

Commission Regulation (EU) No 173/2011 of 23 February 2011 amending Regulations (EC) No 2095/2005, (EC) No 1557/2006, (EC) No 1741/2006, (EC) No 1850/2006, (EC) No 1359/2007, (EC) No 382/2008, (EC) No 436/2009, (EC) No 612/2009, (EC) No 1122/2009, (EC) No 1187/2009 and (EU) No 479/2010 as regards the notification obligations within the common organisation of agricultural markets and the direct support schemes for farmers

COMMISSION REGULATION (EU) No 173/2011

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amending Regulations (EC) No 2095/2005, (EC) No 1557/2006, (EC) No 1741/2006, (EC) No 1850/2006, (EC) No 1359/2007, (EC) No 382/2008, (EC) No 436/2009, (EC) No 612/2009, (EC) No 1122/2009, (EC) No 1187/2009 and (EU) No 479/2010 as regards the notification obligations within the common organisation of agricultural markets and the direct support schemes for farmers

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽¹⁾, and in particular Article 161(3), Article 170, Article 171(1) and Article 192(2), in conjunction with Article 4 thereof,

Having regard to Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003⁽²⁾, and in particular Article 142(q) thereof,

Whereas:

- (1) Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands⁽³⁾ lays down common rules for notifying information and documents by the competent authorities of the Member States to the Commission. Those rules cover in particular the obligation for the Member States to use the information systems made available by the Commission and the validation of the access rights of the authorities or individuals authorised to send notifications. In addition, that Regulation sets common principles applying to the information systems so that they guarantee the authenticity, integrity and legibility over time of the documents and provides for personal data protection.

- (2) Pursuant to Regulation (EC) No 792/2009 the obligation to use the information systems in accordance with that Regulation has to be provided for in the Regulations establishing a specific notification obligation.
- (3) The Commission has developed an information system that allows managing documents and procedures electronically in its own internal working procedures and in its relations with the authorities involved in the common agricultural policy.
- (4) It is considered that several notification obligations can be fulfilled via that system in accordance with Regulation (EC) No 792/2009, in particular those provided for in Commission Regulations (EC) No 2095/2005 of 20 December 2005 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards communication of information on tobacco⁽⁴⁾, (EC) No 1557/2006 of 18 October 2006 laying down detailed rules for implementing Council Regulation (EC) No 1952/2005 as regards registration of contracts and the communication of data concerning hops⁽⁵⁾, (EC) No 1741/2006 of 24 November 2006 laying down the conditions for granting the special export refund on boned meat of adult male bovine animals placed under the customs warehousing procedure prior to export⁽⁶⁾, (EC) No 1850/2006 of 14 December 2006 laying down detailed rules for the certification of hops and hop products⁽⁷⁾, (EC) No 1359/2007 of 21 November 2007 laying down the conditions for granting special export refunds on certain cuts of boned meat of bovine animals⁽⁸⁾, (EC) No 382/2008 of 21 April 2008 on rules of application for import and export licences in the beef and veal sector⁽⁹⁾, (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept⁽¹⁰⁾, (EC) No 612/2009 of 7 July 2009 laying down common detailed rules for the application of the system of export refunds on agricultural products⁽¹¹⁾, (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for in that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector⁽¹²⁾, (EC) No 1187/2009 of 27 November 2009 laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products⁽¹³⁾ and (EU) No 479/2010 of 1 June 2010 laying down rules for the implementation of Council Regulation (EC) No 1234/2007 as regards Member States' notifications to the Commission in the milk and milk products sector⁽¹⁴⁾.
- (5) In the interest of efficient administration and taking account of the experience, the notifications should be simplified. In particular, it should be established that only Member States producing tobacco and hop respectively should be obliged to send the data required under Regulations (EC) No 2095/2005, (EC) No 1557/2006 and (EC) No 1850/2006. Furthermore, for reasons of clarity, the content of some notifications should be specified in those Regulations.

