

MINISTRY OF AGRICULTURE, LIVESTOCK AND FOOD SUPPLY
OFFICE OF THE MINISTER

NORMATIVE INSTRUCTION N. 054, OF 18th NOVEMBER 2009.

THE MINISTER OF AGRICULTURE, LIVESTOCK AND FOOD SUPPLY, in exercise of the powers conferred upon him by art. 87, sole paragraph, item II of the Constitution, in view of the provisions of Law N. 7.678, of 8th November 1988, amended by Law N. 10.970, of 12th November 2004, in Decree N. 99.066, of 8th March 1990, amended by Decree 6.295, of 11th December 2007, and the contents of Case N. 21000.003006/2008-74, decides:

TITLE
GENERAL PROCEDURES

CHAPTER I
GENERAL PROVISIONS

Article 1 - To establish the following procedures for verification of identity and quality standards for wines and products of grape and wine:

I - collection and distribution of samples;

II - expert analysis or rebuttal analysis, and final decision analysis or final decision testing of samples;

III – sampling of imported products, and

IV - exportation and importation.

Article 2 - For the purposes of implementing this Instruction, one considers:

I - inspection agency: the technical area specialized in beverages of the Federal Superintendence of Agriculture, Livestock and Food Supply in the state where the administrative activities are carried out related to production of wine, and products of wine and grapes, as per articles 4 to 13 of Decree N.99.066, of 8th March 1990;

II – interested party: that responsible for the product or holder of the product;

III - responsible for the product: all persons specified in article 23 of Decree N. 99.066, of 1990, or the transporter, trader, or storage agent who has the product under their custody and responsibility without proven origins;

VI - holder of the product: the carrier, the trader, or storage agent maintaining the product under their custody and responsibility with proven origins.

Sole Paragraph. For the same purposes stated in the heading of this article, this Instruction approves the official models contained in the Annexes listed below:

I - Annex I – label and wrapping of sample seal;

II - Annex II - sample identification label;

III - Annex III - application for exportation of wine and products of grapes and wine;

IV - Annex IV - certificate of inspection for importation;

V - Annex V - certificate of origin for exportation of wine and products of grapes and wine;

VI - Annex VI - certificate of free sale of wine and products of grapes and wine;

VII - Annex VII – term of responsibility for exportation;

VIII - Annex VIII - certificate of origin and analysis of wine and products of grapes and wine;

IX - Annex IX - term of responsibility for importation, and

X - Annex X - application for importation for non-commercial purposes.

CHAPTER II COLLECTION AND DISTRIBUTION OF SAMPLES OF WINE AND PRODUCTS OF GRAPE AND WINE

Section I Inspection sample

Article 3 In sampling for inspection purposes, three sample units shall be collected, which should be identified, if necessary, authenticated and made inviolable, in the presence of the representative of the establishment responsible for the product, or of the representative of the establishment holder of the product, or, in their absence or refusal, in the presence of two witnesses.

Article 4 Sample inviolability shall be assured with the use of a sealing label or an impenetrable wrapping involving all sample unit containers - as per model in Annex I of this Instruction - which shall be authenticated by the inspector and by the representative of the interested establishment.

Article 5 Sample units provided for in art. 3 of this Instruction, collected by the inspector, shall be distributed as follows:

I - one sample unit to be sent by the inspection agency to a laboratory member of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health for inspection analysis; the sample unit sent to the laboratory shall consist of at least two containers of the product collected, containing a total volume of no less than one thousand milliliters.

II - one sample unit shall remain with the interested party and shall be reserved for expert analysis or rebuttal analysis.

III - one sample unit for final decision analysis, to be under the custody of the inspection agency under conditions of conservation and inviolability.

Sole paragraph. Sample units provided for in items II and III of this article shall each contain a total volume of no less than five hundred milliliters.

Article 6 Sample collection for bulk products shall also comply with the provisions of art. 5 of this Instruction, and the sample unit shall be properly identified with a label as per model in Annex II of this Instruction.

Sole Paragraph. Where sampling involves breaking or removal of the tamper-proof seal or safety seal of the container or other packaging, after sample collection the inspector shall place the seal of the Ministry of Agriculture, Livestock and Food Supply (henceforth called MAPA, its acronym in Portuguese), so as to guarantee the inviolability of containers or packaging.

Article 7 For solid or concentrated products, samples shall be collected in as many containers as necessary so as to obtain - after dilution specified by the manufacturer - the volume mentioned in article 5 of this Instruction.

Article 8 After product analysis, an official certificate of inspection analysis will be issued, which shall contain analytical determination and the amounts found or the results obtained, as appropriate.

