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REGULATION (EEC) No 100/72 OF THE COMMISSION
of 14 January 1972
laying down detailed rules on the denaturing of sugar for animal feed

(OJ L 12, 15.1.1972, p. 15)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Regulation (EEC) No 2351/72 of the Commission of 8 November 1972	L 253	11	9.11.1972
►**M2**	Regulation (EEC) No 2847/72 of the Commission of 29 December 1972	L 299	4	31.12.1972
►**M3**	Commission Regulation (EEC) No 3475/80 of 30 December 1980	L 363	69	31.12.1980

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REGULATION (EEC) No 100/72 OF THE COMMISSION

of 14 January 1972

laying down detailed rules on the denaturing of sugar for animal feed

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 1009/78/EEC [1] of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) 2727/71, [2] and in particular Articles 9 (8) and 38 thereof;

Whereas Council Regulation (EEC) No 2049/69 [3] of 17 October 1969 laying down general rules on the denaturing of sugar for animal feed, as amended by Regulation (EEC) No 2863/71, [4] contains no further provisions concerning the field of application of the denaturing premium certificate; whereas the relevant detailed rules were contained in Commission Regulation (EEC) No 2061/69 [5] of 20 October 1969 laying down detailed rules on the denaturing of sugar for animal feed, as last amended by Regulation (EEC) No 772/71 [6]; whereas Regulation (EEC) No 2061/69 has already been amended several times and other important amendments have become necessary; whereas, in the interests of clarity, the detailed rules on the denaturing of sugar for animal feed should therefore be consolidated in a new Regulation;

Whereas Regulation (EEC) No 2049/69 provides for two methods of fixing the denaturing premium, either a uniform manner for the entire Community, or by means of a tendering procedure; whereas the detailed rules for this procedure may, for the most part, be modelled on the provisions contained in Regulation (EEC) No 394/70 [7] in respect of invitations to tender to determine export refunds on sugar;

Whereas it is necessary to lay down the conditions under which a denaturing premium certificate may be obtained and to specify certain administrative rules concerning this certificate;

Whereas, having regard in particular to the quantitative losses generally sustained during a denaturing process, a margin of tolerance should be allowed between the quantity of sugar denatured and the quantity shown on the denaturing premium certificate; whereas a similar margin may be used to calculate the amount of the deposit to be forfeited where only part of the quantity of sugar shown on the certificate has been denatured;

Whereas the proper working of a single market requires that the market should be as flexible as possible; whereas, to this end, provision should be made for the denaturing premium certificate to be transferred or exchanged according to specified formalities; whereas, furthermore, the denaturing premium certificate, which confers the right to payment of the premium and entails the obligation to denature the sugar in question, should be valid for a period which will allow manufacturers of feedingstuffs to make long-term arrangements;

Whereas only sugar intended for animal feed is eligible for a denaturing premium; whereas the specific denaturing processes which must be used if a denaturing premium is to be paid must therefore be determined; whereas provision must also be made for strict supervision of

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(1) OJ No L 308, 18.12.1967, p. 1.
(2) OJ No L 282, 23.12.1971, p. 8.
(3) OJ No L 263, 21.10.1969, p. 1.
(4) OJ No L 288, 31.12.1971, p. 1.
(5) OJ No L 263, 21.10.1969, p. 19.
(6) OJ No L 85, 15.4.1971, p. 18.
(7) OJ No L 50, 4.3.1970, p. 1.

