIONS AND EXCLUSIONS

Article 29

Reductions and exclusions for under-declarations by processing undertakings

If the quantity of dried fodder indicated in one or more aid applications is greater than the quantity eligible under Article 3, the following rules shall apply:

(a) where the difference found on an aid application is no more than 20 % of the eligible quantity, the amount of the aid shall be calculated on the basis of the eligible quantity, reduced by double the difference found;

(b) where the difference found on an aid application is over 20 % of the eligible quantity, the aid application shall be rejected;

(c) where the difference found on an aid application is no more than 20 % of the eligible quantity, but follows a similar finding made during the same marketing year, the aid application shall be rejected;

(d) where the difference found on an aid application is over 50 % of the eligible quantity or where a difference of over 20 % and no more than 50 % is found once again during the same marketing year, no aid shall be granted for the current marketing year.

The amount to be recovered shall be off-set against aid payments to which the undertaking is entitled in the context of applications lodged in the marketing years following the calendar year of the finding.

Where it is found that the irregularities referred to in the first subparagraph have been committed intentionally by the processing undertaking, the beneficiary shall be excluded from aid in the current marketing year and the following year.

Article 30

Reductions and exclusions applicable in the event of non-compliance with certain approval conditions by processing undertakings and approved purchasers

Where it is found that the stock records do not satisfy the conditions referred to in Article 12, or that the link between the stock records and the accounts and the supporting documents cannot be established, notwithstanding the reductions and exclusions referred to in Article 29, a reduction of between 10 % and 30 % of the amount of aid applied for for the current marketing year shall be imposed on the processing undertaking, depending on the seriousness of the infringement.

If the same irregularities are found once again within a period of two years following the first finding, the competent authority shall withdraw approval of the processing undertaking for a minimum of one and a maximum of three marketing years.

CHAPTER 7

GENERAL PROVISIONS

Article 31

***Force majeure* and exceptional circumstances**

Cases of *force majeure* and of exceptional circumstances with relevant evidence to the satisfaction of the competent authority shall be notified in writing to the authority within 10 working days of the date on which the responsible person in the processing undertaking is in a position to do so.

Article 32

Additional measures and mutual assistance between Member States

1. Member States shall take all further measures required for the proper application of the common organisation of the market in dried fodder and shall give one another the mutual assistance needed for the purposes of checks required pursuant to this Regulation. In that respect, Member States may, where this Regulation does not provide for appropriate reductions and exclusions, impose appropriate national penalties on producers or other operators in the sector, such as farmers or purchasers involved in the procedure for granting aid, in order to ensure compliance with the conditions for granting aid.

2. Member States shall assist one another to ensure effective controls, and to permit checks on the authenticity of documents submitted and/or the accuracy of the data exchanged.

Article 33

Member State notifications to the Commission

1. The Member States shall notify the Commission, at the beginning of each quarter, of the quantities of dried fodder in respect of which applications for the aid provided for in Article 4 of Regulation (EC) No 1786/2003 were lodged during the previous quarter, such particulars to be broken down by the months in which the quantities concerned left the processing undertaking,

The Member States shall inform the Commission, not later than 31 May each year, of the quantities of dried fodder in respect of which entitlement to the aid was recognised during the previous marketing year.

Notifications of the particulars referred to in the first and second subparagraphs shall distinguish between the categories referred to in Article 2(1). This information will be used by the Commission to determine whether the maximum guaranteed quantity has been complied with.

2. The Member States shall notify the Commission:

(a) not later than 30 April of each year, of the estimated quantities of stocks of dried fodder held in the processing undertakings at 31 March that year;

(b) not later than 30 April 2005, of the quantities of stocks of dried fodder held in the processing undertakings at 31 March 2005 and eligible under the terms of Article 34;

(c) not later than 31 May of each year, of the number of new approvals, approvals withdrawn and provisional approvals in the previous marketing year;

(d) not later than 31 May of each year, of the statistics on the checks carried out under Articles 23 to 28 and the reductions and exclusions applied under Articles 29, 30 and 31, in the previous marketing year, in accordance with Annex III;

(e) not later than 31 May of each year, a comprehensive record of energy used in the production of dehydrated fodder, in accordance with Annex I, and the changes in areas of leguminous and other green fodder, in accordance with Annex II, in the previous marketing year;

(f) 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 11(4).

