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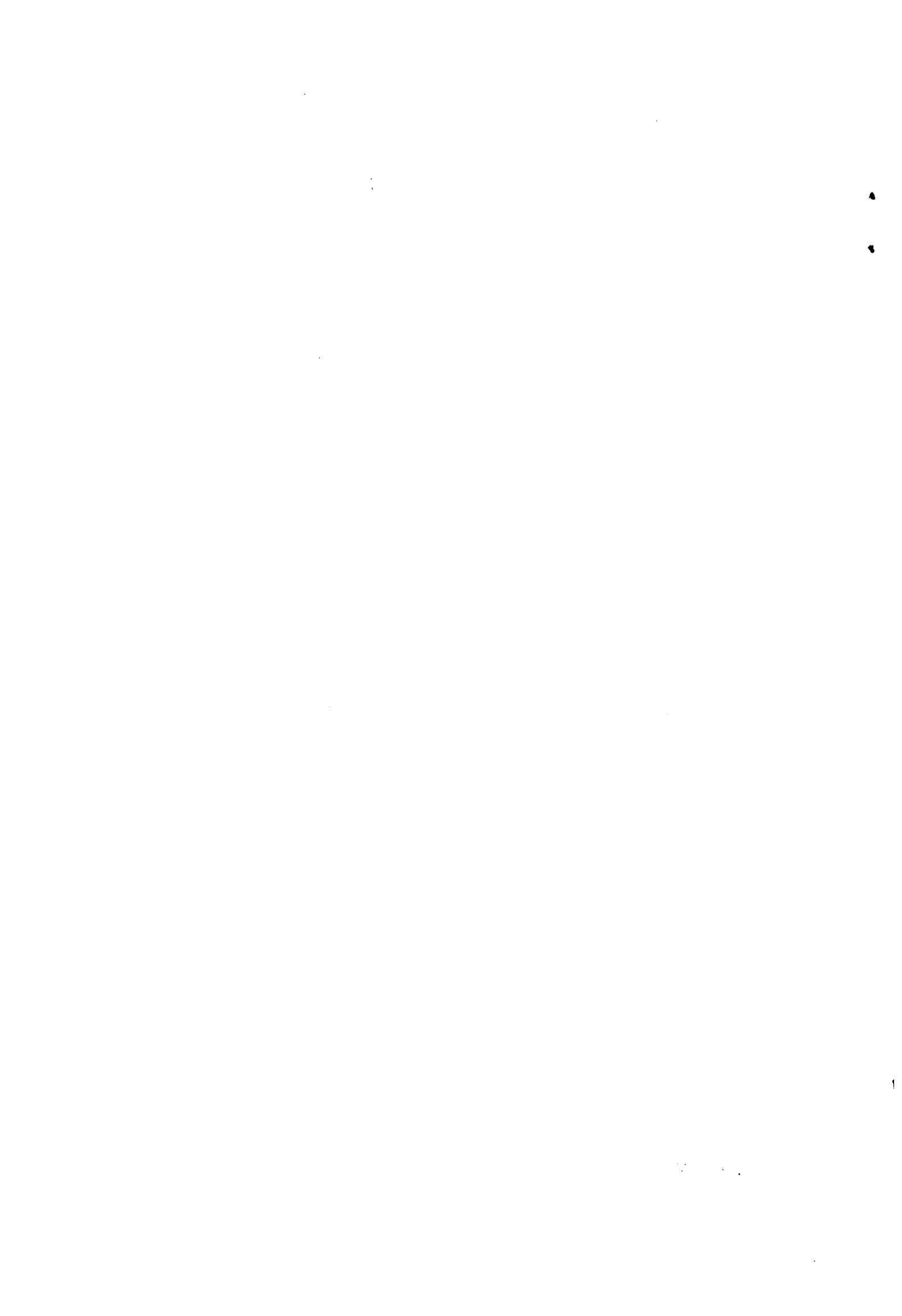
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July 1976*

Proposal for a
COUNCIL REGULATION (EEC)

on the distillation of the by-products
of wine making

(submitted to the Council by the Commission)