- (6) The information that Member States have to submit to the Commission pursuant to Article 19(1)(b)(ii) and (iii) of Regulation (EC) No 436/2009, are to be sent to Eurostat. For reasons of coherence and good administration, the notifications concerned should be made by electronic means to the single entry point for data at Eurostat, in conformity with the technical specifications provided by the Commission (Eurostat).
- (7) The exchange rate to be used should be in coherence with the principle established in Article 11 of Commission Regulation (EC) No 1913/2006 of 20 December 2006 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture and amending certain regulations⁽¹⁵⁾.
- (8) Regulations (EC) No 2095/2005, (EC) No 1557/2006, (EC) No 1741/2006, (EC) No 1850/2006, (EC) No 1359/2007, (EC) No 382/2008, (EC) No 436/2009, (EC) No 612/2009, (EC) No 1122/2009, (EC) No 1187/2009 and (EU) No 479/2010 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments and the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2095/2005 is amended as follows:

- (1) Article 1 is replaced by the following:

Article 1

1 For each harvest, the producing Member States shall notify the Commission, by 31 July of the year following the harvest year, of the following information given as a total and, except for point (a), broken down by the raw tobacco variety groups referred to in paragraph 3:

- a number of first processing enterprises;
- b number of farmers;
- c area in hectares;
- d quantity delivered in tonnes;
- e average price, excluding taxes and other levies, paid to farmers;
- f stocks in tonnes at the end of June of the year following the harvest year concerned, held by the first processor.

The price referred to in point (e) shall be expressed in EUR per kg, using if necessary, the most recent exchange rate set by the European Central Bank prior to 1 January of the year following the harvest year.

2 For each harvest, the producing Member States shall notify the Commission, by 31 July of the ongoing harvest year, of the following information given as a total and broken down by the raw tobacco variety groups referred to in paragraph 3:

- a estimated area in hectares;
- b estimated production in tonnes.

3 The variety groups of raw tobacco are:

- (a) : tobacco dried in ovens with controlled air circulation, temperature and humidity, in particular Virginia;
Group I: Flue-cured
- (b) : tobacco dried in the air under cover, not left to ferment, in particular Burley and Maryland;
Group II: Light air-cured
- (c) : tobacco dried in the air under cover, left to ferment naturally before being marketed, in particular Badischer Geudertheimer, Fermented Burley, Havana, Mocny Skroniowski, Nostrano del Brenta and Pulawski;
Group III: Dark air-cured
- (d) : tobacco dried by fire, in particular Kentucky and Salento;
Group IV: Fire-cured
- (e) : tobacco dried in the sun, also called 'Oriental varieties', in particular Basmas, Katerini and Kaba-Koulak.
Group V: Sun-cured

4 Member States growing less than 3 000 hectares in the preceding harvest year may notify only the information referred to in points (b) and (c) of paragraph 1 and paragraph 2(a) and only given as a total without breakdown by raw tobacco variety groups.

5 The notifications referred to in paragraphs 1, 2 and 4 shall be made in accordance with Commission Regulation (EC) No 792/2009⁽¹⁶⁾;

(2) Article 2 is replaced by the following:

Article 2

Member States shall take the measures necessary to ensure that the economic operators concerned, including producer organisations, provide them with the information required within the relevant time limits.;

(3) Annexes IA, IB, II and III are deleted.

Article 2

Regulation (EC) No 1557/2006 is amended as follows:

(1) Article 5 is replaced by the following:

Article 5

1 For each harvest, the producing Member States shall notify the Commission, by 15 April of the year following the hop harvest concerned, of the following information given as a total and, except for points (a) and (g), broken down by two groups of hops varieties (bitter and aromatic):

- a number of farmers growing hops;
- b area harvested and area newly sown in the harvest year (in hectares);
- c quantity in tonnes and average farm-gate price of hops sold under contracts concluded in advance;
- d quantity in tonnes and average farm-gate price of hops sold under other contracts or without contracts;
- e quantity of hops in tonnes remaining unsold;
- f alpha-acid production in tonnes and average alpha-acid content (in percent);
- g quantity of hops in tonnes covered by contracts concluded in advance for the next harvest.

The prices referred to in points (c) and (d) shall be expressed in EUR per kg, using, if necessary, the most recent exchange rate set by the European Central Bank prior to 1 January of the year following the harvest year.