Sole Paragraph. When the results of inspection analysis indicate compliance with the requirements of identity and quality or composition approved by MAPA, the establishment responsible for the product may take away - upon application to the inspection agency or the laboratory, no later than sixty days after issuance of the certificate referred to in this article - the sample unit sent for final decision analysis or testing, as well as the container remaining from the inspection analysis, which were forwarded to and kept by the inspection agency or laboratory.

Article 9 Sample units that are not removed within the period specified in the sole paragraph of article 8 of this Instruction should be destroyed or made available for research in the interest of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health or in the interest of the inspection agency.

Article 10. When inspection analysis indicates non-compliance with requirements of identity and quality or composition approved by MAPA, after expiry of legal deadlines, if final decision analysis or testing has not taken place, the sample unit allocated for this purpose shall be destroyed, together with its container.

Section II Samples for exportation control

Article 11. Samples of wine and products of grapes and wine for exportation control shall be sent to the laboratory by the representative of the exporting establishment, and should be composed of at least two containers of the product, containing a total volume of no less than one thousand milliliters.

Sole Paragraph. Sample collection for the exportation of bulk products should also comply with the provisions of the heading of this article.

Article 12. For solid or concentrated products, samples shall be collected in as many containers as necessary so as to obtain - after dilution specified by the manufacturer - the volume mentioned in article 11 of this Instruction.

Article 13. The sample unit for export control shall be sent to the laboratory by the representative of the exporting establishment, together with appropriate application, approved by the inspection agency, as per model in Annex III of this Instruction.

Article 14. An additional container may be collected for other laboratory determinations, when requested by the inspection agency, and taking into account the volume necessary for the analysis.

Section III Samples for importation control

Article 15. In sampling for importation control purposes, only one sample unit shall be collected, consisting of at least two containers of collected product, containing a total volume of no less than one thousand milliliters.

Article 16. For solid or concentrated products, samples shall be collected in as many containers as necessary so as to obtain - after dilution specified by the producer - the volume mentioned in article 15 of this Instruction.

Article 17. The sample unit for importation control shall be identified, if necessary, authenticated and made inviolable by the inspector, in the presence of the importing company representative.

§ 1 Labels with identification and number of the sample may be used, as per model in Annex II of this Instruction; such labels shall be stuck to product container, but under no circumstances shall they cover the words on the original product label.

§ 2 Sample inviolability shall be assured with the use of a sealing label or an impenetrable wrapping involving all sample unit containers - as per model in Annex I of this Instruction - which shall be authenticated by the inspector and by the representative of the establishment holder of the product.

Article 18. Where sampling implies breaking or removal of the tamper-proof seal or safety seal of the container or other packaging, after sample collection the inspector shall place MAPA's seal, so as to guarantee the inviolability of containers or packaging.

Article 19. When the time taken to issue the certificate of inspection for importation of a product makes it unfeasible for the product to stay at the port of entry, it may - upon submission of the adequate form - be released for storage in facilities outside customs areas, according to the provisions of article 175, of Decree 99.066, of 1990.

Article 20. An additional container may be collected for other laboratory determinations, when requested by the inspection agency, and taking into account the volume necessary for the analysis.

Article 21. When the control analysis indicates compliance with the requirements of identity and quality or composition approved by MAPA, the representative of the importing company may take away the remaining container through a request to the laboratory, within a maximum of sixty days after the issuance of the certificate of inspection for importation.

Article 22. Containers not taken away within the period specified in Article 21 shall be destroyed or made available for the development of research in

the interest of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health and of federal inspection.

Article 23. If the analysis performed on samples collected indicates non-compliance with the analytical parameters established for national products, the procedure set out for inspection analysis should be adopted, except in the cases provided for in this Instruction.

CHAPTER III EXPERT ANALYSIS OR REBUTTAL ANALYSIS AND FINAL DECISION ANALYSIS OR TESTING OF WINE AND PRODUCTS OF GRAPES AND WINE

Section I Expert analysis or rebuttal analysis

Article 24. The results of the expert analysis or rebuttal analysis shall be informed via official written communication to the establishment responsible for the product and to the establishment holding the product, by the forwarding of a copy of the official inspection analysis certificate.

Article 25. When the representative of the establishment responsible for the product does not agree with inspection analysis results, within ten days of the date of receipt of such results, he or she may request the inspection agency for an expert analysis or rebuttal analysis to be carried out.

Sole Paragraph. For highly perishable products, the period referred to in the heading of this article may be reduced at the discretion of the inspection agency, as long as it is officially informed, and duly accompanied by the official certificate of inspection analysis.