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the various operations and in particular for prior approval of the places in which denaturing will be effected;

Whereas since denatured sugar must be used only for animal feed, Member States must take all necessary measures to ensure that it is used for this purpose;

Whereas controls carried out on the denaturing agents defined in this Regulation have shown that results for the same product may sometimes differ from those set out in the definitions; whereas these results may not be strictly accurate; whereas a certain technical latitude should be allowed with regard to the minimum contents specified;

Whereas the nutritive value of raw sugar depends principally on its sucrose content; whereas, therefore, the premium for raw sugar of a quality other than the standard quality should be adjusted in the light of the yield of the sugar in question;

Whereas it may be economically justified to make provision for adjustments to the premiums where sugar prices change during a specified period;

Whereas, to ensure compliance with all the provisions on denaturing, the premium should be paid only after denaturing has been effected in accordance with these provisions; whereas, in order to avoid too much costly supervision, advances on the denaturing premium should not be allowed;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Sugar;

HAS ADOPTED THIS REGULATION:

TITLE I

Tendering procedures

Article 1

The terms of the invitation to tender may provide for a maximum quantity.

Article 2

1. The tendering procedure for fixing premiums shall be organized by the appropriate intervention agency.

2. The intervention agency shall draw up an invitation to tender.

The invitation to tender shall be published in the *Official Journal of the European Communities*. The intervention agency may also publish the invitation to tender or have it published elsewhere.

3. Publication in the *Official Journal of the European Communities* shall take place at least ten days before the period for the submission of tenders expires.

4. The invitation to tender shall indicate the terms of the invitation to tender and in particular, where appropriate, the maximum amount of the denaturing premium, the minimum quantity per tender and the maximum quantity per tenderer.

Article 3

1. If the situation on the sugar market in the Community so requires, a standing invitation to tender may be issued.

During the period of validity of the standing invitation to tender, partial invitations to tender shall be issued.

2. The standing invitation to tender shall be published only for the purpose of issuing it. The invitation as published may be amended or replaced during the period of validity of the standing invitation to ten-

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der. It shall be amended or replaced if the terms of the invitation to tender are changed during that period of validity.

3. The period for the submission of tenders for the first partial invitation to tender shall:

(a) begin on the day on which the standing invitation to tender is published in the *Official Journal of the European Communities* and

(b) expire at 9.30 a.m. on the first Wednesday after the tenth day following publication.

4. The periods for the submission of tenders in response to the second and subsequent partial invitations to tender shall:

(a) begin on the first working day following the expiry of the previous period and

(b) expire at 9.30 a.m. on the Wednesday of the following week.

5. In the event of a standing invitation to tender being issued, the provisions of the following Articles in this Title shall apply to all partial invitations to tender.

Article 4

1. Tenderers shall either deliver written tenders to the intervention agency against a receipt or address tenders to the intervention agency by registered letter, telex or telegram.

2. The tender shall indicate:

(a) the invitation to which the tender relates;

(b) the name and address of the tenderer;

(c) the type and the total quantity of sugar to be denatured;

(d) the amount of the denaturing premium proposed per 100 kilogrammes, in the currency of the Member State in which the intervention agency to which the tender is submitted is situated.

Intervention agencies may require additional information.

3. A tender shall be valid only if:

(a) proof is furnished before the period for the submission of tenders expires that the tenderer has lodged the deposit required for the invitation to tender;

(b) it includes a declaration by the tenderer that, if his tender for a denaturing premium, hereinafter called the 'premium', is successful, he will apply for a denaturing premium certificate, hereinafter called the 'certificate', for the quantity of sugar to be denatured and will lodge the deposit required in this connection.

4. A tender may stipulate that it may be treated as submitted only if the award relates to all or a specified part of the quantity indicated in the tender.

5. A tender which is not submitted in accordance with the provisions of this Article, or which contains terms other than those indicated in the invitation to tender, shall not be taken into consideration.

6. Once a tender has been submitted it may not be withdrawn.

Article 5

1. The deposit required by the invitation to tender shall be 0·5 units of account per 100 kg of white or raw sugar.

2. The tenderer may lodge the deposit either in cash or in the form of a guarantee by an establishment complying with criteria laid down by the Member State in which the tender was submitted.

Each Member State shall notify the Commission of the types of establishment authorized to give such a guarantee and of the criteria referred to in the preceding subparagraph and the Commission shall in turn inform the other Member States.