- 2 The notifications referred to in paragraph 1 shall be made in accordance with Commission Regulation (EC) No 792/2009⁽¹⁷⁾.
- 3 Member States shall take the measures necessary to ensure that the economic operators concerned, including producer organisations, provide them with the information required within the relevant time limits.;
- (2) the Annex is deleted.

Article 3

Article 13 of Regulation (EC) No 1741/2006 is replaced by the following:

Article 13

Notification to the Commission

1 Member States shall each month notify the Commission of the quantities of boned meat of adult male bovine animals placed under the customs warehousing procedure prior to export in accordance with this Regulation, with a breakdown of those quantities by 12-figure code of the agricultural product nomenclature for export refunds established by Regulation (EEC) No 3846/87.

Member States shall notify the Commission of the information referred to in the first subparagraph no later than the second month following the month in which the declaration of entry into storage is accepted.

2 The notifications referred to in paragraph 1 shall be made in accordance with Commission Regulation (EC) No 792/2009⁽¹⁸⁾.

Article 4

Article 23 of Regulation (EC) No 1850/2006 is replaced by the following:

Article 23

Notification to the Commission

1 Producing Member States shall notify to the Commission, by 30 June each year at the latest, of:

- a a list of hop production areas;
- b a list of the certification centres and the code for each centre;
- c the names and addresses of the competent certification authorities.

2 The notifications referred to in paragraph 1 shall be made in accordance with Commission Regulation (EC) No 792/2009⁽¹⁹⁾..

Article 5

Regulation (EC) No 1359/2007 is amended as follows:

(1) in Article 9, paragraph 1 is replaced by the following:

1. The Member States shall determine the conditions for supervision and shall notify the Commission accordingly. They shall take all necessary measures to make substitution of the products in question impossible, in particular by identification of each piece of meat. Member States shall notify the Commission of any changes of the conditions for supervision without delay.;

(2) in Article 10, the introductory phrase is replaced by the following:

For certificates as provided for in Article 5(1), endorsed by the competent authorities each quarter and covering boned cuts produced from hindquarters, the Member States shall notify the following no later than the end of the second month following each quarter.;

(3) the following Article 10a is inserted:

Article 10a

The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²⁰⁾..

Article 6

Regulation (EC) No 382/2008 is amended as follows:

(1) in Article 14, paragraph 6 is replaced by the following:

6. Member States shall notify the Commission of:
 - a by 6 p.m. (Brussels time) on each working day, the total quantity of products for which applications have been lodged;
 - b no later than the end of the month following the month in which the applications were lodged, a list of applicants.;

(2) in Article 15, paragraph 6 is replaced by the following:

6. Member States shall notify the Commission of:
 - a by 6 p.m. (Brussels time) on each working day, the total quantity of products for which applications have been lodged;

- b no later than the end of the month following the month in which the applications were lodged, a list of applicants.;

(3) Article 16 is replaced by the following:

Article 16

1 Member States shall notify the Commission of the following:

- a by Friday each week:
 - (i) applications for licences with advance fixing of the refund lodged in accordance with Article 10(1) or the fact that no applications were lodged from Monday to Friday that week;
 - (ii) applications for licences lodged in accordance with the procedure laid down in Article 47 of Regulation (EC) No 376/2008 or the fact that no applications were lodged from Monday to Friday that week;
 - (iii) the quantities for which licences have been issued pursuant to Article 12(6) of this Regulation or the fact that no licences were issued from Monday to Friday that week;
 - (iv) the quantities for which licences have been issued in respect of applications lodged in accordance with the procedure laid down in Article 47 of Regulation (EC) No 376/2008, indicating the date on which the application was lodged and the country of destination, from Monday to Friday that week;
 - (v) the quantities for which export licence applications have been withdrawn pursuant to Article 12(5) of this Regulation, during that week, indicating the date on which the application was lodged;
- b by the 14th day of each month for the previous month:
 - (i) applications for licences as referred to in Article 15 of Regulation (EC) No 376/2008;
 - (ii) the quantities for which licences have been issued pursuant to Article 10(1) of this Regulation and pursuant to Article 47 of Regulation (EC) No 376/2008 and not used.

