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Commission Regulation (EC) No 2860/2000 of 27 December 2000 amending Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops, to include flax and hemp grown for fibre, specifying the rules on set-aside areas and amending the base areas for Greece and Portugal

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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 amended by Regulation (EC) No 1672/2000(2), and in particular Articles 9 and 12 thereof,

Whereas:

(1) Regulation (EC) No 1672/2000 included flax and hemp grown for fibre in the support system for producers of certain arable crops established by Regulation (EC) No 1251/1999. Commission Regulation (EC) No 2316/1999(3), as amended by Regulation (EC) No 1454/2000(4), lays down detailed rules for the application of Regulation (EC) No 1251/1999 with respect to the conditions for granting area payments for certain arable crops. Regulation (EC) No 2316/1999 should therefore be amended to take into account the inclusion of flax and hemp.

(2) Article 5a of Regulation (EC) No 1251/1999 lays down, on the one hand, that the tetrahydrocannabinol content of varieties used must not exceed 0,2 % and, on the other hand, that the Member States are to establish a system for verifying the tetrahydrocannabinol content of the hemp grown. To enable such checks to be implemented, special measures should be laid down in particular with respect to the continued cultivation of hemp until a certain date.

(3) Article 5a subjects the area payment for flax and hemp grown for fibre to the conclusion of a contract or to a commitment as referred to in Article 2(1) of Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre(5). Provision should be made for a copy of the contract or the commitment to be sent to the competent authorities of the Member responsible for the administration of payment applications.

(4) It must be ensured that the varieties of flax and hemp grown for fibre are those listed in the Common Catalogue of Varieties of Agricultural Plant Species as fibre plants and, in the case of flax in particular, as "fibre flax". Moreover, in the case of hemp, the tetrahydrocannabinol content of the authorised varieties may not exceed 0,2 %. A list of eligible varieties should therefore be drawn up. In the case of hemp, to facilitate the transition from the arrangements in force to those established by Regulation (EC) No 1251/1999, a list should also be drawn up of varieties of hemp temporarily authorised for the 2001/02 marketing year which must be subject to further analyses during that marketing year. To provide firmer guarantees in the case of hemp, the use of certified seed should also be required.

(5) To allow checks on the seed used, the labels contained on packaging or, in the case of flax, any other equivalent document, should be transmitted to the competent authorities of the Member State.

(6) To reinforce administrative checks on hemp, additional information should be requested and

given in the "area" aid applications as referred to in Article 4 of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes(6) as last amended by Regulation (EC) No 2801/1999(7).

(7) In accordance with the eighth indent of the first subparagraph of Article 9 of Regulation (EC) No 1251/1999, the method for determining tetrahydrocannabinol levels of hemp grown for fibre must be laid down and provision must be made for the results of analyses carried out in accordance with this method to be communicated to the Commission.

(8) Article 5a(2) lays down that Member States shall check at least 30 % of the areas of hemp grown for fibre for which area payment applications have been made, and at least 20 % of areas if a Member State introduces a system of prior approval for such cultivation. The exact requirements relating to these checks should be specified.

(9) Annex X to Regulation (EC) No 2316/1999 fixes 15 June as the latest date for sowing in specific cases. Since hemp is sometimes sown up to 15 June, hemp grown for fibre should be added to this Annex.

(10) Regulation (EC) No 2316/1999 lays down that the minimum size of set-aside land may be reduced for environmental reasons. Provision should also be made for the possibility of adapting the minimum area of set-aside land as a result.

(11) Under Council Regulation (EC) No 1017/94 of 26 April 1994 concerning the conversion of land currently under arable crops to extensive livestock farming in Portugal(8), as amended by Regulation (EC) No 1461/95(9), applications have been submitted for conversion of an area equivalent to 7052 hectares. The base area given in Annex VI to Regulation (EC) No 2316/1999 should therefore be amended.

(12) In response to an application by Greece, new base areas should be fixed in accordance with the Greek regionalisation plan without altering the total base area.

(13) 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 2316/1999 is hereby amended as follows:

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

"(c) on which the crop is maintained until at least the beginning of flowering under conditions of normal growth in accordance with local standards. Crops of oilseeds, protein plants, linseed, fibre flax and durum wheat must also be cultivated under conditions of normal growth in accordance with local standards at least until 30 June prior to the marketing year in question, unless they are harvested at full maturity before that date. Protein plants may not be harvested until after the stage of lactic ripeness. In the case of hemp grown for fibre, to allow implementation of the checks provided for in Article 5a(2) of Regulation (EC) No 1251/1999, crops must also be cultivated under conditions of normal growth in accordance with local standards at least 10 days after the end of flowering. However, Member States may authorise the harvesting of hemp grown for fibre after the beginning of flowering but within 10 days of the end of flowering if the producer concerned has already been subject to the checks provided for in Article 5a of Regulation (EC) No 1251/1999 or if all the checks required under Article 5a(2) of Regulation (EC) No 1251/1999 have been carried out."

