COMMISSION REGULATION (EEC) No 2111/81

of 22 July 1981

laying down for the 1981/82 wine-growing year detailed rules for the distillation of the by-products of wine-making

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine [1], as last amended by Regulation (EEC) No 3456/80 [2] and in particular Articles 6 (3), 39 (7) and 65 thereof,

Whereas, for the purpose of determining the quantity of alcohol to be contained in products delivered in pursuance of the obligation to distil the by-products of wine-making, provision must be made, in accordance with Article 39 (3) of Regulation (EEC) No 337/79, to fix the percentage which that quantity must represent in relation to the volume of alcohol naturally contained in the products used for the production of wine ; whereas it appears appropriate, to fix this percentage for the 1981/82 wine-growing year at the maximum level laid down in the said Article ; whereas, in accordance with the first paragraph of Article 9 of Council Regulation (EEC) No 349/79 of 5 February 1979 on the distillation of the by-products of wine-making [3], producers who deliver their grape marc for the manufacture of oenocyanine qualify for a reduced percentage ; whereas, taking into account the fact that the alcohol contained in the marcs represents a substantial proportion of the quantity of alcohol to be delivered, the reduced percentage in respect of the 1981/82 wine-growing year should be fixed at 40 % of the normal rate ; whereas, pursuant to the second paragraph of the said Article, producers of white quality wines psr qualify for a reduced rate ; whereas experience in preceding wine-growing years suggests that this rate should be fixed for the 1981/82 wine-growing year at 50 % of the normal percentage ;

Whereas, for the purpose of determining the quantity of alcohol to be contained in the products delivered, it is also necessary to fix, in accordance with Article 39 (3) of Regulation (EEC) No 337/79, a standard natural alcoholic strength for each wine-growing year and each wine-growing zone ; whereas, however, by virtue of Article 39 (5) of Regulation (EEC) No 337/79, producers in certain zones are not subject to the obligation in question ; whereas, in the absence of precise information on the alcoholic strength of wines for the coming wine-growing year, this determination may be made by reference to the average strengths recorded in the wine-growing zones concerned in previous wine-growing years, taking into account improvements in quality ; whereas, however, it is necessary to allow for the possibility of altering the alcoholic strength referred to above before the date on which distillation of the wine commences to take account of the quality of the vintage ; whereas, moreover, experience has shown that provision should be made for the adoption of different alcoholic strengths for administrative units which, having suffered from exceptionally bad weather conditions, are recognized as disaster areas by Member States ;

Whereas, in order to ensure that arrangements are fully effective, provision should be made for certain time limits on the operations to be carried out by producers and distillers ; whereas it is also advisable to specify what constitutes proof in respect of the delivery of marc, lees and wine to distillers, such proof to vary according to whether the distiller is established in the same Member State as the producer or in another Member State ;

Whereas experience has shown that it is not always easy for producers to calculate exactly the quantity of products which they must deliver to meet their obligations ; whereas the expiry of the time limit for making deliveries should not mean that producers who have delivered almost all the required quantity and have only minor adjustments to make are penalized disproportionately to the infringement involved, particularly having regard to the application of Article 6 (1) of Regulation (EEC) No 337/79 ; whereas to this end such producers should be considered as having fulfilled their obligation within the required time if their intervention agency authorizes them to deliver any remaining quantities of products under arrangements to be fixed by the agency ; whereas, however, quantities of products delivered after the time limit has expired should not be eligible for financing by the European Agricultural Guidance and Guarantee Fund ;

Whereas, as regards approval of distillers, certain conditions should be laid down regarding the quality of the final product ;

Whereas steps should be taken to ensure that, in the event of the by-products of wine-making being withdrawn under supervision in accordance with Article 7 of Regulation (EEC) No 349/79, a balance is main-

[1] OJ No L 54, 5. 3. 1979, p. 1.
[2] OJ No L 360, 31. 12. 1980, p. 18.
[3] OJ No L 54, 5. 3. 1979, p. 84.

