Commission Regulation (EC) No 270/2007 of 13 March 2007 amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials

COMMISSION REGULATION (EC) No 270/2007

of 13 March 2007

amending Regulation (EC) No 1973/2004 laying down detailed rules for the application of Council Regulation (EC) No 1782/2003 as regards the support schemes provided for in Titles IV and IVa of that Regulation and the use of land set aside for the production of raw materials

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001[(1)], and in particular Article 145 thereof,

Whereas:

(1) Article 3(1) of Commission Regulation (EC) No 1973/2004[(2)] provides for the communication of certain data to the Commission. As regards tobacco aid, the communication related to the indicative aid amount is required for the harvest year, and not the following year as mentioned in point (d) of that Article which should be amended accordingly.

(2) As regards crop-specific payments for cotton, communications to the Commission required by Article 3(1) of Regulation (EC) No 1973/2004 and by Article 171*ai*(3) of the same regulation are redundant. Article 171*ai*(3) should, therefore, be deleted.

(3) In accordance with Article 71*a*(2)(d) of Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers[(3)], Member States are bound to take into account the application of reductions or exclusions to be applied to individual aid applications when fixing the reduction coefficient to be applied in case where the budgetary ceilings fixed for certain aid schemes are overshot.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 270/2007. (See end of Document for details)*

(4) Article 4 of Regulation (EC) No 1973/2004 provides for the fixing of certain reduction coefficients by 15 November of a given year. The overall effect of reductions and exclusions to be applied to individual aid applications are not necessarily known to the Member States by that date. Moreover, there is no need for the fixing of those coefficients by that date.

(5) Furthermore, experience shows that the fixation of further coefficients of reduction required by Article 4 of Regulation (EC) No 1973/2004 is often difficult to execute by the deadline of 15 November of the year concerned. Given that there is no particular need for the fixation of those coefficients at such an early stage and that it is sufficient if the data are communicated to the Commission by 31 January of the following year but in any case prior to the granting of any payments, Article 4 should be amended accordingly. That amendment has an impact on Articles 3, 61, 69, 171bb, Annex III and Annex VI of that Regulation which should, therefore, also be amended.

(6) The report from the Commission to the Council on the review of the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003 has underlined the need for enhancing the attractiveness of this aid for both the farmers and the processors. The implementing rules established in Chapter 8 of Regulation (EC) No 1973/2004 should therefore be simplified.

(7) The system of securities guarantees that the raw material grown on areas benefiting from the aid for energy crops delivered to collectors or first processors is finally processed into energy. However, it appears appropriate to allow Member States to replace the system of securities by an alternative system of approval of operators designed to guarantee the same degree of effectiveness. Such authorised operators would have to comply with minimum requirements and would be sanctioned in case of non-compliance with their obligations, according to detailed rules to be set up at national level by the competent authorities.

(8) The contract obligation is an efficient way of ensuring that farmers applying for aid for energy crops will eventually deliver those raw materials to a collector or a processor. However, since permanent crops (e.g. short rotation coppice) cannot be harvested in the first year(s) of plantation, the contract obligation should apply only from the year of the first harvest.

(9) Representative yields should be used for the calculation of the minimum quantity of raw material to be delivered by the farmer to ensure that the areas concerned are used for energy purposes. However, for certain raw materials any misuse is practically impossible due to their original character and the setting of a representative yield is therefore not necessary.

(10) The obligation of delivering all raw materials harvested on the areas concerned does not allow replacing the raw material harvested by an equivalent quantity of the same raw material. For annual crops this obligation is not necessary and should be abolished, thus making the implementation of the scheme more flexible, without jeopardising the basic goal of the scheme.

(11) It is appropriate to provide that, where it is possible, communications to the paying agency by both the farmer and the collector or first processor should be made in a manner allowing to avoid duplication.

(12) Article 25 of Regulation (EC) No 1973/2004 provides for the possibility for the Member States to allow farmers to use raw materials on their own holding for energy purposes. For the sake of clarity and transparency and taking into account the specificities of this option it is appropriate to establish special rules applicable to this case.

(13) For cereals and oilseeds used on the holding, the denaturation of the production is explicitly required pursuant to Article 25(4) of Regulation (EC) No 1973/2004. Taking into account the possible limited volume of such production and the technical difficulties for such a process, it would be appropriate to leave it up to the Member State to set the appropriate measures and checks. This approach should also be extended to the determination of the quantities of raw materials harvested.