2 The notifications referred to in paragraph 1 shall specify:

- a the quantity by weight of product or the number of heads for each category referred to in Article 10(5);
- b the quantity breakdown by destination for each category.;

(4) the following Article 16a is inserted:

Article 16a

The notifications referred to in this Chapter shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²¹⁾.;

(5) Annex VIII is deleted.

Article 7

Regulation (EC) No 436/2009 is amended as follows:

(1) in Article 15, paragraph 1 is replaced by the following:

1. To convert quantities of products other than wine into hectolitres of wine, Member States may set coefficients that may vary according to different objective criteria having a bearing on the conversion. Member States shall notify the Commission of the coefficients along with the summary provided for in Article 19(1).;
- (2) the heading of Chapter III of Title II is replaced by the following:

CHAPTER III

Notifications to be made by the Member States;

- (3) in Article 19(3), the introductory phrase of the first subparagraph is replaced by the following:
- With a view to establishing price trends, Member States whose wine production during the past five years was on average more than 5 % of the total Union wine production shall notify the Commission of the following in relation to the wines referred to in point 1 of Annex XIb to Council Regulation (EC) No 1234/2007⁽²²⁾.;
- (4) Article 49 is replaced by the following:

Article 49

Notification

- 1 Each Member State shall notify the Commission of:
- a the name and address of the competent authority or authorities for the purposes of implementing this title;
 - b where appropriate, the name and address of any bodies empowered by a competent authority for the purposes of implementing this title.
- 2 Each Member State shall also notify the Commission of:
- a any subsequent changes concerning the competent authorities and bodies referred to in paragraph 1;
 - b the measures they have taken to implement this title, where those measures are of specific value for the purposes of cooperation between Member States as referred to in Regulation (EC) No 555/2008.
- 3 The Commission shall draw up and keep up to date a list containing the names and addresses of the competent bodies and authorities based on information notified by the Member States. The Commission shall publish that list on the Internet.;
- (5) Article 50 is replaced by the following:

Article 50

Notification

- 1 Without prejudice to any specific provisions of this Regulation, Member States shall take all measures necessary to ensure that they are able to meet the deadlines for notification set out in this Regulation.

2 Member States shall retain the information recorded under this Regulation for at least five wine years following the one during which it was recorded.

3 The notifications requested in this Regulation shall not prejudice the Member States' obligations laid down in Regulation (EEC) No 357/79 on statistical surveys of areas under vines.

4 The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²³⁾.

However, the notifications referred to in Article 19(1)(b)(ii) and (iii) shall be sent by the Member States in electronic form or uploaded by electronic means to the single entry point for data at Eurostat, in conformity with the technical specifications provided by the Commission (Eurostat)..

Article 8

Article 50 of Regulation (EC) No 612/2009 is replaced by the following:

Article 50

Notification to the Commission

- 1 Member States shall notify the Commission:
- a without delay, of cases where Article 27(1) applies. The Commission shall subsequently notify the other Member States;
 - b no later than the end of the second month following the month in which the export declarations have been accepted, for each 12-digit code, of the quantities of exported products not covered by export licences with advance fixing of the refund for the cases referred to in the first indent of the second subparagraph of Article 4(1), Article 6 and Article 42. The codes shall be grouped by sector.

2 The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²⁴⁾..

Article 9

In Article 84 of Regulation (EC) No 1122/2009, the following paragraph 6 is added:

6. The notifications referred to in Article 40(2) and paragraph 5 of this Article shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²⁵⁾..

Article 10

Regulation (EC) No 1187/2009 is amended as follows:

(1) in Article 10, paragraph 1 is replaced by the following:

1. Export licences with advanced fixing of the refund shall be issued on the fifth working day following the day on which applications are submitted, provided that the quantities for which licences have been applied for have been notified in accordance with Article 6(1) of Commission Regulation (EU) No 479/2010⁽²⁶⁾ and that measures referred to in points (a) and (b) of paragraph 2 of this Article have not been adopted.;

(2) in Article 24(2), the second subparagraph is replaced by the following:

The Member State shall notify the Commission as soon as possible of the change of designated importer and the Commission shall notify the change to the competent authorities of the United States.;

(3) Article 31 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Not later than the fifth working day following the expiry of the period for lodging licence applications, Member States shall notify the Commission, for each of the two parts of the quota and for each product code of the export refund nomenclature, of the quantities covered by licence applications or, where applicable, that no applications have been lodged.