tained *vis-à-vis* producers who meet the obligation referred to in Article 39 (2) of Regulation (EEC) No 337/79 ;

Whereas the need to improve the quality of wine requires that all marc and lees be distilled ; whereas the distillation of wine at the beginning of the wine-growing year should therefore be prohibited ;

Whereas the second paragraph of Article 8 of Regulation (EEC) No 349/79 provides that the exemption in respect of individual small-scale producers from the obligation contained in Article 39 (2) of Regulation (EEC) No 337/79 may be raised to a maximum of 25 hectolitres ; whereas the said maximum is appropriate for this wine-growing year in view of the administrative situation in certain Member States ;

Whereas, so that the Commission may keep a general watch on compliance with the obligation to distil the by-products of wine-making, the Member States concerned must notify it regularly of all quantities delivered to intervention agencies and sold by those agencies and of all quantities of grape marc spirit or wine spirit produced in that connection ; whereas the Commission needs also to be informed of all measures taken by the Member States to ensure that the obligations laid down in Article 39 (1) of Regulation (EEC) No 337/79 are complied with ;

Whereas Article 6 of Regulation (EEC) No 337/79 provides that only producers fulfilling the obligations laid down in Article 39 of that Regualtion during a reference period to be determined may qualify for the intervention measures ; whereas that period must therefore be specified ;

Whereas the measures provided for 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 application of Article 39 of Regulation (EEC) No 337/79 in respect of the 1981/82 wine-growing year.

Article 2

The percentage referred to in Article 39 (3) of Regulation (EEC) No 337/79 shall be 10 %.

The reduced rate referred to in the first paragraph of Article 9 of Regulation (EEC) No 349/79 shall be 4 %.

The reduced rate referred to in the second paragraph of Article 9 of Regulation (EEC) No 349/79 shall be 5 %.

Article 3

For the purpose of determining the volume of alcohol contained in products delivered for distillation pursuant to Article 39 (2) of Regulation (EEC) No 337/79 in respect of the obligation to distil the by-products of wine-making, the alcoholic strength to be taken into consideration for the 1981/82 wine-growing year shall be :

— 8·5 for Zone B,

— 9·0 for Zone C I,

— 9·5 for Zone C II,

— 10·0 for Zone C III.

However, the alcoholic stengths given above my be altered before the wine-distilling operations referred to in Article 9 begin, if the quality of the vintage so requires. Such strengths may also be altered for the administrative units or parts thereof which are recognized as disaster areas by the Member States within the meaning of the national laws.

Article 4

1. The delivery pursuant to Article 1 (1) of Regulation (EEC) No 349/79 of marc, lees and wine to distillers shall be effected by producers by 31 July 1982. The minimum alcoholic strength of the products shall be fixed by the Member States.

Intervention agencies may allow producers who have delivered at least 95 % of the quantity of products they are obliged to deliver within the time limit referred to in the last paragraph to meet their obligation by delivering the remaining quantity before a date to be fixed by the responsible national authorities. In such cases,

— the price paid for these remaining quantities and for alcohol made therefrom and delivered to the intervention agency shall be reduced by an amount equal to the EAGGF financial contribution referred to in Article 1 (2) of Regulation (EEC) No 2007/81,

— the expenditure incurred by the intervention agency for the alcohol delivered shall not be eligible for a financial contribution by the EAGGF,

— the producer's obligation shall be considered as fulfilled within the time limit referred to in the first sub paragraph.

2. On delivery of the products referred to in paragraph 1 the distiller shall give the producer a certificate stating the quantity and alcoholic strength of the products delivered.

By way of derogation from the preceding subparagraph, if a producer, subject to the obligation referred to in Article 39 (2) of Regulation (EEC) No 337/79, has marc, lees, or wine distilled in another Member State, the distiller shall request the intervention agency of the Member State in which distillation takes place to certify in Section 23 of the document accompanying the products into its charge. The distiller shall forward to the producer a copy of the certified accompanying document within 30 days following receipt of the products for distillation.

