

Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers

Official Journal L 024, 30/01/1976 pp. 0021 - 0044

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas in each Member State fertilizers must display certain technical characteristics laid down by mandatory provisions ; whereas these provisions, concerning more particularly the composition and definition of fertilizer types, the designations of these types, their identification and their packaging, differ from one Member State to another ; whereas by their disparity they hinder trade within the European Economic Community;

Whereas these obstacles to the establishment and functioning of the common market can be reduced or even removed if the same provisions are adopted by all the Member States, either in addition to or in place of their present laws;

Whereas it is necessary to this end to determine at Community level the designation, definition and composition of the principal straight and compound fertilizers in the Community ; whereas it should likewise be provided that fertilizers satisfying the criteria laid down by this Directive be marked "EEC fertilizer";

Whereas Community rules on the identification and labelling of these fertilizers, and on the closure of the containers, should also be laid down;

Whereas the production of fertilizers is subject to varying degrees of fluctuation due to manufacturing techniques or basic materials ; whereas, sampling and analytical procedures may also contain variations ; whereas, on these accounts, it is necessary to authorize tolerances on the declared nutrient contents ; whereas it is advisable, in the interest of the agricultural user, to keep these tolerances within narrow limits;

Whereas this Directive concerns only straight and compound fertilizers ; whereas subsequent Directives will lay down provisions relating, inter alia, to liquid fertilizers, secondary elements and trace elements;

Whereas the determination of the sampling techniques and the methods of analysis, as well as any changes or additions to be made thereto in consideration of technical progress, are implementing measures of a technical nature, and whereas it is appropriate to assign their adoption to the Commission in order to simplify and speed up the procedure;

Whereas technical progress necessitates the rapid adaptation of the technical requirements defined in the various Directives relating to fertilizers ; whereas, in order to facilitate the implementation of the measures required for this purpose, it is advisable to provide for a procedure establishing close cooperation between the Member States and the Commission within the Committee on the adjustment to technical progress of Directives which concern the abolition of technical barriers to trade in fertilizers,
HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to products which are marketed as fertilizers and designated "EEC fertilizer".

Article 2

Member States shall take all the necessary measures to ensure that the designation "EEC fertilizer" may only be used for fertilizers belonging to one of the solid fertilizer types listed in Annex I and complying with the conditions laid down by the Directive and Annexes I to III thereto.

Article 3

Member States shall take all the necessary measures to ensure that the fertilizers referred to in Article 1 are provided with identification markings. These identification markings are listed under paragraph 1 of Annex II and the terms and conditions governing the application of these markings are set out under paragraph 2 of the same Annex.

If the fertilizers are packed, these markings must appear on the packages or labels. For containers with a

quantity of fertilizer exceeding 100 kg, these markings need appear only on the accompanying documents. If the fertilizers are in bulk, these markings must appear on the accompanying documents. In order to satisfy the requirements of Annex II, paragraph 1 (b) and (c), Member States may prescribe that for fertilizers marketed in their territories, indication of the phosphorus, potassium and magnesium contents shall be expressed: - solely in the oxide form (P₂O₅, K₂O, MgO),

- or solely in the elemental form (P, K, Mg),

- or in both these forms simultaneously.

Where Member States exercise the option to prescribe that the phosphorus, potassium and magnesium contents be expressed in the form of elements, all references in the Annexes to the oxide form shall be expressed in elemental form and the numerical values converted using the following factors:

phosphorus pentoxide (P₂O₅) X 0.7436 = phosphorus (P);

potassium oxide (K₂O) X 0.783 = potassium (K);

magnesium oxide (MgO) X 0.76 = magnesium (Mg).

Member States who have exercised the said option shall make the necessary adaptations to the provisions contained in the Annexes to this Directive.

Article 4

1. Without prejudice to other Community rules, the only markings permitted on the packages, labels and accompanying documents referred to in Article 3 shall be the following indications relating to fertilizers:

(a) the compulsory identification markings specified in paragraph 1 of Annex II;

(b) the optional data listed in Annex I;

(c) the manufacturer's own mark, the trade mark of the product and the trade description of the product;

(d) the specific directions for the use, storage and handling of the fertilizer.

The indications referred to in (c) and (d) may not conflict with those referred to in (a) and (b) and must be clearly separated from them.

2. All the markings referred to in paragraph 1 must be clearly separated from any other information on the packages, labels and accompanying documents.

Article 5

Member States may require that in their territory the label, the markings on the package and the accompanying documents should appear in at least their national language or languages.

Article 6

In the case of packaged fertilizers, the package must be closed in such a way or by such a device that, when it is opened, the fastening, fastening seal or the package itself is irreparably damaged.

Valve sacks may be used.

