

COMMISSION REGULATION (EEC) No 426/91

of 22 February 1991

amending Regulation (EEC) No 625/78 on detailed rules of application for public storage of skimmed-milk powder

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organization of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EEC) No 3641/90⁽²⁾, and in particular Articles 7 (5) and 28 thereof,

Having regard to Council Regulation (EEC) No 3577/90 of 4 December 1990 on the transitional measures and adjustments required in the agricultural sector as a result of German unification⁽³⁾, and in particular Article 3 thereof,

Whereas the second subparagraph of Article 1 (1) of Council Regulation (EEC) No 1014/68 of 20 July 1968 laying down general rules for the public storage of skimmed-milk powder⁽⁴⁾, as last amended by Regulation (EEC) No 3577/90, provides for the German intervention agency to buy in first-quality skimmed-milk powder manufactured by the roller process to the end of the 1992/93 milk year; whereas the quality criteria to be met by this skimmed-milk powder should be determined and Annex I to Commission Regulation (EEC) No 625/78⁽⁵⁾, as last amended by Regulation (EEC) No 1364/90⁽⁶⁾, amended accordingly; whereas the provisions on the marking of bags contained in Annex III should be supplemented as a result;

Whereas Article 1 (2) of Council Regulation (EEC) No 777/87 of 16 March 1987 modifying the intervention arrangements for butter and skimmed-milk powder⁽⁷⁾, as amended by Regulation (EEC) No 3577/90, lays down that buying in of skimmed-milk powder may be suspended when the quantities offered for intervention in the period 1 March to 31 August each year exceed 106 000 tonnes; whereas, to ensure the correct application of these provisions, measures must be taken to guarantee that offers are genuine; whereas, therefore, it should be specified that an offer must relate to a product already manufactured and that the skimmed-milk powder must actually be delivered on pain of forfeiture of a security provided for the purpose;

Whereas Article 2 (3) of Regulation (EEC) No 625/78 lays down the storage costs to be paid by the seller when the skimmed-milk powder does not fulfil the requirements laid down; whereas these amounts should be brought into line with the costs used by the EAGGF for buying in and public storage operations;

Whereas Article 3 (2) of the above Regulation lays down inspection arrangements for approved production plants; whereas Article II to the Regulation lays down the conditions which the packaging of skimmed-milk powder offered for intervention must fulfil; whereas these provisions should be amended to take account of experience gained;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 625/78 is hereby amended as follows:

1. in Article 1:

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

'(d) manufactured during a period of one month preceding the day of receipt of the offer of sale by the intervention agency or, in the case referred to in the second paragraph of Annex III (f), the four weeks preceding the week in which the offer is received.'

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ No L 362, 27. 12. 1990, p. 5.

⁽³⁾ OJ No L 353, 17. 12. 1990, p. 23.

⁽⁴⁾ OJ No L 173, 22. 7. 1968, p. 4.

⁽⁵⁾ OJ No L 84, 31. 3. 1978, p. 19.

⁽⁶⁾ OJ No L 131, 23. 5. 1990, p. 11.

⁽⁷⁾ OJ No L 78, 20. 3. 1987, p. 10.

(b) the following paragraph 5 is added :

'5. An offer shall only be valid where proof is supplied that the person submitting the offer has provided a security equal to ECU 10 per tonne of skimmed-milk powder offered.

Under this Regulation, the primary requirements whose fulfilment is ensured by that security are maintenance of the offer and delivery of the skimmed-milk powder to the storage depot designated by the intervention agency.

However, where the inspection referred to in Article 2 (5) shows that the skimmed-milk powder does not conform the requirements laid down in Article 1 (1), the security shall be released for the quantities not yet delivered.

The security shall be provided in the Member State where the offer is submitted. It shall be converted into national currency using the representative rate valid on the day the offer is received.';

2. Article 2 is replaced by the following :

'Article 2

1. After checking the offer, the intervention agency shall immediately issue a numbered delivery order showing :

- (a) the quantity to be delivered ;
- (b) the final date for delivery of the skimmed-milk powder ;
- (c) the storage depot where it must be delivered.

2. The skimmed-milk powder must be delivered within 28 days of the day of receipt of the offer to sell referred to in Article 1 (1) (d). Delivery may be in several consignments.

3. For the purposes of this Regulation, the skimmed-milk powder shall be deemed to be taken over by the intervention agency on the day when it enters the storage depot but no earlier than the day following the day of issue of the delivery order referred to in paragraph 1.