Article 26. In the application for expert analysis or rebuttal analysis, the representative of the establishment responsible for the product shall assign an expert and inform about the expert's professional qualifications, which shall meet the legal requirements pertaining to the expert analysis, otherwise it may be refused, in which case substitution is allowed within ten days.

Sole Paragraph. The period referred to in the heading of this article may be modified according to the situation provided for by the sole paragraph of art. 2 of this Instruction.

Article 27. The expert analysis or rebuttal analysis shall be carried out on the sample unit allocated for this purpose, in accordance with Art. 5, of this Instruction, in a laboratory of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health, and will be attended by experts of the establishment responsible for the product and of the inspection agency.

§ 1 The representative of the establishment responsible for the product shall be informed by letter, by the inspection agency, of the date and location of the expert analysis, with a minimum notice of ten working days, except when technical conditions related to the product require expedite analysis.

§ 2 The expert analysis or rebuttal analysis shall not take longer than fifteen days to be held, to be counted as of the date of receipt of application by the inspection agency, except when technical conditions require its extension.

Article 28. Expert analysis or rebuttal analysis shall not be held in the following cases:

I - if the sample unit for this purpose shows evidence of tampering;

II - if the expert appointed by the institution responsible for the product is not present with sample unit allocated for this purpose at the date, place and time established for the analysis to be carried out, or

III - if the product has achieved its expiry date and the parameter under consideration is subject to change due to time.

§ 1 In the absence of expert analysis or rebuttal analysis, in the cases mentioned in sections I and II of this Article, the result of the official certificate of inspection analysis shall be considered.

§ 2 In the case of item III of this Article, the result of the official certificate of inspection analysis shall not be considered, and accountability will be investigated by the inspection agency.

Article 29. During the realization of the expert analysis or rebuttal analysis, the expert of the establishment responsible for the product shall be informed of inspection analysis results, shall receive information requested, and shall have access to the documents necessary for the performance of his/her task.

Article 30. On the basis of the expert analysis or rebuttal analysis, the official certificate of analysis and minutes shall be issued and duly signed by the experts concerned; the originals shall be filed in the official laboratory, after copies are delivered to the inspection agency and the representative of the establishment responsible for product.

Section II Final decision analysis

Article 31. The final decision analysis or final decision testing shall be carried out when one finds:

I - discrepancy between the results of the inspection analysis and those of the expert analysis or rebuttal analysis, or

II - disagreement among experts as to the results of the expert analysis or rebuttal analysis.

§ 1 In the case mentioned in item I of this article, the final decision analysis or testing shall be held immediately, unless supervening technical conditions demand its postponement, which should occur no later than thirty days as of the date of the expert analysis or rebuttal analysis.

§ 2 In the case mentioned in item II of this article, the final decision analysis or testing shall be held within thirty days as of the date of the expert analysis or rebuttal analysis, a third expert shall be appointed by MAPA's central department in the area of wines and beverages, and the experts previously appointed are allowed to attend.

Article 32. The final decision analysis or final decision testing shall be carried out on the sample unit in the custody of the inspection agency.

Article 33. The final decision analysis or final decision testing shall not be performed in the following cases:

I - if the sample unit for this purpose shows evidence of violation, or

II - if the product has achieved its expiry date and the parameter under consideration is subject to change due to time.

§ 1 In the absence of the final decision analysis, the result of the official certificate of inspection analysis shall not be considered.

§ 2 In the case of item I of this Article, accountability will be investigated by the inspection agency.

Article 34. On the basis of the final decision analysis or testing, the official certificate of analysis and minutes shall be issued and duly signed by the experts concerned; the originals shall be filed in the official laboratory, after copies are delivered to the inspection agency and the representative of the establishment responsible for product.

Sole Paragraph. The results of the final decision analysis, whatever they are, shall prevail over the other analyses, and the final decision analysis or final decision testing is not allowed to be repeated.

CHAPTER IV SAMPLING IMPORTED WINES AND PRODUCTS OF GRAPE AND WINE

Section I Importation control analysis.

Article 35. The analysis for importation control of wine and products of grape and wine shall be carried out by sampling through the following procedures:

I - simplified procedure: the unit of the System for International Animal and Plant Surveillance (VIGIAGRO) at the point of goods clearance, shall check the documentation required to release the wine and products of grape and wine for importation and carry out a physical inspection of the cargo by sampling, without the need for sample collection, or

II - complete procedure: the VIGIAGRO unit at the point of goods clearance, shall check the documentation required to release the wine and products of grape and wine for importation, carry out a physical inspection of the cargo, collect samples for control (compulsory), and forward the documentation to analysis by the inspection agency that covers the location where the goods are stored.