(g) not later than 1 May 2005, of the measures adopted to implement Regulation (EC) No 1786/2003 and this Regulation, in particular the national penalties provided for in Article 30 of this Regulation.

CHAPTER 8

TRANSITIONAL AND FINAL PROVISIONS

Article 34

Stocks on 31 March 2005

1. Dried fodder produced during 2004/05 that has not left the processing plant or one of the storage places referred to in Article 3(a) of this Regulation before 31 March 2005 may be eligible for the aid provided for in Article 3 of Regulation (EC) No 603/95 in the 2005/06 marketing year, provided that it:

(a) complies with the terms of Article 3 of this Regulation;

(b) leaves the processing undertaking under the supervision of the competent authority under the conditions laid down in Article 10 and 11 of this Regulation;

(c) is entered in the accounts in the context of the national guaranteed quantities allocated to the Member States concerned for the 2004/05 marketing year;

(d) has been declared and certified during the 2004/05 marketing year.

2. The competent authorities in the Member States shall adopt all the necessary inspection measures to ensure compliance with paragraph 1.

Article 35

Optional transitional period

The Member States who apply an optional transitional period in accordance with Article 71 of Regulation (EC) No 1782/2003 shall pay the processing enterprises, with a view to its subsequent transfer to producers, the aid referred to in the second subparagraph of Article 71(2) of Regulation (EC) No 1782/2003, based on the quantities recognised as eligible for the aid provided for in Article 4 of Regulation (EC) No 1786/2003 and subject to the ceiling referred to in point D of Annex VII to Regulation (EC) No 1782/2003.

Where the processing undertaking is supplied with fodder from another Member State, the aid referred to in the second subparagraph of Article 71(2) of Regulation (EC) No 1782/2003 shall be paid to the processing undertakings with a view to transferring it to the producer only if that producer is based in a Member State which applies the optional transitional period.

The sum of this aid and of the aid provided for in Regulation (EC) No 1786/2003 may not exceed the maximum support for the sector provided for in Regulation (EC) No 603/95.

The aid referred to in the second subparagraph of Article 71(2) of Regulation (EC) No 1782/2003 shall be fixed in accordance with the procedure referred to in Article 18(2) of Regulation (EC) No 1786/2003 and shall be paid to the processing undertakings, which will transfer it to the producers within 15 working days.

Article 36

2004/05 marketing year

Regulation (EC) No 785/95 is hereby repealed.

However, those provisions concerning the management of the aid scheme in force during the 2004/05 marketing year shall continue to apply until the accounts for that marketing year have been finally cleared.

Article 37

Entry into force

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

It shall apply from 1 April 2005.

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

Done at Brussels, 7 March 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX I

Record of energy used in the production of dehydrated fodder

Member State:

Marketing year:

	Subject	Unit	Quantity
a	Production of dehydrated fodder	tonnes of dehydrated fodder	
b	Average humidity on entry	%	
c	Average humidity on leaving	%	
d	Average air temperature on entering the drier	°C	
e	Specific consumption	megajoules per kg of dehydrated fodder	
f	Type of fuel used: (gas, coal, lignite, fuel oil, electricity, biomass)		
g	Specific calorific value in megajoules per unit of energy	megajoules per unit of energy	
h	Quantity of fuel used:	(a) in tonnes of fuel	
i		(b) in megajoules	

ANNEX II

Changes in areas of leguminous and other green fodder

Member State:

Marketing year:

	Cronos-Eurostat codes	Green fodder	Area (1 000 hectares)
a	2611 + 2670	(a) = b + c Green fodder grown on arable land, of which:	
b	2611	(b) annual fodder crops (fodder maize, other)	
c	2670	(c) perennial fodder crops (clover, lucerne, temporary grassland)	
d	2672	of which: lucerne	
e	0002	Total area of permanent grassland	