COM(76) 342 final



EXPLANATORY MEMORANDUM

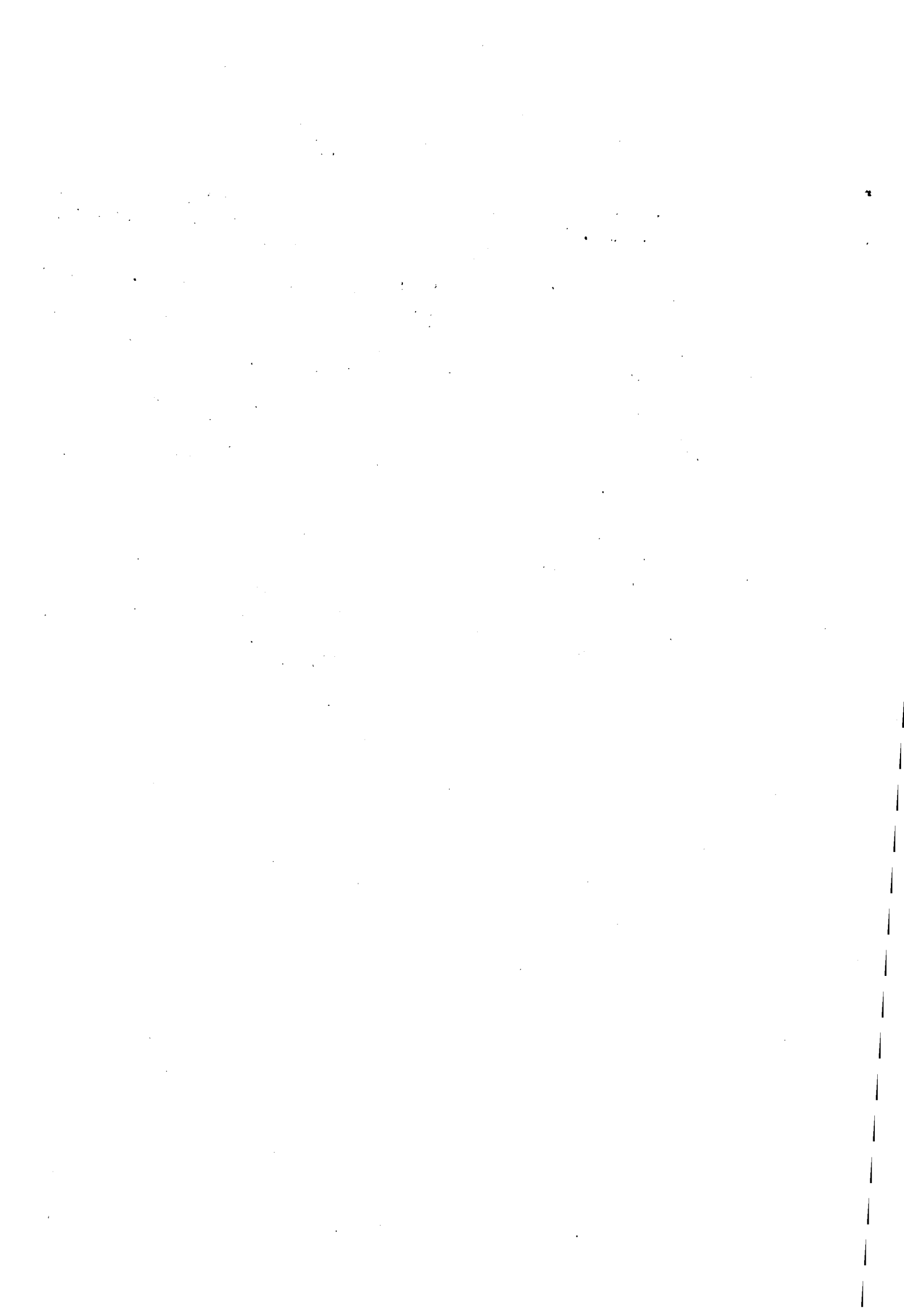
The amendments to Regulation (EEC) No 816/76 have changed the requirements on wine deliveries. It is therefore necessary to adapt the general rules on the distillation of the by-products of wine-making.

In view of the extensive amendments decided upon by the Council, it would seem appropriate to repeal the regulation in force and replace it by a new regulation specifying how producers must fulfil the obligation to distil the by-products of wine-making and defining the distillers' obligations with regard to the producers and the intervention agencies.

In addition to fixing a price for the alcohol contained in the products which undergo distillation following the wine deliveries, it is necessary to fix a buying-in price for the alcohol delivered by distillers to the intervention agencies, taking into account possible differences in processing costs, losses and fixed transport costs.

In view of the Council decision to enable producers to be freed from the obligation to distil the by-products of wine-making by withdrawal, it is necessary to specify the conditions under which such withdrawal may be made.

The conditions for EAGGF financing of possible expenditure and the conditions under which producers may free themselves from the obligation to distil the by-products of wine-making by producing potable spirits and identical to the provisions contained in Regulation (EEC) No 1877/74.