§ 1 The simplified procedure shall be adopted when there is no sample collection, and the complete procedure shall be adopted when there is sample collection.

§ 2 When the time taken to issue the certificate of inspection for importation of a product makes it unfeasible for the product to stay at the port of entry, it may - upon submission of the adequate form - be released for storage in facilities outside customs areas, according to the provisions of article 175, of Decree 99.066, of 1990.

Section II
Methods and frequency of sample collection

Article 36. The sample collection for control of imported wine and products of grape and wine shall be carried out by sampling according to the following procedures:

I - for wine and alcoholic products of grapes and wine imported for the first time, a sample shall be collected for control analysis, and as of the second time they are imported the procedure contained in item II of this article shall be adopted;

II - for imported wine and alcoholic products of grapes and wine of the same name, same brand and same producer or bottler, whose commercialization has been authorized by MAPA in the previous twelve-months period, and have shown no non-compliances in such period, may be waived of sample collection;

III – for wine and alcoholic products of grapes and wine imported in volume equal to or lower than nine hundred liters, whose commercialization has been authorized by MAPA in the previous thirty six-months period, and have shown no non-compliances in such period, may be waived of sample collection;

IV – for grape juice or other non-alcoholic product of grape and wine imported for the first time, a sample shall be collected for control analysis, and as of the second time they are imported the procedure contained in item V of this article shall be adopted.

V - imported grape juice or other non-alcoholic product of grape and wine of the same name, same brand and same producer or bottler, whose commercialization has been authorized by MAPA in the previous six-months period, and have shown no non-compliances in such period, may be waived of sample collection; and

VI – wines and products of grape and wine showing non-compliances shall be submitted to sample collection for an indefinite period of time, until commercialization is authorized for at least three consecutive importations.

Article 37. After collection, the control sample shall be sent to a laboratory of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health.

Sole Paragraph. The transportation of the control sample is a responsibility of the importer, as is the onus of the analysis carried out in an accredited laboratory.

Article 38. The laboratory shall issue a certificate of the sample analysis in three copies, two of which shall be sent to the inspection agency that covers the location where the goods are stored.

Article 39. The inspection agency, in possession of sample analysis results, shall issue the Certificate of Inspection for Importation, as per model in Annex IV of this Instruction, indicating whether the product does or does not meet the requirements provided for in specific legislation.

CHAPTER V

EXPORTATION AND IMPORTATION OF WINE AND PRODUCTS OF GRAPE AND WINE

Section I Exportation

Article 40. The exporting establishment may request an analysis for exportation of wine and products of grape and wine to be carried out by a laboratory of the National Network of Animal and Plant Laboratories of the Unified System for Animal and Plant Health, if this is an official requirement of the importing country.

Sole Paragraph. The request shall be made upon submission, as per model in Annex III of this Instruction, to the inspection agency covering the area where the exporting establishment is located, accompanied by a signed contract or letter related to the products to be analyzed and documentation supporting that this is an official requirement by the importing country.

Article 41. The inspection agency that covers the location where the exporting establishment is located may issue a certificate of origin for exports, as per model in Annex V of this Instruction, or the free sale certificate, as per model in Annex VI of this Instruction, or both, according to official requirements by the importing country.

Sole Paragraph. The free sale certificate shall be issued exclusively to wine and products of grape and wine meeting identity and quality standards set for the Brazilian territory, after the analysis of exportation control.

Article 42. When there is no interest in the analysis of the product for exportation, the exporter requesting the certificate of origin for exportation shall fill out the term of responsibility for exports, as per model in Annex VII of this Instruction.

Article 43. For the exportation of wine and products of grape and wine, other procedures may be adopted if so required by the importing country, as provided for in specific legislation.

Section II Importation

Article 44. Imported wines and products of grape and wine shall only be released after compliance with specific legislation is verified, and after the following documents are presented to Vigiagro at the site of goods clearance:

I - certificate of registration of the importing company;

II - certificate of origin and analysis of the product, Annex VIII of this Instruction;

III - time of aging certificate, when appropriate;

IV - certificate of inspection for importation that authorized the marketing of the product dated within the period that waives sample collection, when appropriate;

V – term of responsibility for importation, when sample collection is waived, Annex IX of this Instruction;

VI - application for non-commercial importation, approved by the inspection agency, if applicable;

VII - proof of distinctive character and regionality of the wine and products of grape and wine, if applicable;

VIII - proof of geographical indication of the wine and products of grape and wine, when appropriate, and

IX - other documents for customs clearance.