ANNEX III

A. **Control statistics — population subject to controls**

A. Approval of processing undertakings:	
A.1. Number of undertakings approved for the marketing year	
A.2. Number of new approvals	
A.3. Number of approvals withdrawn	
A.4. of which: number withdrawn for less than one marketing year	
A.5. of which: number withdrawn for one or more marketing years	
B. Approvals of purchasers of fodder for drying and/or grinding	
B.1. Number of purchasers of fodder for drying and/or grinding approved for the marketing year	
B.2. Number of new approvals	
B.3. Number of approvals withdrawn	
B.4. of which: number withdrawn for less than one marketing year	
B.5. of which: number withdrawn for one or more marketing years	
C. Contracts	
C.1. Number of contracts	
C.2. Number of farmers concerned	
C.3. Number of parcels included in the contracts	
C.4. Area (in ha) covered by contracts	
D. Delivery declarations	
D.1. Number of delivery declarations	
D.2. Number of farmers concerned	
D.3. Number of parcels included in the delivery declarations	
D.4. Area (in ha) covered by delivery declarations	
E. Applications submitted	
E.1. Number of applications submitted	
E.2. Number of lots concerned	
E.3. Quantity processed	
E.4. Quantity leaving (covered by aid applications)	

B. **Control statistics — number of controls and results**

A. **Checks on areas declared in the contracts and in the single aid applications**	Number of farmers	Number of contracts	Number of parcels	Area	Quantities declared ineligible	National penalties (Art. 32)
A.1. **Administrative checks:**						
A.1.1. Declaration of the same area twice, by one or more applicants						
A.1.2. Contract (or delivery declaration) and single aid application do not correspond						
A.2. **On-the-spot checks on areas declared:**						
A.2.1. Number of on-the-spot checks						
A.2.2. No anomalies						
A.2.3. Over-declaration						
A.2.4. Under-declaration						
A.2.5. Crop type different from that declared						
A.2.6. Other infringements						

B. **Checks on purchasers of fodder for drying and/or grinding**	Number of purchasers	Number of contracts
B.1. Number of on-the-spot checks		
B.2. No anomalies		
B.3. Irregularities in the stock records		
B.4. Other infringements		

C. **Checks on processing undertakings**	Number of under-takings	Number of applications	Number of lots	Quantity of dried fodder leaving	Quantity of dried fodder mixed
C.1. **Administrative checks:**					
C.1.1. Late applications, up to 25 days late					
C.1.2. Late applications, over 25 days late					
C.1.3. No notification before leaving					
C.1.4. Non-compliance with moisture and/or protein content criteria					
C.1.5. Other irregularities detected					
C.2. **On-the-spot checks on processing undertakings**					
C.2.1. Number of on-the-spot checks					
C.2.2. Number of samples taken (Art. 10(2))					
C.2.3. No notification before leaving					
C.2.4. Non-compliance with moisture and/or protein content criteria					
C.2.5. Weighing irregularities					

C. **Checks on processing undertakings**	Number of under-takings	Number of applications	Number of lots	Quantity of dried fodder leaving	Quantity of dried fodder mixed
C.2.6. Stock records and accounts do not correspond					
C.2.7. Other irregularities in the stock records					
C.2.8. Other irregularities detected					
C.3. **Penalties applied (Art. 29):**					
C.3.1. Difference of no more than 20 % (Art. 29(a))					
C.3.2. Repeat case of difference of no more than 20 % (Art. 29(c))					
C.3.3. Difference of between 20 % and 50 % (Art. 29(b))					
C.3.4. Repeat case of difference of between 20 % and 50 % (Art. 29(d))					
C.3.5. Difference over 50 % (Art. 29(d))					
C.3.6. Intentional irregularity (Art. 29, third subparagraph)					
C.3.7. Financial penalties of 10 %–30 % (Art. 30)					

D. **Checks on the traceability of products (Art. 27(1))**	Number of lots	Quantity of dried fodder leaving	Quantity of dried fodder mixed
D.1. Checks on the reality of purchases of fodder for drying and grinding (delivery and payment)			
D.2. Checks on the reality (reception and payment) of dried fodder leaving to the first intermediary (marketing undertakings)			
D.3. Checks on the reality (reception and payment) of dried fodder leaving to the final intermediary			