A certificate as referred to in the first subparagraph or a duly certified accompanying document as referred to in the second subparagraph shall constitute the proof mentioned in Article 1 (2) (a) of Regulation (EEC) No 349/79 and the proof referred to in the second subparagraph of Article 39 (2) of Regulation (EEC) No 337/79.

3. Not later than two months after the producer has delivered the products, the distiller shall pay the producer an advance of at least 80 % of the purchase price of the products delivered. The balance shall be paid to the producer not later than 31 August 1982.

4. The delivery of alcohol to the intervention agencies in accordance with Article 1 (2) (d) of Regulation (EEC) No 349/79 shall be effected by distillers by 31 August 1982.

Article 5

Before the 15th of each month distillers shall communicate the following information to the intervention agencies in respect of the previous month :

— the quantity of alcohol of 92 % vol or more obtained from the compulsory distillation of the by-products of wine-making,

— the quantity and alcoholic strength of potable spirits produced in accordance with Article 5 of Regulation (EEC) No 349/79, subdivided into marc spirit and wine spirit.

Article 6

1. In order to be approved within the meaning of Article 6 of Regulation (EEC) No 349/79, distillers must, except as regards the production of potable spirits under Article 5 of that Regulation, be capable of producing alcohol of 92 % vol or more.

2. Approval shall in principle be revoked, except in case of *force majeure* or unforeseeable circumstances, if the distiller fails to pay the producer the purchase price for the products delivered or to fulfil his obligations under Community provisions, including notification requirements.

Article 7

1. Pursuant to Article 7 (2) of Regulation (EEC) No 349/79, Member States shall fix :

— the quantity of marc and lees to be withdrawn in relation to the quantity of wine produced,

— the quantity of alcohol contained in marc and lees to be withdrawn in relation to the quantity of wine produced.

2. Intervention agencies shall make provision for a suitable system of control in the event of withdrawal, such system to include at least the weighing of the products withdrawn.

Article 8

The Member States shall inform the Commission without delay of measures taken to ensure that the provisions of Article 39 (1) of Regulation (EEC) No 337/79 are complied with.

Article 9

Any wine delivered in performance of the obligation under Article 39 (2) of Regulation (EEC) No 337/79 and wine intended for the production of potable spirits pursuant to Article 5 of Regulation (EEC) No 349/79, may be distilled only between 1 January and 31 August 1982.

Article 10

Individual producers who, during the 1981/82 wine-growing year do not produce more than 25 hectolitres of wine shall not be separately to the obligation laid down, in Article 39 (2) of Regulation (EEC) No 337/79, in accordance with the second paragraph of Article 8 of Regulation (EEC) No 349/79.

Article 11

1. Before the 20th of each month, Member States shall inform the Commission in respect of the preceding month of :

— the quantities of alcohol delivered to intervention agencies in performance of the obligation to distil the by-products of wine-making, indicting separately quantities delivered under Article 9 of Regulation (EEC) No 349/79,

— the quantities of grape marc spirit or wine spirit produced pursuant to Article 5 (1) of Regulation (EEC) No 349/79, and the quantities of alcohol contained in those products.

2. They shall also communicate to the Commission in respect of alcohol, before 1 October 1981 in respect of the 1980/81 wine-growing year, the selling prices obtaining throughout the year and the characteristics and quantities of the products sold at those prices,

3. Member States shall inform the Commission before 1 October 1982 of any cases in which distillers have not fulfilled their obligations and of the measures taken in consequence.

Article 12

The reference period referred to in Article 6 (1) of Regulation (EEC) No 337/79 shall run from 1 September 1980 to 31 August 1981.

Article 13

This Regulation shall enter into force on 1 September 1981.

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

Done at Brussels, 22 July 1981.

For the Commission

The President

Gaston THORN