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Article 6

1. Tenders shall be examined in private session by the intervention agency. Persons present at the examination shall be sworn to secrecy.

2. The Commission shall be informed without delay of the tenders submitted.

Article 7

1. Except where a decision is taken to make no award and without prejudice to the provisions of paragraphs 2 and 3, the award shall be made to any tenderer whose tender does not exceed the maximum amount of the premium.

2. Where a maximum quantity has been fixed for the invitation to tender, the award shall be made to the tenderer who proposes the lowest amount of the premium. If the maximum quantity is not completely accounted for by that tender, awards shall be made to the tenderers whose tenders contain the next lowest proposed amount of the premium.

3. However, where the procedure provided for in paragraph 2 would, by taking a certain tender into consideration, cause the maximum quantity to be exceeded, only the remaining amount of the maximum quantity shall be awarded to the tenderer in question.

Tenders which propose the same premium and which, if the total quantity which they represent were accepted, would cause the maximum quantity to be exceeded shall be considered in proportion to the quantity referred to in each tender.

Article 8

1. An award shall:

(a) confer the right to the issue, in respect of the quantity for which the premium is awarded, of a certificate showing *inter alia* the premium specified in the tender;

(b) entail the obligation to apply for such a certificate, in respect of that quantity, to the intervention agency to which the tender was submitted.

2. The right and the obligation arising from awards shall not be transferable. That right shall be exercised and that obligation shall be fulfilled within eighteen days after the period for the submission of tenders has expired.

Article 9

1. The intervention agency shall immediately notify all tenderers of the outcome of their participation in the tendering procedure. The agency shall also send statements of award to the successful tenderers.

2. Statements of award shall indicate at least:

(a) the invitation to which the tender relates;

(b) the quantity in respect of which the premium is awarded;

(c) the premium to be paid for the quantity referred to under (b).

Article 10

1. Except in cases of *force majeure*, the deposit required for the invitation to tender shall only be released in respect of the quantity.

(a) for which the tenderer:

— has not withdrawn his tender;

and

— has, within the time limit specified and following compliance with the terms stipulated, applied for a certificate;

or

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(b) in respect of which no award is made.

2. The deposit shall be released immediately.

3. In cases of *force majeure*, the intervention agency shall determine the measures necessary in view of the circumstances invoked.

TITLE II

Denaturing premium certificates

Article 11

1. Certificates may be obtained only by application to be made before denaturing takes place.

2. On receipt of such application, the competent authorities of the Member States shall issue a certificate only if:

(a) when the application is made:

— a premium fixed uniformly throughout the Community is applicable; or

— the applicant has tendered successfully for a premium; and

(b) proof is furnished that the applicant has lodged a denaturing deposit to guarantee that denaturing will be effected during the period of validity of the certificate.

Article 12

1. Applications for the issue of certificates shall be made in writing.

2. Applications shall indicate:

(a) the name and address of the applicant;

(b) the type and the total quantity of sugar to be denatured;

(c) where appropriate, the statement of award to which the application relates.

The competent authorities of the Member States may require additional information.

Article 13

1. Without prejudice to the provisions of this Regulation, the competent authorities of the Member States shall have the certificate printed in their respective countries.

2. The certificate shall indicate in particular:

(a) the name and address of the titular holder;

(b) the day on which the application was lodged;

(c) the type and the total quantity of sugar to be denatured;

(d) the minimum quantity of sugar to be denatured per day in a given place;

(e) whichever is appropriate, and in the currency of the Member State issuing the certificate:

— the premium fixed uniformly throughout the Community for the quality of sugar in question and applicable on the day on which the application is lodged;

— the premium fixed as the result of an invitation to tender;

(f) the last day of validity of the certificate.

3. The certificate shall be drawn up in at least in duplicate, one copy for the titular holder, the other for the competent authority of the Member State in which it is drawn up.