PROPOSAL FOR
COUNCIL REGULATION (EEC)

on the distillation of the by-products of wine-making

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 816/70 of 28 April 1970 laying down additional provisions for the common organization of the market in wine¹, as last amended by Regulation (EEC) No 1167/76², and in particular Article 24 (2) and (3) thereof,

Having regard to the proposal from the Commission,

Whereas the conditions must be determined under which producers must fulfil the obligation laid down in Article 24 (2) of Regulation (EEC) No 816/70 and whereas the obligations of the distiller must also be determined;

Whereas, account being taken of the value of the by-products, the price to be paid to the producer for the alcohol contained in the products subject to compulsory distillation must be lower than the price applicable in respect of the distillation referred to in Articles 24a and 24b of Regulation (EEC) No 816/70;

Whereas the fixing of a price to be paid by the distiller to the producer for the products subject to compulsory distillation means that the intervention agencies must buy in the alcohol at a price which takes into account the costs of processing the products in question;

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¹OJ No L 99, 5.5.1970, p. 1

²OJ No L 135, 24.5.1976, p. 42

Whereas, in the absence of an organized Community market in ethyl alcohol, the intervention agencies responsible for marketing such alcohol may be obliged to sell it lower price than the buying-in price; whereas provision should be made in such an event for the difference between the buying-in price and the selling price for that alcohol to be borne by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund, subject to a maximum amount and within the limits of the said difference;

Whereas the fixing of the buying-in price for products subject to compulsory distillation, the buying-in price for alcohol and the maximum amount of the contribution from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund towards the expenditure incurred by the intervention agencies is closely linked to the fixing of the guide price; whereas the same timetable and the same deadlines should therefore be adopted for such operations;

Whereas, in accordance with the first indent of Article 24 (4) of Regulation (EEC) No 816/70, the producer may free himself of the obligation to distil by producing potable spirits; whereas the first subparagraph of paragraph 2 of the same Article requires the distillation of wine in the absence of grape marc or wine lees; whereas, in these circumstances, it is logical to permit the production of both potable spirits of wine and potable spirits of grape marc; whereas, however, it should be ensured that potable spirits of wine are not produced by using the by-products of wine-making for the purposes prohibited in Article 24 (1) of Regulation (EEC) No 816/70;

Whereas the production of potable spirits must free the producer from the obligation to deliver alcohol only in respect of the quantity of alcohol contained in the potable spirits produced;

Whereas, in order to avoid the production of poor-quality potable spirits, it should be laid down, in the absence of Community criteria on the subject, that the potable spirits produced must comply with the national provisions in force; whereas, in order to ensure the observance of those rules, provision should be made for supervision;

Whereas, in accordance with the second indent of Article 24 (4) of Regulation (EEC) No 816/70, the producer may free himself from the obligation to distil by withdrawing, under supervision, the by-products which he has obtained from wine-making; whereas that possibility is justified by the fact that marc and lees can be kept only in small quantities and under certain technical conditions and by the fact that the transport costs therefor could be disproportionate for producers situated at a considerable distance from the distilleries; whereas, however, that justification does not apply to that proportion of wine deliveries which consists of wine;

Whereas the obligation to distil represents a considerable constraint for the isolated producer who makes only a small quantity of wine; whereas, as a result of that obligation, he would incur transport costs for his grape marc and wine lees which would be out of proportion with the return which he could hope to obtain on the alcohol distilled therefrom; whereas such producers should therefore also be freed from the obligation to distil;

Whereas producers who deliver their grape marc for the manufacture of oenocyanine generally supply non-fermented grape marc; whereas the treatment which such marc undergoes for the extraction of oenocyanine makes it unsuitable for fermentation and distillation; whereas those producers should therefore be exempted in proportion to their production of grape marc; whereas it is difficult to make such a calculation accurately; whereas this being the case, it is preferable to provide for a standard reduction in the general rate;

Whereas supervision of the fulfilment of the obligation specified in Article 24 (2) of Regulation (EEC) No 816/70 requires obligations to be imposed on distillers also; whereas, in order to ensure that those obligations are fulfilled, distillers should be subject to a system of approval,

HAS ADOPTED THIS REGULATION:

Article 1

1. The person subject to the obligation laid down in Article 24(2) of Regulation (EEC) No 816/70, hereinafter called "the producer", shall fulfil his obligations by delivering marc, lees and, where applicable, wines to an approved distiller of his choice.
2. The distiller shall be required;
 - to furnish the producer with proof of the delivery of the products concerned,
 - to pay the producer the price referred to in Article 2,
 - to process into alcohol the products delivered to him,
 - to deliver the alcohol to the intervention agencies designated by the Member States. The actual alcoholic strength of the alcohol may not be less than 95°.
3. The intervention agencies shall pay the distillers the price referred to in Article 3.

Article 2

The price to be paid to the producer, according to alcohol content, for marc, lees and, where applicable, wines delivered for distillation, hereinafter called "the buying-in price for wine deliveries", shall be fixed each year per hectolitre and per degree of alcohol before 1 August for the following wine-growing year.

