

COMMISSION REGULATION (EEC) No 2635/88

of 24 August 1988

laying down detailed rules for implementing an aid scheme for the use of concentrated grape must in feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine ⁽¹⁾, as last amended by Regulation (EEC) No 2253/88 ⁽²⁾, and in particular Articles 45 ⁽⁹⁾ and 81 thereof,

Having regard to Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽³⁾, as last amended by Regulation (EEC) No 1636/87 ⁽⁴⁾,

Whereas Article 45 (4) of Regulation (EEC) No 822/87 as amended by Regulation (EEC) No 3146/87 ⁽⁵⁾ introduced an aid scheme for the use in feedingstuffs of concentrated grape must produced in the Community during the 1988/89, 1989/90 and 1990/91 wine years;

Whereas provision should be made for the processors concerned to conclude a supply contract with the feedingstuffs producers;

Whereas potential beneficiaries must submit an application accompanied by a number of supporting documents; whereas in order to ensure uniform operation of the system throughout the Member States, deadlines should be set for the submission of applications and for payment of aid to the processors;

Whereas application of the aid scheme entails an administrative system for checking both the origin of the product attracting aid and the purpose for which it is used;

Whereas, in order to enable the Member States' competent authorities to make the necessary checks, steps should be taken, without prejudice to the provisions of Title II of Commission Regulation (EEC) No 1153/75 of 30 April 1975 prescribing the form of the accompanying documents for wine products and specifying the obligations of wine-producers and traders other than

retailers ⁽⁶⁾, as last amended by Regulation (EEC) No 418/86 ⁽⁷⁾, to lay down the obligations of the processor with regard to the keeping of stock records;

Whereas the production cost of the grape must used in the preparation of concentrated grape must depends on its alcoholic strength; whereas the market price of grape must with a high natural potential alcoholic strength is higher than that of other musts; whereas, accordingly, the amount of aid must be varied in terms of the alcoholic strength of the must;

Whereas Article 4 of Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽⁸⁾, as last amended by Council Directive 88/228/EEC ⁽⁹⁾, provides that Member States may authorize the marketing and use of additives within their territories; whereas Annex I to the Directive lists the additives which may be marketed and may be incorporated in feedingstuffs;

Whereas concentrated grape must for feedingstuffs must be used solely for incorporation in feedingstuffs; whereas, therefore, it should be denatured by the incorporation of additives and Member States should be required to check by this means that the must is not diverted to other uses; whereas a list of denaturing agents to be incorporated in concentrated grape must should therefore be drawn up;

Whereas the measures laid down in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the implementation of the aid scheme for the use of concentrated grape must produced in the Community with the exception of Portugal in feedingstuffs as provided for in Article 45 (4) of Regulation (EEC) No 822/87 during the 1988/89, 1989/90 and 1990/91 marketing years.

Article 2

For the purposes of this Regulation:

(a) 'processor' means any natural or legal person or group of such persons: who:

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 198, 26. 7. 1988, p. 35.

⁽³⁾ OJ No L 164, 24. 6. 1985, p. 1.

⁽⁴⁾ OJ No L 153, 13. 6. 1987, p. 1.

⁽⁵⁾ OJ No L 300, 23. 10. 1987, p. 4.

⁽⁶⁾ OJ No L 113, 1. 5. 1975, p. 1.

⁽⁷⁾ OJ No L 48, 26. 2. 1986, p. 8.

⁽⁸⁾ OJ No L 270, 14. 12. 1970, p. 1.

⁽⁹⁾ OJ No L 101, 20. 4. 1988, p. 30.

- buys directly or indirectly from producers fresh grapes other than table grapes, or must other than that made from table grapes, and processes them or has them processed under contract into concentrated grape must, or
- being himself a producer processes or has processed under contract, grapes or must into concentrated grape must.