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Article 14

1. The issue of the certificate shall:

(a) confer the right to payment of the premium shown on the certificate for the quantity in question after denaturing;

(b) entail the obligation to denature the sugar under the conditions laid down in the certificate.

2. Where the quantity of sugar denatured exceeds the quantity shown on the certificate by not more than 2%, it shall be considered as having been denatured in accordance with that document.

3. Where the quantity of sugar denatured is not more than 2% lower than the quantity shown on the certificate, the obligation to denature shall be considered as having been fulfilled.

Article 15

1. The obligation arising from the certificate shall not be transferable.

The right arising from the certificate may be transferred by the titular holder during the period of validity of the certificate.

2. In respect of any one certificate a transfer may only be made:

(a) in favour of a single transferee;

and

(b) in respect of the total quantity shown on the certificate.

3. The transfer shall take effect from the date on which the competent authority of the Member State which issued the certificate enters on that certificate the name and address of the transferee and the date on which they were entered, authenticated by that authority's stamp.

The details shall be entered on application by the titular holder. The transferee may not transfer his right nor transfer it back to the titular bolder.

Article 16

1. The certificate shall be valid from the date on which it is issued until the end of the eleventh month following that during which it was issued. The certificate shall be considered as having been issued on the day on which the application was lodged with the competent authority of the Member State in question.

2. Applications for certificates received by the authority either on one of its non-working days or after 4.00 p.m. on one of its working days, shall be considered as having been lodged on the first working day following the day on which they were received.

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3. The time limit specified in this Regulation shall correspond to Belgian time.

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Article 17

1. The amount of the denaturing deposit shall be one unit of account per 100 kg of sugar.

2. The applicant may lodge the deposit either in cash or in the form of a guarantee by an establishment complying with criteria laid down by the Member State in which the certificate is applied for.

The provisions of the second subparagraph of Article 5 (2) shall apply.

Article 18

1. Subject to the provisions of paragraph 2, where the obligation to denature has not been fulfilled, the deposit shall be forfeited. The

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amount of the deposit to be forfeited shall be equal to the difference between:

(a) 98 % of the quantity of sugar shown on the certificate;

and

(b) the quantity of sugar actually denatured.

However, where the quantity of sugar denatured is less than 2% of the quantity shown on the certificate, the whole of the deposit shall be forfeited.

2. Where denaturing cannot be carried out under the conditions laid down in the certificate as a result of circumstances considered to constitute a case of *force majeure* and where a request has been made for these circumstances to be taken into account, the Member State concerned shall determine the measures necessary in view of the circumstances invoked.

3. The deposit shall be released immediately where the sugar has been denatured under the conditions laid down in the certificate.

TITLE III

Denaturing

Article 19

1. The Member States shall appoint competent agencies to supervise denaturing and to ensure that the denatured sugar is only used for animal feed.

2. Denaturing shall be effected in establishments approved by the Member State in which the denaturing is carried out.

Member States shall only give approval to factories manufacturing sugar or compound feedingstuffs or to warehouses in which denaturing can be effectively supervised.

3. The minimum quantity to be denatured per day in any one place shall be 20 metric tons.

Member States may however fix another minimum quantity.

4. The person concerned shall, in sufficient time to allow for supervision, notify the agency referred to in paragraph 1 of the following details in writing:

(a) his name and address;

(b) the type and quantity of sugar to be denatured;

(c) the place in which denaturing will be effected;

(d) the time estimated for the denaturing.

The Member States may require additional information.

Article 20

1. Where the titular holder or the transferee of a certificate intends to denature sugar in a Member State other than that which issued the certificate:

(a) he shall return the certificate to the competent authority of the Member State which issued it, hereinafter called the ‘issuing authority’, and shall inform that authority in writing of his intention;

(b) he shall apply to the competent authority of the Member State in which the denaturing will be effected, hereinafter called the ‘paying authority’, for a certificate to replace the first one.