Article 7

Without prejudice to the provisions of other Community Directives, Member States may not on grounds of composition, identification, labelling or packaging, prohibit, restrict or hinder the marketing of fertilizers marked "EEC fertilizer" which comply with the provisions of this Directive and the Annexes thereto.

Article 8

1. Member States shall take all the necessary measures to ensure that fertilizers marketed with the marking "EEC fertilizer" are subjected to official control measures for the purpose of verifying that they comply with this Directive and with Annexes I and II thereto.

2. Compliance with this Directive and with Annexes I and II in respect of conformity to types of fertilizer and compliance with the declared nutrient content and the declared content expressed as forms and/or solubilities of such nutrients may be verified at official inspections only by means of sampling and analysis methods established in accordance with this Directive and taking into account the tolerances specified in Annex III.

3. Member States may take all the necessary measures to ensure that systematic advantage is not taken of the tolerances defined in Annex III.

Article 9

1. Any amendments which are necessary in order to adjust columns 4, 5 and 6 of Part A and columns 8, 9 and 10 of Part B of Annexes I and III to technical progress shall be adopted in accordance with the procedure laid down in Article 11.
2. Sampling and analysis methods shall likewise be determined in accordance with the said procedure.

Article 10

1. A committee (hereinafter called "the committee"), is hereby set up to adjust to technical progress those Directives which concern the abolition of technical barriers to trade in fertilizers. It shall consist of representatives of the Member States with a representative of the Commission as chairman.
2. The committee shall adopt its rules of procedure.

Article 11

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the committee by the chairman, either on his own initiative or at the request of a representative of a Member State.
2. The representative of the Commission shall submit to the committee a draft of the measures to be adopted. The committee shall deliver its opinion on the draft within a period of two months. Opinions shall be adopted by a majority of 41 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.
3. (a) Where the proposed measures are in accordance with the opinion of the committee, the Commission shall adopt them.
(b) Where the proposed measures are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.
(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

1. Member States shall bring into force the provisions necessary to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.
2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 18 December 1975.

For the Council

The President

M. TOROS

ANNEX II PROVISIONS CONCERNING IDENTIFICATION AND LABELLING

1. Compulsory identification markings (a) The words "EEC FERTILIZER" in capital letters.
(b) The designation of the type of fertilizer, in accordance with Annex I, and the numbers indicating the nutrient content which, for compound fertilizers, should be in the order laid down by the said designation.
(c) The declared content in respect of each nutrient ; and the declared content expressed as forms and/or solubilities where those are specified in Annex I.
The nutrient content for straight and compound fertilizers must be given as a percentage by weight, as whole numbers or, where necessary, to one decimal place and for compound fertilizers in the following order : N, P₂O₅ and/or P, K₂O and/or K.
The forms and solubilities of the nutrients must also be expressed as a percentage by weight of fertilizer, except where Annex I explicitly provides that this content shall be otherwise expressed.
Nutrients must be indicated both in words and by the appropriate chemical symbols (e.g. nitrogen (N),

phosphorus (P), phosphorus pentoxide (P₂O₅), potassium (K), potassium oxide (K₂O), magnesium (Mg), magnesium oxide (MgO)).

(d) Guaranteed net or gross weight.

If the gross weight is given, the tare weight must be indicated beside it.

(e) The name or trade name or trademark and the address of the person responsible for marketing the fertilizer, established within the Community.

2. Labelling requirements (a) The labels or markings printed on the package and giving the particulars mentioned under 1 must be placed in a conspicuous position. Attached labels must be held in place by whatever system is used for closing the package. If this system consists of a lead or other type of seal, the seal must bear the name or mark of the person responsible referred to under 1 (e).

(b) The markings referred to in paragraph 1 must be and must remain indelible and clearly legible.

(c) In the cases referred to in Article 3, a copy of the documents containing the identification markings must accompany the goods and be accessible for inspection purposes.

ANNEX III TOLERANCES

(a) The tolerances given in this Annex are the permitted deviation of the measured value of a nutrient from its declared value.

(b) They are intended to accommodate variations in manufacturing, sampling and analysis.

(c) No tolerances are allowed in respect of the minimum and maximum contents specified in Annex I.

(d) Where no maximum is given there are no restrictions on an excess of nutrient above the declared amount.

(e) The tolerance allowed in respect of the declared nutrient contents in the various types of fertilizer are as follows:

(f) The tolerance allowed in respect of the declared content for the various forms of nitrogen or the declared solubilities of phosphorus pentoxide is one-tenth of the overall content of the nutrient concerned with a maximum of 2 % by weight, provided that the overall content of that nutrient remains within the limits specified in Annex I and the tolerances specified in paragraph (e) above.