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

COMMISSION REGULATION (EC) No 382/2005

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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of Council Regulation (EC) No 603/95 on the common organisation of the market in dried fodder[(4)] should therefore be repealed.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.

(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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 382/2005. (See end of Document for details)*

(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.

I[F1 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;

2. ‘similar fodder products’ means 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;

3. ‘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;

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 382/2005. (See end of Document for details)*

4. ‘purchaser of fodder for drying and/or grinding’ means the natural or legal persons referred to in Article 10(c)(iii) of Regulation (EC) No 1786/2003, duly approved by the Member State where they are established, who purchase fresh fodder from producers in order to deliver it to processing undertakings;

5. ‘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;

6. ‘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 %;

7. ‘agricultural parcels’ means the parcels identified in accordance with the identification system for agricultural parcels in the integrated administration and control 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[5];

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

9. ‘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.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 1388/2007 of 27 November 2007 amending Regulation (EC) No 382/2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder.

[F1 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, in addition to the requirements specified in Article 9 of that Regulation, the requirements for being placed on the market as feedingstuffs which 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.

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.**]**

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 382/2005. (See end of Document for details)*

Textual Amendments

F1 Substituted by Commission Regulation (EC) No 1388/2007 of 27 November 2007 amending Regulation (EC) No 382/2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder.

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) **[**F1a description of the technical installations, and in particular the artificial heat-drying installations and grinding units, with details of hourly evaporation capacity and operating temperature, and weighing equipment, producing a final product which complies with the moisture content and minimum protein content referred to in Article 9 of Regulation (EC) No 1786/2003;**]**

(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;