2. Where paragraph 1 applies:

(a) the issuing authority, after checking the authenticity of the certificate, shall send it without delay to the paying authority;

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(b) the paying authority shall issue a new certificate containing at least the information appearing on the certificate issued by the issuing authority, and in particular the date on which the application was lodged. However, the information provided for in Article 13 (2) (d) shall be amended as necessary by the paying authority and the premium shall be expressed in the currency of the Member State in which the paying authority is situated;

(c) the paying authority shall, as soon as the quantity of sugar in question has been denatured under the conditions laid down in the certificate, inform the issuing authority so that the provisions of Article 18 can be applied.

Article 21

1. The premium shall be paid by the Member State in which denaturing was effected.

2. The premium shall only be paid if:

(a) the sugar has been denatured under supervision in an approved establishment by one of the processes listed in the Annex;

(b) the quantity of sugar denatured per day in any one place was:

— not less than 20 metric tons or

— not less than the minimum quantity fixed by the Member State specified in paragraph 1.

Article 22

1. The premium for raw sugar of a quality other than the standard quality shall be multiplied by a coefficient.

2. This coefficient shall be equal to the yield of the raw sugar in question divided by 92. The yield shall be calculated in accordance with the provisions of Article 1 of Council Regulation (EEC) No 431/68 [1] of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating c.i.f. prices for sugar.

Article 23

If, between:

— the lodging of an application for the premium, where the premium is fixed uniformly; or

— the expiry of the period for the submission of tenders, where the premium is fixed by means of a tendering procedure;

and denaturing, there is any alteration in the prices fixed pursuant to Regulation No 1009/67/EEC, provision may be made for adjusting the premiums.

Article 24

1. The premium shall be paid:

(a) at the earliest, after proof is furnished that the sugar has been denatured under the conditions laid down in the certificate;

(b) at the latest, at the end of the month following that in which the proof specified under (a) is furnished.

2. Advances on the premiums shall not be allowed.

[1] OJ No L 89, 10.4.1968, p. 3.

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TITLE IV

General Provisions

Article 25

1. Where denatured sugar is sent from one Member State to another Member State, proof that it is sugar denatured by one of the processes specified in the Annex can only be furnished by submitting to the Member State of destination either a T2 document as provided for in Article 39 of Regulation (EEC) No 542/69 [1] or a T2L document as provided for in Article 1 of Regulation (EEC) No 2313/69 [2] Section 31 of which contains, in addition to the description of goods, one of the following endorsements:

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'Denatureret sukker'

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'Denaturierter Zucker'

▼M2

'Denatured sugar'

▼B

'Sucre dénaturé'

'Zucchero denaturato'

'Gedenatureerde suiker'

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'Μετουσιωμένη ζάχαρη'

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(Denatured sugar)

2. The endorsement provided for in paragraph 1 shall only be entered by the competent authority of the exporting Member State if the sugar in question has been denatured by one of the processes specified in paragraph 1. The endorsement must also indicate the type and the quantity of product used to denature 100 kilogrammes of sugar.

Article 26

The information on quantities required by this Regulation shall, in respect of raw sugar, be taken to refer to weight tel quel.

Article 27

Regulation (EEC) No 2061/69 is hereby repealed.

It shall, however, continue to apply in respect of operations for which a certificate was issued during the period of validity of that Regulation.

Article 28

This Regulation shall enter into force on 15 January 1972.

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

[1] OJ No L 77, 29.3.1969, p. 1.
[2] OJ No L 295, 24.11.1969, p. 8.

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ANNEX

I. **General Conditions**

Where, as the result of an official check of products used in denaturing and defined under III, a difference is found between the result of the check and the minimum content specified for substances making up such products, the following tolerances (technical latitudes) shall be allowed:

(a) for crude protein: 2 units;

(b) for total fat content: 10% of the minimum content laid down;

(c) for water, calcium and calcium carbonate content: 1 unit.