2. The following Article 7a is inserted:

"Article 7a

1. For the purposes of Article 5a(1) of Regulation (EC) No 1251/1999, the area payment for flax and hemp grown for fibre is subject to:

(a) the submission of a copy of the contract or commitment referred to in Article 2(1) of Council Regulation (EC) No 1673/2000(10) by 15 September at the latest after lodging the payment application referred to in Article 8(2) of Regulation (EC) No 1251/1999 or by an earlier date laid down by the Member State; and

(b) the use of seed of the varieties listed in Annex XII on 15 May preceding the year in respect of which the area payment application is made. In the case of hemp grown for fibre, the seed must also be certified in accordance with Council Directive 69/208/EEC(11).

2. To allow checks on the fibre flax seed and certified seed of hemp grown for fibre used, the 'area' aid application referred to in Article 4 of Regulation (EEC) No 3887/92 must be accompanied by the official labels introduced by Directive 69/208/EEC and in particular Article 10 thereof, or

provisions adopted on the basis of that Article, on the packaging of the seed used or, in the case of flax grown for fibre, any other document recognised as equivalent by the Member State concerned, including the certification provided for in Article 14 of that Directive. Where sowing takes place after the deadline for submitting 'area' aid applications, the labels or documents recognised as equivalent shall be submitted by 30 June at the latest following the submission of the application.

Where labels for seed of hemp grown for fibre also have to be submitted to other national authorities, the Member States may provide for those labels to be returned to the farmer once they have been submitted to the authorities responsible for 'area' aid applications.

3. For the purposes of granting the area payment for hemp grown for fibre, the 'area' aid application referred to in Article 4 of Commission Regulation (EEC) No 3887/92 must contain:

- (a) all information required for identifying parcels sown to hemp for each variety of hemp sown; and
- (b) information on the quantities of seed used (kg per hectare).

The Member States may fix the minimum sowing rate compatible with good hemp-growing practice. This information shall be sent to the Commission by 15 May 2001 at the latest."

3. The following Article 7b is inserted:

"Article 7b

1. For the purposes of Article 5a(2) of Regulation (EC) No 1251/1999, the method to be used by the competent authorities of the Member State for determining tetrahydrocannabinol (THC) levels on a percentage of areas under hemp grown for fibre for which payment applications have been made is described in Annex XIII.

The Member States shall send the Commission, by 15 November of the marketing year in question at the latest a report on the THC content findings. The report shall indicate, for each variety:

- (a) for procedure A, indication of the point at which the sample was taken;
- (b) the number of tests carried out;
- (c) the results in terms of THC content, shown separately for each 0,1 %,
- (d) measures taken at national level.

Where the checks show, for a significant number of samples of a given variety, THC contents exceeding that laid down in the second subparagraph of Article 5a(1) of Regulation (EC) No 1251/1999, the Commission may, without prejudice to any other measures it might take, decide in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 to use procedure B for the variety concerned in the course of the following marketing year.

The varieties of hemp grown for fibre listed in point 2(b) of Annex XII to this Regulation shall be subject to procedure B during the 2001/02 marketing year in all Member States growing those varieties.

2. Checks on the THC content of the crops grown on at least 30 % of the areas of hemp grown for fibre for which area aid applications have been made must cover at least 30 % of the applications in question and all the varieties of seed used.

Member States shall notify the Commission, by 15 May 2001 at the latest, of the detailed rules and conditions linked to the system of prior approval of crops allowing the minimum percentage of areas of hemp grown for fibre for which area applications have been made on which the THC content is to be checked to be reduced from 30 % to 20 %. Any amendment of these detailed rules or conditions must be notified to the Commission. Where such a system is applied, checks must cover at least 20 % of the applications in question and all the varieties of seed used.

3. Applications to include a variety of hemp on the list given in Annex XII must be accompanied by a report giving the findings of analyses carried out in accordance with procedure B of the method described in Annex XIII and a description of the variety in question."

4. The following sentence is added to the second subparagraph of Article 19(1)(c): "In this case, the minimum area referred to in the above subparagraph may be 0.1 ha."