4. Payment for the skimmed-milk powder bought in by the intervention agency shall be made during the period beginning on the 45th day following the date on which it is taken over by the intervention agency and ending on the 65th day after that date.

5. Twenty days after taking over the skimmed-milk powder at the latest, the intervention agency shall take samples in order to carry out analyses to check compliance with the quality and composition standards referred to in Article 1. Samples must be taken from at least 1 % of the bags offered ; the samples taken shall be grouped to ensure at least a representative analysis for each 20 tonnes offered.

6. In making the offer the seller shall undertake, in the event of the inspection showing that the skimmed-milk powder does not comply with the requirements set out in Article 1 (1) :

- to take back the goods in question,
- to reimburse the intervention agency for the price of the defective goods calculated on the basis of the buying-in price, and
- to pay the technical and financial costs for the quantities concerned, calculated according to the method laid down in Article 7 (2) and (3) of Commission Regulation (EEC) No 3597/90 (*).

(*) OJ No L 350, 14. 12. 1990, p. 43.';

3. Article 3 is amended as follows :

(a) the following point (d) is added to paragraph 1 :

'(d) undertake to inform the body responsible for inspection, at least two working days in advance, of its intention to manufacture skimmed-milk powder for intervention.';

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

'2. To ensure compliance with this Regulation, Member States shall carry out unannounced on-the-spot inspections, on the basis of the production schedule of the plants concerned.

These inspections must include at least:

- one inspection per period of 28 days of manufacture for intervention with at least one inspection every six months, including examination, in particular, of the records referred to in paragraph 1 (b),
- one inspection every six months, to verify compliance with the conditions for approval referred to in paragraph 1.

3. Approval shall be withdrawn where the provisions of paragraph 1 are not complied with.

Approval may be reinstated at the request of the enterprise concerned, after a thorough inspection.

4. A report must be drawn up on the inspections carried out pursuant to paragraphs 2 and 3 specifying:

- the date of inspection,
- its length,
- the operations carried out.

5. Member States shall inform the Commission of the measures adopted with regard to the inspections provided for in paragraphs 2 and 3;

4. in Article 5 (2), '0,034 unit of account' is replaced by 'ECU 0,041';

5. Annex I (1) is replaced by the following:

'1. Characteristics:

	Spray-dried skimmed-milk powder	Roller-dried skimmed-milk powder
(a) Fat content:	1,00 % maximum	1,5 % maximum
(b) Water content:	3,5 % maximum	5 % maximum
(c) Titratable acidity in ml of decinormal sodium hydroxide solution:	19,5 maximum	21 maximum
(d) Lactate content:	150 mg/100 g maximum	200 mg/100 g maximum
(e) Additives:	None	None
(f) Phosphatase test:	Negative, i.e. equal to or less than 4 micrograms of phenol per gram of reconstituted milk	Negative
(g) Solubility index:	0,5 ml maximum (24 °C)	13 ml maximum (50 °C)
(h) Burned-particle content:	15,0 mg maximum, i.e. disc B minimum	22,5 mg maximum, i.e. disc C minimum
(i) Micro-organism content:	40 000 per gram maximum	50 000 per gram maximum
(k) Detection of coliforms:	Negative in 0,1 g	Negative in 0,1 g
(l) Detection of buttermilk:	Negative	Negative
(m) Detection of whey:	Negative	Negative
(n) Taste and smell:	Clean	Clean or slightly cooked taste
(o) Appearance:	White or slightly yellowish colour, free from impurities or coloured particles	Slightly yellowish colour';

6. in Annex II:

(a) the following is added to point 1:

- '(d) one outer semi-stretchable kraft paper bag of a strength of at least 95 g/m²,
one semi-stretchable kraft paper bag with polyethylene lining of a strength of
at least 95 g + 15 g/m²,
one semi-stretchable kraft paper bag with a strength of at least 85 g/m²,
one polyethylene inner bag at least 0,12 mm thick, welded or double bound.'

(b) the following is added after point 2:

'3. Test procedure:

The packaging, in accordance with point 1, must have a tensile energy absorption average of 420 J/m² for a minimum of three layers of paper according to the ISO 1924-2-1985 method.'

7. in Annex III the following is added to point (a):

'or, where appropriate, "roller-dried skimmed-milk powder";'.

Article 2

This Regulation shall enter into force on the third 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, 22 February 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission