COMMISSION REGULATION (EC) No 583/98

of 13 March 1998

amending Regulation (EEC) No 2641/88 laying down detailed rules for the application of the aid scheme for the use of grapes, grape must and concentrated grape must to produce grape juice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine [1], as last amended by Regulation (EC) No 2087/97 [2], and in particular Article 46(5) thereof,

Whereas Commission Regulation (EEC) No 2641/88 [3], as last amended by Regulation (EC) No 2122/95 [4], lays down detailed rules for the application of the aid scheme for the use of grape must to produce grape juice; whereas pursuant to that Regulation the product eligible for the payment of the aid is grape juice intended for direct human consumption; whereas that grape juice may be mixed with other products before packaging; whereas experience has shown that the products obtained by such mixing in which grape juice is used as the basic product should be specified; whereas the category of products in which grape juice, whether or not concentrated, is used as such may include only non-alcoholic drinks;

Whereas eligibility for aid is conditional on submission of a written statement by the processor concerning the work which he will undertake to produce grape juice; whereas that requirement is necessary to ensure the proper operation of the aid scheme and checks; whereas, in order to avoid administrative management which is excessively burdensome both for the processors and for the administration, that prior written statement should not be required from processors using a limited quantity of grapes or grape must each year; whereas that quantity should be laid down; whereas the processors in question should nevertheless inform the responsible authorities of their Member State, at the beginning of the marketing year, of their intention to process a certain quantity of grapes or grape must;

Whereas Articles 6, 7 and 11 of that Regulation refer to the 'bottler'; whereas current practice in trade in grape juice shows that the product is also sold to intermediary firms who store it before selling it to bottlers; whereas there are also firms which purchase the juices from processors to mix them with other juices or other products to manufacture non-alcoholic drinks; whereas that situation should be taken into account and provision made for such operators by using the term 'user' and defining it;

Whereas, in cases where the processor is not himself the user of the product in question, it is not always clear to the checking authorities, particularly when they are located in a Member State other than that of the processor, whether the product is grape must which has not yet benefited from aid pursuant to this Regulation or grape juice in respect of which aid has already been applied for; whereas there should be provision for the document accompanying transport of the product in question to show whether an application for aid has been made;

Whereas checks should be carried out on the prepared grape juices up to the bottling stage; whereas, in cases where these juices are mixed with other products, the checks may be carried out at the mixing stage only, when it is clear that there is no further possibiltiy of the products being used for wine-making; whereas provision should be made for an appropriate procedure for ensuring that such a mixture exists; whereas, where the grape juice is consigned to a storage firm, check should be carried out to ensure that it is then sent to a bottler or a manufacturer of non-alcoholic drinks;

Whereas Article 9(1) of Regulation (EEC) No 2641/88 provides for payment of the aid no later than three months after receipt of all the supporting documents; whereas an administrative enquiry may be opened into entitlement to the aid; whereas in that case payment may not be made until entitlement to the aid has been recognised; whereas the Regulation should be supplemented accordingly;

Whereas this Regulation should apply to all operators who so request in respect of applications for aid and/or consignments of grape juice to bottling plants, manufacturers of products based on grape juice as defined in this Regulation, and storage facilities, relating to the recent past; whereas that period may concern only applications for aid submitted and/or consignments dispatched from the date when the questions underlying the amendments in this Regulation were raised;

[1] OJ L 84, 27. 3. 1987, p. 1.
[2] OJ L 292, 25. 10. 1997, p. 1.
[3] OJ L 236, 26. 8. 1988, p. 25.
[4] OJ L 212, 7. 9. 1995, p. 7.

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

Regulation (EEC) No 2641/88 is amended as follows:

1. the following paragraphs 3a and 3b are inserted in Article 1:

'3a. For the purposes of this Regulation, "mixed with other products" means the mixture of grape juice, whether or not concentrated and before being bottled, packed or packaged, with other juices falling within CN code 2009 to make juice mixtures and/or the mixture of grape juice with other products such as water, sugar or flavourings in order to manufacture non-alcoholic drinks, products to serve as a base for such drinks or concentrated non-alcoholic drinks in the form of syrups. "Non-alcoholic drink" means any drink with an actual alcoholic strength of not more than 1,2 % vol.