5. Annex VI is replaced by Annex I to this Regulation.

6. Annex VII is replaced by Annex II to this Regulation.

7. Annex X is replaced by Annex III to this Regulation.

8. Annex XI is replaced by Annex IV to this Regulation.

9. A new Annex XII is inserted, containing the text shown at Annex V to this Regulation.

10. A new Annex XIII is inserted, containing the text shown at Annex VI to this Regulation.

Article 2

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

It shall apply from the 2001/02 marketing year.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz Fischler

Member of the Commission

(1) OJ L 160, 26.6.1999, p. 1.

(2) OJ L 193, 29.7.2000, p. 13.

(3) OJ L 280, 30.10.1999, p. 43.

(4) OJ L 163, 4.7.2000, p. 28.

(5) OJ L 193, 29.7.2000, p. 16.

(6) OJ L 391, 31.12.1992, p. 36.

(7) OJ L 340, 31.12.1999, p. 29.

(8) OJ L 112, 3.5.1994, p. 2.

(9) OJ L 144, 28.6.1995, p. 4.

(10) OJ L 193, 29.7.2000, p. 16.

(11) OJ L 169, 10.7.1969, p. 3.

ANNEX I

"ANNEX VI

(Article 8)

BASE AREAS

>TABLE>"

ANNEX II

"ANNEX VII

(Article 10(4))

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ANNEX III

"ANNEX X

(Article 24, first paragraph)

>TABLE>"

ANNEX IV

"ANNEX XI

(Article 26(1))

INFORMATION TO BE COMMUNICATED TO THE COMMISSION

The information is to be presented in the form of a series of tables drawn up in accordance with the model described below:

- a first set of tables giving information at production region level within the meaning of Article 3 of Regulation (EC) No 1251/1999,
- a second set of tables giving information in respect of each base area region within the meaning of Annex VI to this Regulation,
- a single table containing a summary of the information for each Member State.

The tables are to be sent both as hard copy and in computerised form.

Formulae for areas:

>REFERENCE TO A GRAPHIC>

>REFERENCE TO A GRAPHIC>

>REFERENCE TO A GRAPHIC>

>REFERENCE TO A GRAPHIC>

Notes:

Each table must quote the region in question.

The yield is that used for calculating area payments in accordance with Regulation (EC) No 1251/1999.

The distinction between "non-irrigated" and "irrigated" land should be made only in the case of regions containing both. In that case:

>REFERENCE TO A GRAPHIC>

>REFERENCE TO A GRAPHIC>

Line 1 relates only to durum wheat eligible for the supplement to the area payment provided for in Article 5(1) of Regulation (EC) No 1251/1999.

Line 2 relates only to durum wheat eligible for the special aid referred to in Article 5(4) of Regulation (EC) No 1251/1999.

Line 19 relates only to areas set aside or afforested under Articles 22, 23, 24 and 31 of Regulation (EC) No 1257/1999 and counting as arable land set aside under Article 6(8) of Regulation (EC) No 1251/1999.

Line 20 corresponds to the areas referred to in the second indent of Article 2(4) of Regulation (EC) No 1251/1999.

Information must also be forwarded in respect of producers not applying for the per hectare aid under the support system for certain arable crops (Regulation (EC) No 1251/1999). This information, to be given under "Other" in columns "m" and "n", mainly relates to arable crops declared as fodder area for beef and sheepmeat premiums.

Line 23 concerns land set aside for the production of non-food crops and not qualifying for payments under the rules implementing Article 6(3) of Regulation (EC) No 1251/1999 (e.g. sugarbeet, Jerusalem artichokes and chicory roots)."

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ANNEX V

"ANNEX XII

(Article 7a(1))

VARIETIES OF FLAX AND HEMP GROWN FOR FIBRE ELIGIBLE FOR THE SUPPORT SYSTEM

1. Flax grown for fibre

Agatha

Angelin

Argos

Ariane

Aurore

Belinka

Diane

Diva

Electra

Elise

Escalina

Evelin

Exel

Hermes

Ilona

Laura

Liflax

Liviola

Marina
Marylin
Nike
Opaline
Venus
Veralin
Viking
Viola
2a. Hemp grown for fibre

Carmagnola
Cs
Dioica 88
Epsilon 68
Fedora 17
Fédrina 74
Felina 32
Felina 34 - Féline 34
Ferimon - Férimon
Fibranova
Fibrimon 24
Fibrimon 56
Futura
Futura 75
Santhica 23

2b. Hemp grown for fibre authorised in the 2001/02 marketing year

Beniko
Bialobrzeskie
Delta-405
Fasamo
Fedora 19
Juso 14
Kompolti
Uso 31"

ANNEX VI
"ANNEX XIII
(Article 7b(1))

COMMUNITY METHOD FOR THE QUANTITATIVE DETERMINATION OF Δ 9-THC
(TETRAHYDROCANNABINOL) CONTENT IN HEMP VARIETIES

1. Scope and area of application

This method seeks to determine the Δ 9-tetrahydrocannabinol (THC) content of varieties of hemp (*Cannabis sativa* L.). As appropriate, the method involves applying procedure A or B herein described.