§ 1 The documents mentioned in items I, II, III, IV, VII and VIII should be originals, or copies validated by the agency responsible for issuing the original document, or certified copies.

§ 2 For the purposes of this Instruction the certificate of origin and the certificate of analysis shall be issued by an official agency or officially accredited agency in the country of origin, i.e. of the production of wine and products of grape and wine.

§ 3 MAPA shall make available in its electronic page the updated list of agencies and laboratories of countries exporting wine and products of grape and wine to Brazil, in charge of issuing certificates of origin and analysis.

Article 45. Imported wines and products of grape and wine that do not meet Brazilian identity and quality standards, shall only be released for sale by means of official attestation of the following requirements:

I – featuring characteristics that are typical, regional, and unique of the country of origin;

II – being a wine or product of grape and wine compliant with the legislation of the country of origin; and

III – being of normal and current use and having name and composition consolidated in the region of the country of origin.

Sole Paragraph. Wines and products of grape and wine with geographical indication shall be exempt from the provisions of this article, and should include it in the certificate of origin, of analysis or other official document.

Article 46. It is forbidden to import wines and products of grape and wine, including typical and regional ones, which contain additives, residues of organic and inorganic contaminants, or contaminants that are banned by Brazilian legislation.

Article 47. The importation of wines and products of grape and wine containing any ingredient not used in foodstuffs for human consumption in Brazil is subject to prior assessment by the Brazilian national health authority.

Article 48. Imported wines and products of grape and wine intended for exhibitions, tasting events, sales promotion, or research, in amounts above customs exemption limits, not intended for marketing, whether or not accompanied by the certificate of origin and analysis, may be released by authorization of the inspection agency at the point of entry of the goods by means of application, as per model in Annex X of this Instruction.

Sole Paragraph. The amount of wines and products of grape and wine imported for non-commercial purposes, as provided for in the heading of this article, should be consistent with the size and duration of the exhibition, event or research they are intended to, and should comply with specific legislation of the inspection agency.

Article 49. For diplomatic representations, products should undergo physical and document inspection of the Simplified Importation License (LSI) or the Simplified Importation Document (DSI) previously approved by specific agency of the Ministry of Foreign Affairs, and shall be exempt from registration, sample collection and laboratory analysis.

Article 50. Wines and products of grape and wine imported under the special drawback customs regime provided for in specific legislation of the Brazilian Federal Revenue shall be exempt of sample collection and laboratory analysis.

CHAPTER VI GENERAL PROVISIONS

Article 51. Non-compliance with the provisions set forth in this Instruction makes the offender subject to the rules contained in Chapter VII, of Decree 99.066, of 1990.

Article 52. This Instruction shall enter into force upon its publication; it establishes a time period of 180 (one hundred and eighty) days for adjustment to the model certificate in Annex VIII.

Article 53. Administrative Rule N. 28, dated 17th June 1986, Administrative Rule N. 15, dated 23rd February 1989, Administrative Rule N. 36, dated 1st November 1990, for the products related to Law 7.678, dated 8th March 1988, Normative Instruction N. 64, dated 9th December 2002, and Normative Instruction N. 33 of 4th October 2006 are hereby repealed.

Reinhold Stephanes

ANNEX I – MODEL LABEL AND WRAPPING OF SAMPLE SEAL

ANNEX II – MODEL SAMPLE IDENTIFICATION LABEL;

ANNEX III – MODEL APPLICATION FOR EXPORTATION OF WINES AND PRODUCTS OF GRAPES AND WINE;

ANNEX IV – MODEL CERTIFICATE OF INSPECTION FOR IMPORTATION;

ANNEX V – MODEL CERTIFICATE OF ORIGIN FOR EXPORTATION OF WINES AND PRODUCTS OF GRAPES AND WINE;

ANNEX VI – MODEL CERTIFICATE OF FREE SALE OF WINES AND PRODUCTS OF GRAPES AND WINE;

ANNEX VII – MODEL TERM OF RESPONSIBILITY FOR EXPORTATION;

ANNEX VIII – MODEL CERTIFICATE OF ORIGIN AND ANALYSIS OF WINES AND PRODUCTS OF GRAPES AND WINE;

ANNEX IX – MODEL TERM OF RESPONSIBILITY FOR IMPORTATION, AND

ANNEX X – MODEL APPLICATION FOR IMPORTATION FOR NON-COMMERCIAL PURPOSES.