3b. For the purposes of this Regulation, "user" means any operator other than the grape-juice processor who carries out one of the following operations; bottling, packing or packaging, storage for sale to one or more firms carrying out these operations or those that follow, or preparing, by mixture with other products, non-alcoholic drinks or products to serve as a base for the preparation of such drinks';

2. the following paragraph 4 is inserted in Article 2:

'4. Processors who use in each marketing year no more than 50 tonnes of grapes, 800 hl of grape must or 150 hl of concentrated grape must to prepare grape juice are not required to make the statements referred to in paragraphs 1 and 2. At the beginning of the marketing year, they shall submit to the responsible bodies a statement containing the following information:

(a) the name or business name and address of the processor;

(b) the following technical information:

— the type of raw materials (grapes, grape must or concentrated grape must),

— the place of storage of the raw materials intended for processing,

— the place where processing is to be carried out,

— the planned date of commencement and the duration of the processing operations.';

3. in Article 6(1) and the fourth and fifth indents of Article 11(2), 'bottler' is replaced by 'user';

4. the first and second indents of Article 6(1) are replaced by the following:

'— the unpackaged quantities of grape juice entering his premises each day, together with the name and address of the consignor or processor,

— the unpackaged quantities of grape juice leaving his premises each day, together with the name and address of the consignee,

— the quantities of grape juice and/or grape juice mixed with other products packaged each day, together with the quantities of grape juice used in making the products in question.';

5. Article 7 is amended to read as follows:

'Article 7

1. If the processor does not himself undertake the operations of mixing the grape juice with other products pursuant to Article 1(3a) or bottling the juice, mixed, where applicable, with other products, he shall state in Section 10 of the accompanying document referred to in Annex III to Regulation (EEC) No 2238/93 whether an application for aid in respect of the processing of the grape must into this product has been or will be made to the competent authorities pursuant to this Regulation.

2. If the grape juices are dispatched within the Community by the person who prepared them to a bottler, the latter shall, within 15 days of receipt of the product, send a copy of the accompanying document to the responsible body or the department authorised for this purpose at the place of unloading.

No later than 15 days after its receipt, the responsible body or authorised department at the place of unloading shall send a duly stamped copy of the accompanying document to the processor or consignor of the grape juice in question,

3. If the grape juices are dispatched within the Community by the person who prepared them to a firm manufacturing products as defined in Article 1(3a):

— the manufacturer of these products shall, not later than 15 days after its receipt, send the document accompanying the grape juices to the responsible body or authorised department at the place of unloading,

— the control body or authorised department shall stamp the accompanying documents referred to in the first indent only where it has adequate assurances that the grape juices concerned have actually been mixed with other products to manufacture the drinks referred to in Article 1(3a).

Where such assurances exist, no later than 15 days after receipt of the accompanying document referred to in this paragraph, the responsible body or authorised department at the place of unloading shall send a duly stamped copy to the processor or consignor of the grape juice in question.

4. If the grape juices are dispatched within the Community by the person who prepared them to a storage firm before being bottled or used to manufacture non-alcoholic drinks as defined in Article 1(3a):

— the storage firm shall, no later than 15 days after its receipt, send the document accompanying the grape juices to the responsible body or authorised department at the place of unloading,

— the control body or authorised department shall not stamp the accompanying document referred to in the first indent until it has the assurance that a quantity at least equivalent to that of the consignment referred to in this paragraph has been dispatched with an appropriate accompanying document to a bottler or a firm manufacturing non-alcoholic drinks as referred to in Article 1(3a) and has been received by those users.

Where the conditions laid down in the second indent of the first subparagraph are met and after receipt of the accompanying document, the responsible body or authorised department at the place of unloading shall send a duly stamped copy of the accompanying document referred to in the first indent to the processor or consignor of the grape juice in question.';

6. the existing second paragraph becomes paragraph 5;

7. the following sentence is added to Article 9(1):

'If an administrative enquiry into entitlement to aid has been opened, payment shall not be made until entitlement has been established.'

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

At the reaquest of an operator, Article 1(1) and (5) of this Regulation may be applied to aid applications and/or consignments of grape juice covered by Article 7(2) to (4) of Regulation (EEC) No 2641/88, as amended by this Regulation, submitted or dispatched from 1 January 1997.

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

Done at Brussels, 13 March 1998.

For the Commission

Franz FISCHLER

Member of the Commission