It may not be higher than 45 % of the guide price for table wine of type A I applicable with effect from the following 16 December.

Article 3

1. The price to be paid by the intervention agencies to distillers for the alcohol delivered, hereinafter called "the price of the alcohol from wine deliveries", shall be fixed annually by the Council, acting by a qualified majority on a proposal from the Commission, at the same time and for the same wine-growing year as the buying-in price for wine deliveries.

2. The price referred to in paragraph 1 shall be fixed on the basis of the costs of

- distillation,
- transport,
- losses.

It may be differentiated according to the product distilled in order to take into account, where necessary, the differing costs for distilling marc, lees and wines.

3. The price of the alcohol from wine deliveries shall be fixed per hectolitre and per degree of alcohol. It shall apply to unpacked goods delivered free at the warehouse of the intervention agency.

Article 4

1. In accordance with the procedure referred to in Article 24 (6) of Regulation (EEC) No 816/70, the maximum amount of the contribution from the Guarantee Section of the EAGGF towards the expenditure incurred by the intervention agencies shall be fixed annually, at the same time and for the same wine-growing year as the buying-in price for wine deliveries. This amount shall be fixed per hectolitre and per degree of alcohol.

2. The EAGGF contribution shall be paid, up to the maximum amount referred to in paragraph 1, only where, during a given budgetary year, the overall expenditure of an intervention agency on the buying-in of alcohol obtained by the distillation under Article 24 of Regulation (EEC) No 816/70 is greater than the income from the sale of such alcohol.

If the difference referred to in the first subparagraph is less than the maximum amount multiplied by the quantities sold, the contribution shall be equal to that difference.

3. Articles 4 and 5 of Regulation (EEC) No 729/70 shall apply to the EAGGF contribution referred to in this Article.

Article 5

1. The producer shall be totally or partially freed from the obligation laid down in Article 24 (2) of Regulation (EEC) No 816/70 if an approved distiller of his choice manufactures from that producer's own products:

- potable spirits of grape marc, obtained directly from grape marc, wine lees or both those products,
- or, failing this, potable spirits of wine, obtained directly from wine.

2. For each administrative unit in which the wine production is traditionally intended for processing into potable spirits of wine, Member States shall determine the minimum percentage of potable spirits of marc to be produced where the option provided for in paragraph 1 is exercised.

That percentage shall correspond to the average quantity of alcohol contained in the marc and lees produced in the administrative unit concerned.

3. The quantity of alcohol, expressed as pure alcohol, contained in the potable spirits shall be deducted from the quantity of alcohol which is required to be delivered under the said Article 24(2).

4. In order to exercise the option provided for in paragraph 1, the producer shall be able to supply the intervention agency with proof of the delivery of the quantity of marc, lees and, where applicable, wine referred to in Article 24 (3) of Regulation (EEC) No 816/70.
5. The distiller shall inform the intervention agency of the total quantity of potable spirits produced in accordance with this Article, broken down into potable spirits of marc and potable spirits of wine.
6. The production of potable spirits may have the effect mentioned in paragraph 1 only if:
 - a) the quality of the potable spirits obtained satisfies the national provisions on the subject; the distiller shall supply proof thereof to the competent agency;
 - b) it is carried out under the supervision of the competent agency; the distiller shall be required to permit such supervision at any time during distillation.

Article 6

For the purposes of this Regulation an approved distiller means a distiller included on a list to be compiled by the intervention agencies in accordance with criteria to be determined. Approval shall be withdrawn from distillers who do not fulfil their obligations under this Regulation.

Article 7

1. Producers shall be totally or partially freed from the obligation laid down in Article 24 (2) of Regulation (EEC) No 816/70 if the products are withdrawn under supervision.
2. The quantity of marc and lees withdrawn must be in a ratio to be determined with the quantity of wine produced in respect of which the obligation to distil the marc and lees is not fulfilled.
3. Where this option is exercised by the producer, the discharge from the obligation laid down in Article 24 (2) of Regulation (EEC) No 816/70 applies only to a maximum of 8 % of the volume of alcohol naturally contained in the products used for the production of wine.

Article 8

The obligation laid down in Article 24 (2) of Regulation (EEC) No 816/70 shall not apply to the marc, lees and, where applicable, wine of isolated producers who, during the wine-growing year in question, do not make more than 10 hectolitres of wine.

Article 9

Producers who deliver their marc for the manufacture of oenocyanine may be made subjected to a reduced rate.

Article 10

Regulation (EEC) No 1877/74 is repealed.

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Article 11

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

It shall apply with effect from 1 September 1976.

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

Done at Brussels,

For the Council,
The President,