(14) In accordance with the third subparagraph of Article 24(3) of Regulation (EC) No 1973/2004 first processors and collectors choosing to replace the raw materials and intermediate products or by-products by their equivalent quantities are required to inform the competent authorities about it. Furthermore, according to this provision, communication between the national authorities of Member States must be ensured in case such transactions concern different Member States, so that sufficient information on such transactions for the national authorities of Member States is available. Therefore the obligation to use the T5 copy provided for in Articles 37 and 38 of the same Regulation is not necessary and should be abolished.

(15) In order to harmonise the rules under the area related aid schemes and to simplify the administration and the controls of the applications for aid, features referred to in acts listed in Annex III to Regulation (EC) No 1782/2003 or which may form part of the good agricultural and environmental conditions as referred to in Article 5 and Annex IV of that Regulation should be made eligible for all area related aid schemes, including the Single Area Payment Scheme. Therefore Article 30(3) of Regulation (EC) No 796/2004 should also apply to that scheme.

(16) Information on the yield within the framework of the arable crops area payment is necessary in order to conduct the forecast of expenditure. Moreover, Article 104 of the Regulation (EC) No 1782/2003 establishes differentiated yields for the calculation of aid in case maize is treated separately or not. Therefore Annex IX of the Regulation (EC) No 1973/2004 should be adapted.

(17) Regulation (EC) No 1973/2004 should therefore be amended accordingly.

(18) Since the amendments provided for in this Regulation relate to aid applications to be submitted in 2007, this Regulation should apply as of 1 January 2007. However, because of administrative constraints some amendments should apply from 1 January 2008.

(19) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Direct Payments,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 270/2007. (See end of Document for details)*

Article 1

Regulation (EC) No 1973/2004 is amended as follows:

1. Article 3(1) is amended as follows:

(a) The following point (b)*a* is inserted:

(b)a by 15 October following the end of the year in respect of which the aid is granted, all the information needed to evaluate the aid for energy crops and in particular:

— the number of applications,

— the areas corresponding to each species of raw material,

— the quantities of each type of raw material and end product obtained;

(b) point (c) is amended as follows:

(i) the introductory phrase is replaced by the following:

'by 31 January of the following year at the latest:'

(ii) Point (iii) is replaced by the following:

(iii) the total determined quantity in the case of the additional payments to producers of dairy products provided for in Article 96 of Regulation (EC) No 1782/2003.

(c) point (d) is replaced by the following:

by 31 March of the harvest year at the latest, the indicative aid amount per kg in the case of the tobacco aid provided for in Article 110j of Regulation (EC) No 1782/2003, by group of tobacco varieties as listed in Annex XXV to this Regulation and, where applicable, per quality grade;

2. Article 4 is replaced by the following:

Article 4

The coefficient of reduction of areas in the case referred to in Articles 75, 78(2), 82, 85, 89(2), 98 and 143 of Regulation (EC) No 1782/2003, or of quantities with the objective criteria in the case referred to in Article 95(4) of that Regulation, shall be fixed before the payments are granted to the farmers and at the latest by 31 January of the following year on the basis of the data communicated in accordance with Article 3(1)(b), (b)*a* and (c) of this Regulation.

3. Chapter 8 is replaced by the following:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 270/2007. (See end of Document for details)*

CHAPTER 8

AID FOR ENERGY CROPS

SECTION 1

Definitions

Article 23

Definitions

For the purposes of this Chapter:

(a) "applicant" means any farmer cultivating the areas referred to in Article 88 of Regulation (EC) No 1782/2003 with a view to obtaining the aid provided for in that Article;

(b) "aid" means the aid for energy crops provided for in Article 88 of Regulation (EC) No 1782/2003;

(c) "energy product" means one of the energy products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003;

(d) "first processor" means any user of agricultural raw materials, apart from applicants using raw materials on the holding, who undertakes the first processing thereof with a view to obtaining one or more of the products referred to in the second paragraph of Article 88 of Regulation (EC) No 1782/2003;

(e) "collector" means any person concluding a contract with an applicant as referred to in Article 25, who purchases on his own account raw materials referred to in Article 24(1) and intended for the uses provided for in the second paragraph of Article 88 of Regulation (EC) No 1782/2003.

SECTION 2

Use of raw material

Article 24

Use of raw material

1 Any agricultural raw material may be grown on the areas covered by the aid provided that they are intended primarily for use in the production of energy products under the conditions laid down in paragraphs 2 to 8.

2 Sugar beet may be grown on the areas referred to in the paragraph 1 provided that any intermediate product is used in the production of energy products and that