Natural or legal persons or groups of such persons who hold concentrated grape must from preceding marketing years shall be treated in the same way as processors;

- (b) 'user' means a producer of feedingstuffs who incorporates in them denatured concentrated grape must;
- (c) 'competent authority' means the authority of the district in which the processor is based.

Article 3

1. Processors who wish to qualify for the aid shall conclude a supply contract, hereinafter called 'the contract', with a user and shall submit it before 15 September to the competent authority for approval. The contract shall contain the details listed in paragraph 3.

2. The competent authority shall inform the Commission before 30 September of the quantity of concentrated grape must that is the subject of all such contracts.

3. The contract shall cover a minimum quantity of 200 hl of concentrated grape must to be denatured, and shall specify:

- the name or business name and address of the processor,
- the following technical data:
 - the place where the grape musts and concentrated grape musts are to be stored,
 - the quantity (in hectolitres of concentrated grape must),
- the name or business name and address of the user.

4. The contract shall contain a clause whereby a coefficient may be applied to the quantities stipulated in order to reduce them where the aggregated quantities exceed the annual maximum quantity laid down for the Community as a whole. The Commission shall, as appropriate, determine this coefficient, in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87, by 31 October at the latest.

5. The competent authority shall approve the contract for the quantities stated before 15 November, having first applied the reduction coefficient described in paragraph 4, if necessary.

6. The competent authority shall inform the processor of the outcome of the approval procedure and shall, where appropriate, send him a countersigned copy of the contract by 30 November at the latest.

Article 4

1. The processor shall show in the stock records drawn up in accordance with the provisions of Title II of Regulation (EEC) No 1153/75:

- the quantities and % volume potential alcoholic strength of the raw materials delivered each day to his plant and, where appropriate, the name and address of the seller or sellers, with the references to the documents accompanying them,
- the quantities and the wine-growing zone of origin of the raw materials used each day,
- the quantities actually produced each day,
- the quantities actually denatured each day,
- the quantities of denaturing agents used each day,
- the quantities of denatured concentrated grape must supplied to users,
- the names and addresses of the users and the delivery dates,
- the date on which the denaturing procedure provided for in Article 5 (3) was performed.

Article 5

1. Concentrated grape must for use in feedingstuffs which is the subject of a contract must be denatured in the plant of the processor and under his responsibility.

2. Denaturing shall be carried out by adding the following products to the concentrated grape must before incorporation in feedingstuffs: E131 (Patent Blue V) or E142 (Acid Brilliant Green BS (Lissamine Green)) as defined in Annex I to Directive 70/524/EEC, to ensure that that concentrated must may be used only in feedingstuffs.

3. Denaturing of concentrated grape must must be carried out between 15 November and 31 July of each wine year concerned.

4. The processor shall inform the inspection authorities concerned at least two working days before denaturing is due to begin.

Article 6

In order to qualify for the aid, the processor shall submit to the competent authorities an application for aid, including in particular a summary of the contracts and of the quantities actually denatured, as soon as possible, but in any event not later than 31 August.

Article 7

1. The competent authority shall within a period of 3 months of receiving an application pay the aid in respect of the quantity of denatured concentrated grape must eligible for it.

2. The period referred to in paragraph 1 shall not apply where an administrative enquiry has been opened concerning entitlement to the aid. In such a case payment shall be made only when entitlement has been acknowledged.

3. Once it has received the copy of the contract referred to in Article 3 (6), the competent authority shall, at the processor's request, pay in advance an amount equal to the aid, calculated in respect of the quantities of concentrated grape must the processor intends to denature and for which he supplies evidence that they have entered his premises provided that he has given a security equivalent to 120 % of the amount to be advanced.

Article 8

1. The amount of the aid shall be fixed per % vol potential alcoholic strength and per hectolitre of concentrated grape must suitable for the purposes laid down in this Regulation.