II. **Denaturing Processes**

1. Where the sugar is intended for live-stock feed, it shall be denatured by the homogeneous admixture with each 100 kilogrammes of sugar of at least:

either (a) 2·5 kg of fish meal or animal meal and

1 kg of high viscosity swelling starch;

or (b) 4 kg of chalk and 1 kg of fenugreek flour.

Where fish meal is used, the kilogramme of high viscosity swelling starch may be replaced by 1 kg of salt, whether or not denatured.

2. Where the sugar is intended for inclusion in milk substitute compound feedingstuffs and a physical check is carried out during the manufacture of the feedingstuff concerned, the Member State in question may, on application by the person concerned, allow the sugar to be denatured by the homogeneous admixture of at least 3·5 kg of salt, whether or not denatured, with each 100 kg of sugar, if the sugar denatured in this way is dissolved with at least 25 kg of swelling starch and then dried by rolling.

3. Where the sugar is intended for feeding bees, it shall be denatured by the homogeneous admixture with each 100 kg of sugar of:

either (a) 0·050 kg of octo-acetylsucrose;

or (b) 0·125 kg of garlic powder with 0·050 kg of powdered vegetable charcoal added;

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or (c) 0·250 kg of ferric oxide; in this case the mixture must show a definite coloration ranging from dark red to brown.

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4. Where the sugar is intended for ensiling green forage, it shall be denatured:

either (a) in accordance with paragraph 1 (a);

or (b) in accordance with paragraph 1 (b); in this case, the 4 kg of chalk may be replaced by 2 kg of high viscosity swelling starch;

or (c) by the homogeneous admixture with each 100 kg of sugar of 25 kg of salt, whether or not denatured, and 1·9 kg of ferrous sulphate and 0·01—0·03 kg of patent blue V (EEC No E131).

III. **Definitions**

For the purposes of this Regulation:

1. 'fish meal' means a product:

(a) obtained by drying and grinding various kinds of whole fish or pieces of fish;

(b) with a crude protein content of not less than 55% in respect of goods with a water content of 12%;

(c) with a total fat content of not less than 6% calculated on the basis of the dry matter;

(d) with a characteristic smell;

2. 'animal meal' means a product:

(a) obtained by drying and grinding carcases and parts of carcases of warm blooded land animals which have undergone high-pressure

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steam treatment and which may then have been defatted by extraction;

(b) virtually without hair, bristels, feather, horns, hooves, skin or the contents of the stomach and intestines;

(c) with a crude protein content of not less than 50% in respect of goods with a water content of 12%;

(d) with a total fat content of not less than 6% calculated on the basis of the dry matter;

3. 'chalk' means a product:

(a) containing not less than 90% of calcium carbonate ($CaCO_3$);

(b) analysis of which shows 35% or more of calcium (Ca);

4. 'fenugreek', trigonella phoenum graecum, means a product:

(a) with a characteristic smell;

(b) containing trigonelline;

(c) analysis of which shows a crude protein content of not less than 25% and a total fat content of not less than 5%;

5. 'high viscosity swelling starch' means:

starch, whether or not modified, showing certain minimum properties of resistance to filtration, which must be verified by the following test:

Prepare in a beaker:

99 gr of crystallized white sugar;

1 gr of the sample of product to be tested.

Add 200 ml of water.

Shake or stir the mixture for three hours at a temperature of 25 ºC.

Proceed with the filtering test as follows:

Pour 20 ml of the mixture into a 45 mm diameter Büchner funnel covered with a Schleicher and Schüll ashless filter paper (Prolabo black band) and inserted in a flask under 10 cm mercury vacuum.

The volume filtered in two minutes must not exceed 6 ml.

6. 'salt' means sodium chloride (NaCl);

7. 'ferric oxide' means a product containing not less than 50% af Fe_2O_3, from dark red to brown in colour, and powdered to a degree of fineness which will allow 90% to pass through a sieve with 0·10 mm mesh.