COMMISSION REGULATION (EC) No 345/2002

of 25 February 2002

amending Regulation (EC) No 2461/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 as regards the use of land set aside for the production of raw materials for the manufacture within the Community of products not primarily intended for human or animal consumption

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops [1], as last amended by Regulation (EC) No 1038/2001 [2], and in particular Article 9 thereof,

Whereas:

(1) Article 3(4) of Commission Regulation (EC) No 2461/1999 [3], as last amended by Regulation (EC) No 587/2001 [4], allows Member States to authorise farmers to process on their holdings the raw material harvested on land set aside. In this situation where the farmer is both the producer and the processor of that raw material, there is a higher risk of fraud. Specific additional measures are therefore needed to ensure closer monitoring of the use to which the raw material is put.

(2) The third subparagraph of Article 3(4) of Regulation (EC) No 2461/1999 also requires denaturing of cereals and oilseeds harvested on certain areas set aside where they are to be used on the holding as heating fuel or to produce power or biofuel on the same holding. Denaturing is required to prevent these products from being used for human or animal consumption and makes it possible to dispense with further checks. After denaturing, as the by-products of manufacturing non-food products can no longer be used for human or animal consumption, particularly in the case of oilseeds, the profitability of oilseed crops grown on land set aside is accordingly reduced.

(3) To remedy this problem, the Member States must be authorised to permit the oil obtained from oilseeds to be denatured, provided they introduce specific arrangements for checking, in particular, that the entire quantity harvested has been processed, that the processing security has been lodged and that denaturing has been carried out.

(4) Article 9 of Regulation (EC) No 2461/1999 also requires the Member States to establish representative yields for certain raw materials each year, and to inform applicants of those yields before 31 July, and before 31 August in the case of sunflower seeds. It is difficult to establish a representative yield for maize before 31 July, in view of the late sowing date and the difficult weather conditions in some Member States. The same date should therefore apply for maize as for sunflower seeds.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2461/1999 is hereby amended as follows:

1. Article 3(4) is replaced by the following:

'4. Notwithstanding paragraphs 2 and 3, Member States may permit applicants:

(a) to use all the cereals or all the oilseeds falling within CN codes 1201 00 90, ex 1205 00 90 and 1206 00 91 harvested on certain set-aside land:

(i) as fuel for heating their agricultural holding;

(ii) for the production on the holding of power or biofuels;

(b) to process into biogas falling within CN code 2711 29 00, on their holdings, all the raw material harvested on certain land set aside.

In the cases listed in the first subparagraph, applicants shall undertake, by way of a declaration in place of the contract referred to in Article 4, to use or process directly the raw material covered by the declaration.

In addition, applicants must have all the raw material harvested weighed by a body or an undertaking designated by the Member State and must keep separate accounts for the raw material used and the products and by-products resulting from its processing. However, where the entire plant is used, weighing may be replaced by volumetric measurement of the raw material.

Member States applying the first subparagraph shall introduce adequate checks to ensure that the raw material is used directly on the holding or is processed into biogas falling within CN code 2711 29 00.

[1] OJ L 160, 26.6.1999, p. 1.
[2] OJ L 145, 31.5.2001, p. 16.
[3] OJ L 299, 20.11.1999, p. 16.
[4] OJ L 86, 27.3.2001, p. 15.

Furthermore, cereals and oilseeds used in accordance with point (a) must be denatured in accordance with the method laid down by the Member State. The Member States may, however, authorise the oil produced by processing oilseeds in accordance with point (a)(ii) to be denatured instead of the oilseeds themselves, provided that such denaturing takes place immediately after the seeds are processed into oil and that the use to which the seeds are put is checked. The measures provided for in the first, second, third and fourth subparagraphs and any amendments thereto shall be notified to the Commission before 30 November of the year preceding the harvest year to which these measures apply. In the case of the 2001/02 and 2002/03 marketing years, the measures shall be notified before 31 May 2001 and 31 March 2002, respectively.

Articles 4 to 21 shall apply *mutatis mutandis*.'

2. Article 9(2) is replaced by the following:

'2. In the case provided for in paragraph 1(b), Member States shall select the localities to be used to calculate representative yields, which may, but need not necessarily, correspond to the regions set out in their regionalisation plans drawn up in accordance with Regulation (EC) No 1251/1999. Each year before the harvest, Member States shall inform the applicants concerned of those representative yields, doing so by:

(a) 31 July at the latest in the case of raw materials that may be bought into intervention otherwise than under this scheme, with the exception of maize, rapeseed or colza seed as referred to in paragraph 1; and

(b) 31 August at the latest in the case of maize and sunflower seeds as referred to in paragraph 1.'

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, 25 February 2002.

For the Commission

Franz FISCHLER

Member of the Commission