Before the notification referred to in the first subparagraph, Member States shall verify in particular that the conditions referred to in Article 27(2) and in Article 28(1) and (2) are fulfilled.;

(b) in paragraph 2, the third subparagraph is replaced by the following:

If the application of the allocation coefficient results in a quantity per applicant of less than 20 tonnes, applicants may withdraw their applications. In such cases, they shall notify the competent authority within three working days of publication of the Commission's decision. The security shall be released immediately. The competent authority shall notify the Commission, within eight working days of publication of the decision, of the quantities broken down by product codes of the export refund nomenclature, for which applications have been withdrawn and for which the security has been released.;

(4) Article 32 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Licences shall be issued at the request of the operator, not earlier than 1 June and not later than 15 February of the following year. They shall be issued only to operators whose licence applications were notified in accordance with Article 31(1).

If the information provided by an operator to whom a licence has been issued is found to be incorrect, the licence shall be cancelled and the security forfeited.

Member States shall notify the Commission by the end of February at the latest for both parts of the quota referred to in Article 28(1), of the quantities for which no licences were issued, broken down by product code of the export refund nomenclature.;

(b) paragraph 5 is replaced by the following:

5. By 31 August each year at the latest, Member States shall notify the Commission for both parts of the quota referred to in Article 28(1), and in respect to the previous 12-month period as referred to in Article 28(1), of the following quantities, broken down by product code of the export refund nomenclature:

— the quantity for which licences have been allocated,

- the quantity for which licences have been issued,
 - the quantity exported.;
- (5) in Article 33, paragraph 2 is replaced by the following:
2. The notifications to the Commission referred to in this Regulation shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²⁷⁾.;
- (6) Annexes IV, V and VI are deleted.

Article 11

In Article 7 of Regulation (EU) No 479/2010, the following paragraph 3 is added:

3. By way of derogation from Article 8, the notifications referred to in this Article shall be made in accordance with Commission Regulation (EC) No 792/2009⁽²⁸⁾..

Article 12

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

It shall apply from 1 March 2011.

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

Done at Brussels, 23 February 2011.

For the Commission

The President

José Manuel BARROSO

- (1) OJ L 299, 16.11.2007, p. 1.
- (2) OJ L 30, 31.1.2009, p. 16.
- (3) OJ L 228, 1.9.2009, p. 3.
- (4) OJ L 335, 21.12.2005, p. 6.
- (5) OJ L 288, 19.10.2006, p. 18.
- (6) OJ L 329, 25.11.2006, p. 7.
- (7) OJ L 355, 15.12.2006, p. 72.
- (8) OJ L 304, 22.11.2007, p. 21.
- (9) OJ L 115, 29.4.2008, p. 10.
- (10) OJ L 128, 27.5.2009, p. 15.
- (11) OJ L 186, 17.7.2009, p. 1.
- (12) OJ L 316, 2.12.2009, p. 65.
- (13) OJ L 318, 4.12.2009, p. 1.
- (14) OJ L 135, 2.6.2010, p. 26.
- (15) OJ L 365, 21.12.2006, p. 52.
- (16) OJ L 228, 1.9.2009, p. 3.;
- (17) OJ L 228, 1.9.2009, p. 3.;
- (18) OJ L 228, 1.9.2009, p. 3.;
- (19) OJ L 228, 1.9.2009, p. 3.;
- (20) OJ L 228, 1.9.2009, p. 3.;
- (21) OJ L 228, 1.9.2009, p. 3.;
- (22) OJ L 299, 16.11.2007, p. 1.;
- (23) OJ L 228, 1.9.2009, p. 3.;
- (24) OJ L 228, 1.9.2009, p. 3.;
- (25) OJ L 228, 1.9.2009, p. 3.;
- (26) OJ L 135, 2.6.2010, p. 26.;
- (27) OJ L 228, 1.9.2009, p. 3.;
- (28) OJ L 228, 1.9.2009, p. 3.;