The method is based on the quantitative determination of Δ 9-THC by gas chromatography (GC) after extraction with a suitable solvent.

1.1. Procedure A

Procedure A is used for checks on production as provided for in Article 5a(2) of Regulation (EC) No 1251/1999.

1.2. Procedure B

Procedure B is used in cases as referred to in the third subparagraph of Article 7b(1) of this Regulation and for checking that the conditions laid down in the second subparagraph of Article 5a(1) of Regulation (EC) No 1251/1999 are fulfilled with a view to inclusion on the list of varieties of hemp eligible for aid from the 2001/02 marketing year.

2. Sampling

2.1. Samples

- Procedure A: in a standing crop of a given variety of hemp, take a 30 cm part containing at least one female inflorescence of each plant selected. Sampling is to be carried out during the period running from 20 days after the start of flowering to 10 days after the end of flowering, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop. Member States may authorise sampling to be carried out during the period from the start of flowering to 20 days after the start of flowering provided that, for each variety grown, other representative samples are taken in accordance with the above rules during the period from 20 days after the start of flowering to 10 days after the end of flowering;

- Procedure B: in a standing crop of a given variety of hemp, take the upper third of each plant selected. Sampling is to be carried out during the 10 days following the end of flowering, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop. In the case of dioecious varieties, only female plants must be taken.

2.2. Sample size

- Procedure A: the sample is to comprise parts of 50 plants per field;

- Procedure B: the sample is to comprise parts of 200 plants per field.

Each sample is to be placed in a fabric or paper bag, without crushing it, and sent to the laboratory for analysis.

The Member State may provide for a second sample to be collected for counteranalysis, if required, to be kept either by the producer or by the body responsible for the analysis.

2.3. Drying and storage of the sample

Drying of the samples must begin as soon as possible and, in any case, within 48 hours using any method below 70 °C. Samples should be dried to a constant weight and to a moisture content of between 8 % and 13 %.

After drying, store the samples without crushing them at below 25 °C in a dark place.

3. Determination of THC content

3.1. Preparation of the test sample

Remove stems and seeds over 2 mm in size from the dried samples.

Grind the dried samples to obtain a semi-fine powder (passing through a 1 mm mesh sieve).

The powder may be stored for 10 weeks at below 25 °C in a dark, dry place.

3.2. Reagents and extraction solution

Reagents

- Δ 9-tetrahydrocannabinol, pure for chromatographic purposes,
- Squalane, pure for chromatographic purposes, as an internal standard.

Extraction solution

- 35 mg of squalane per 100 ml hexane.

3.3. Extraction of Δ 9-THC

Weigh 100 mg of the powdered test sample, place in a centrifuge tube and add 5 ml of extraction solution containing the internal standard.

Place in an ultrasound bath and leave for 20 minutes. Centrifuge for five minutes at 3000 r.p.m. and then remove the supernatant THC solution. Inject the solution into the chromatograph and carry out a quantitative analysis.

3.4. Gas chromatography

(a) Apparatus

- gas chromatograph with a flame ionisation detector and a split/splitless injector,

- column allowing good separation of cannabinoids, for example a glass capillary column 25-m long and 0,22 mm in diameter impregnated with a 5 % non-polar phenyl-methyl-siloxane phase.

(b) Calibration ranges

At least three points for procedure A and five points for procedure B, including points 0,04 and 0,50 mg/ml Δ 9-THC in extraction solution.

(c) Experimental conditions

The following conditions are given as an example for the column referred to in (a):

>TABLE>

(d) Volume injected: 1 μ l.

4. Results

The findings are to be expressed to two decimal places in grams of Δ 9-THC per 100 grams of analytical sample dried to constant weight. A tolerance of 0,03 g per 100 g applies.

- Procedure A: one determination per test sample.

However, where the result obtained is above the limit laid down in the second subparagraph of Article 5a(1) of Regulation (EEC) No 1251/1999, a second determination must be carried out per analysis sample and the mean value of the two determinations will be taken as the result.

- Procedure B: the result corresponds to the mean value of two determinations per test sample."