2. The potential alcoholic strength of the concentrated grape must shall be determined by applying the figures in the table of equivalence in the Annex to Commission Regulation (EEC) No 2287/87⁽¹⁾ to the readings at 20 °C from a refractometer used in accordance with the method laid down in the Annex to Commission Regulation (EEC) No 543/86⁽²⁾.

Article 9

1. The Member States concerned shall forward to the Commission, not later than 31 December after the close of the wine year concerned, a list of processors and particulars of the quantities of concentrated grape must for which aid has been received, expressed in % vol potential alcoholic strength and in hectolitres.

Article 10

The amounts referred to in Article 8 shall be converted into national currency using the agricultural conversion rate applicable to the wine sector in force at the beginning of the wine year concerned.

Article 11

1. The Member States shall take the necessary measures to ensure that this Regulation is applied. Such measures shall include inspections to check the characteristics of the denatured concentrated grape musts covered by an aid application and to prevent them from being diverted from their intended use.

2. To that end, the competent authority of the Member State shall:

- carry out inspections, particularly of the denaturing process, at least by means of spot checks, at the plant of the processor and, where appropriate, that of the user,
- check the stock records referred to in Article 4.

3. The Member States shall designate one or more competent authorities to be responsible for the application of this Regulation and shall forward their names and addresses forthwith to the Commission, which shall publish them in the *Official Journal of the European Communities*.

⁽¹⁾ OJ No L 209, 31. 7. 1987, p. 26.

⁽²⁾ OJ No L 55, 1. 3. 1986, p. 41.

Article 12

1. In intra-Community trade in denatured concentrated grape must, the Control Copy T5 form shall be used in accordance with the provision of Commission Regulation (EEC) No 2823/87⁽³⁾ as evidence that the product has been put to the use provided for in this Regulation. Box 104 of the Control Copy T5 form shall bear one of the following indications:

- Mostos de uva concentrados desnaturalizados destinados a la utilización en la alimentación animal — Reglamento (CEE) n° 2635/88
- Denatureret koncentreret druemost beregnet til foder — Forordning (EØF) nr. 2635/88
- Denaturierter konzentrierter Traubenmost zu Fütterungszwecken — Verordnung (EWG) Nr. 2635/88
- Μετουσιωμένα συμπυκνωμένα γλεύκης σταφυλής, προοριζόμενα να χρησιμοποιηθούν στις ζωτροφές — κανονισμός (ΕΟΚ) αριθ. 2635/88
- Denatured concentrated grape must for use in feedingstuffs — Regulation (EEC) No 2635/88
- Moûts de raisins concentrés dénaturés, destinés à l'utilisation dans l'alimentation animale — Règlement (CEE) n° 2635/88
- Mosti di uve concentrati denaturati, destinati ad essere utilizzati nell'alimentazione degli animali — Regolamento (CEE) n. 2635/88
- Gedenatureerde geconcentreerde druivemost, bestemd voor gebruik bij de diervoeding — Verordening (EEG) nr. 2635/88
- Mostos de uvas concentrados desnaturados, destinados à utilização na alimentação dos animais — Regulamento (CEE) n° 2635/88.

2. The original of the Control Copy T5 shall constitute evidence of denaturing.

Article 13

1. Except in cases of *force majeure*, should the processor fail to fulfil any of the obligations imposed on him by this Regulation, apart from that of processing the raw materials for which the aid is requested into denatured concentrated grape must, the aid to be paid shall be reduced by an amount determined by the competent authority according to the severity of the infringement in question.

2. In cases of *force majeure*, the competent authority shall decide on the measure it considers to be appropriate in the light of the mitigating circumstances invoked.

3. Member States shall inform the Commission of cases where the provisions of paragraph 2 are applied, and shall give details of the action taken subsequent thereto.

Article 14

This Regulation shall enter into force on 1 September 1988.

⁽³⁾ OJ No L 270, 23. 9. 1987, p. 1.

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

Done at Brussels, 24 August 1988.

For the Commission

Frans ANDRIESEN

Vice-President
