Commission Regulation (EC) No 319/2008 of 7 April 2008 amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003

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amending Regulation (EC) No 795/2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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[(1)], and in particular Article 145(c), (m) and (n) thereof,

Whereas:

(1) Article 44(3) of Regulation (EC) No 1782/2003 provided that farmers had to keep at their disposal for a period of at least 10 months the parcels corresponding to the eligible hectares. Council Regulation (EC) No 146/2008 of 14 February 2008 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), amended Article 44(3) of Regulation (EC) No 1782/2003 to empower the Member States to set the date when the parcels should be at the farmers' disposal. Following this change, the detailed provisions contained in Article 24(2) of Commission Regulation (EC) No 795/2004[(2)] on the implementation of the requirement for farmers to keep the parcels at their disposal for at least 10 months are no longer needed. Article 24(2) of that Regulation should therefore be deleted. In addition, Article 26(2) of that Regulation needs to be adapted accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 319/2008. (See end of Document for details)*

(2) Furthermore, following the amendments of the rules of cross-compliance introduced by Articles 1(1) and 1(2) of Regulation (EC) No 146/2008, Commission Regulation (EC) No 796/2004[(3)] needs to be adapted.

(3) Rules which in certain cases require a follow up by the competent authority that a remedial action has been taken by the farmers have been introduced. In order to avoid any weakening of the control system, in particular as to the samples for on-the-spot checks, it should be clarified that such follow up cases should not be taken into account when establishing the minimum control sample.

(4) Furthermore, where the possibility not to apply any reduction for minor non-compliances or not to apply reductions amounting to EUR 100 or less, as provided for in Articles 6(3) or 7(2) of Regulation (EC) No 1782/2003, is applied by a Member State, rules should be established where farmers fail to undertake the remedial action required from them.

(5) Regulations (EC) No 795/2004 and (EC) No 796/2004 should be amended accordingly.

(6) The introduction of the possibility not to apply any reduction for minor non-compliances or not to apply reductions amounting to EUR 100 or less is applicable as of 1 January 2008. Hence, amendments provided for in this Regulation should concern aid applications relating to years or premium periods starting as of 1 January 2008. This Regulation should therefore apply as of 1 January 2008. However, the new provisions concerning the liability of farmers in respect of non-compliance in case of transfer of land apply from 1 April 2008. Therefore, the corresponding amendment of Regulation (EC) No 796/2004 should also apply from that date.

(7) Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures[(4)] contains a reference to a provision of Regulation (EC) No 796/2004 which should be deleted by the present Regulation. For the sake of legal certainty, it is appropriate to clarify that the said provision remains valid for the purposes of applying Regulation (EC) No 1975/2006, until a later decision is taken through the appropriate legislative procedure.

(8) The Management Committee for Direct Payments has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 795/2004 is amended as follows:

1. In Article 24, paragraph 2 is deleted.

2. In Article 26(2), the first subparagraph is replaced by the following:

> The Member State shall define the region referred to in paragraph 1 at the latest one month before the date fixed by the Member State pursuant to Article 44(3) of Regulation (EC) No 1782/2003.

Article 2

Regulation (EC) No 796/2004 is amended as follows:

1. In Article 44, the following paragraph 1a is inserted:

1a. When establishing the minimum control rate referred to in paragraph 1 of this Article, the actions required in Article 6(3) or in the third subparagraph of Article 7(2) of Regulation (EC) No 1782/2003 shall not be taken into account.

2. In Article 48, paragraph 2 is replaced by the following:

2. The farmer shall be informed of any determined non-compliance within three months after the date of the on-the-spot check.

Unless the farmer has taken immediate remedial action putting an end to the non-compliance found in the sense of Article 7(2) of Regulation (EC) No 1782/2003, the farmer shall be informed that remedial action shall be taken pursuant to that provision within the time limit set in the first subparagraph.

Where a Member State makes use of the possibility not to apply a reduction or exclusion as provided for in Article 6(3) of Regulation (EC) No 1782/2003, the farmer concerned shall be informed, at the latest within one month after it is decided not to apply the reduction or exclusion of the payment, that remedial action shall be taken.

3. In Article 65, paragraph 2 is deleted, subject to Article 3 of this Regulation.

4. In Article 66, the following paragraphs 2a and 2b are inserted:

2a. Where a Member State makes use of the possibility not to apply a reduction or exclusion as provided for in Article 6(3) of Regulation (EC) No 1782/2003 and the farmer has not remedied the situation within a given deadline, the reduction or exclusion shall be applied.

The deadline shall be set by the competent authority and shall not be later than the end of the year following the one in which the finding was made.

2b Where a Member State makes use of the possibility to consider a case of non-compliance as minor, as provided for in the second and third subparagraphs of Article 7(2) of Regulation (EC) No 1782/2003, and the farmer has not remedied the situation within a given deadline, a reduction shall be applied.

The deadline shall be set by the competent authority and shall not be later than the end of the year following the one in which the finding was made.

The non-compliance in question shall not be considered as minor and a reduction of at least 1 % as provided for in paragraph 1 shall be applied.

Furthermore, a non-compliance which has been considered as minor and which has been remedied by the farmer within the time limit set in the first subparagraph shall not be considered as a non-compliance for the purpose of paragraph 4.

5. In Article 74, paragraph 7 is deleted.

Article 3

Article 65(2) of Regulation (EC) No 796/2004, as laid down before its deletion by Article 2, point (3) of this Regulation, remains valid for the purposes of application of Article 22(1) of Regulation (EC) No 1975/2006.