

Council Directive 80/876/EEC of 15 July 1980 on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content

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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 (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Directive 76/116/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to fertilizers (4) has already laid down Community rules on the designation, composition, labelling and packaging of the most important straight and compound fertilizers in the Community ; whereas ammonium nitrate based fertilizers are the particular concern of that Directive ; whereas it seems necessary, however, having regard to the particular nature of this type of fertilizer and to the requirements it entails regarding public safety, health and protection of workers, to lay down additional Community rules for these fertilizers;

Whereas ammonium nitrate is the essential ingredient of a variety of products, some of which are intended for use as fertilizers and others as explosives ; whereas, by reason of the divergencies between national provisions on the classification of products used as fertilizer as against other products based on ammonium nitrate, the regulations controlling the marketing of ammonium nitrate based fertilizers differ from one Member State to another ; whereas by reason of such divergencies they hinder trade in straight ammonium nitrate fertilizers of high nitrogen content within the European Economic Community;

Whereas such obstacles to the establishment of the common market can be reduced and even eliminated if the same requirements are adopted by all the Member States either in addition to or in place of their present laws;

Whereas certain of the products covered by this Directive could in certain instances be used for purposes other than those for which they were intended, which could well endanger the security of persons and property ; whereas the Member States should therefore not be prevented from taking appropriate steps to avoid such use;

Whereas it is above all necessary, to this end and in the interest of public safety, to determine at Community level the characteristics and properties distinguishing straight ammonium nitrate fertilizers of high nitrogen content from varieties of ammonium nitrate used in the manufacture of products used as explosives; (1)OJ No C 16, 23.1.1976, p. 4. (2)OJ No C 125, 8.6.1976, p. 43. (3)OJ No C 204, 30.8.1976, p. 10. (4)OJ No L 24, 30.1.1976, p. 21.

Whereas straight ammonium nitrate fertilizers of high nitrogen content should conform to certain characteristics to ensure that they are harmless ; whereas, moreover, several Member States wish to be free to subject such fertilizers to a test of resistance to detonation before or after they are marketed;

Whereas the determination of the methods of analysis and supervision, as well as any changes or additions to be made thereto to take account of technical progress, constitute measures of a technical nature whose adoption should be made the responsibility of the Commission so that the procedure may be simplified and expedited;

Whereas technical progress necessitates the prompt adaptation of the technical requirements of this Directive ; whereas a procedure has already been established under Articles 10 and 11 of Directive 76/116/EEC for the purpose of adapting Directives on fertilizers to technical progress, HAS ADOPTED THIS DIRECTIVE:

#### Article 1

1. Without prejudice to the application of Directive 76/116/EEC, this Directive shall apply to straight ammonium nitrate fertilizers of high nitrogen content placed on the market in the Member States of the Community.

2. For the purposes of this Directive, "fertilizers" means ammonium nitrate based products manufactured chemically for use as fertilizer and containing more than 28 % by weight of nitrogen, which may contain inorganic additives or inert substances such as ground limestone or ground dolomite, calcium sulphate, magnesium sulphate and kieserite.

3. Inorganic additives or inert substances, other than those mentioned in paragraph 2, which are used in the compounding of the fertilizer must not increase its sensitivity to heat or its tendency to detonate.

#### Article 2

To be eligible for the description "EEC fertilizer", the fertilizer must conform to the characteristics and limits laid down in Annex I. The person responsible for marketing the fertilizer, established within the Community, shall certify its conformity by use of the description "EEC fertilizer".

#### Article 3

Only packaged fertilizer may be made available to the final user.

International rules on the carriage of dangerous substances shall continue to apply for the carriage of fertilizers.

#### Article 4

No Member State may, on grounds relating to the requirements laid down in this Directive, prohibit, restrict or hinder the marketing of a fertilizer bearing the description "EEC fertilizer" and complying with the requirements of this Directive.

#### Article 5

The provisions of this Directive shall not preclude the taking of measures which are justified on grounds of public security to prohibit, restrict or hinder the marketing of fertilizers.

#### Article 6

Member States shall take all necessary measures to ensure that fertilizers placed on the market under the description "EEC fertilizer" comply with the provisions of this Directive and Annex I hereto.

#### Article 7

1. Without prejudice to the measures referred to in Article 6, Member States may if they so desire carry out additional checks on "EEC fertilizer". Such checks may be carried out either before the fertilizers are placed on the market, or after marketing, or at both stages concurrently.

2. For these checks, only the test described in Annex II shall be used.

3. "EEC fertilizer" which satisfies the requirements of this Directive and, where required by the Member State, the test of resistance to detonation described in Annex II, shall not be made subject to national provisions - in particular as regards storage - which are as stringent as those applying to products which do not satisfy these requirements.

#### Article 8

1. The following shall be established in accordance with the procedure laid down in Article 11 of Directive 76/116/EEC: - the method of checking compliance with the requirements of points 1, 2 and 6 of Annex I and the method of carrying out the test described in Annex II;

- the number of thermal cycles laid down in Annex II to be undergone by the fertilizer. There shall be at least two thermal cycles;
- analysis and sampling methods;
- the maximum permissible level of heavy metals.

2. Any amendments necessary to adapt to technical progress the methods of determining the composition and the properties of fertilizers and the method of carrying out the test of resistance to detonation shall be adopted by the same procedure.

3. By the same procedure a decision shall be taken three years after implementation of this Directive on whether the requirement of two thermal cycles should be retained for the test referred to in Section 1 of Annex I.

#### Article 9

1. Where a Member State has good grounds for believing that a fertilizer, although satisfying the requirements of this Directive, constitutes a hazard to safety or health, it may temporarily prohibit the marketing of the fertilizer in its territory or make it subject to special conditions. It shall immediately inform the other Member States and the Commission thereof, giving the reasons for its decision.

2. The Commission shall, within six weeks, consult the Member States concerned, then give its view without delay and take the appropriate steps.

3. If the Commission considers that technical adaptations to this Directive are necessary, such adaptations shall be adopted, either by the Commission or by the Council, in accordance with the procedure laid down in Article 8. In this event, the Member State which has taken precautionary measures may retain them until such adaptations come into force.

#### Article 10

1. Member States shall adopt and publish the provisions necessary to comply with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof. They shall apply these provisions from 1 January 1984.

2. Member States shall ensure that the Commission is informed of the texts of the provisions of national law which they adopt in the field governed by this Directive.

#### Article 11

This Directive is addressed to the Member States.

Done at Brussels, 15 July 1980.

For the Council

The President

J. SANTER

#### ANNEX I CHARACTERISTICS OF AND LIMITS FOR STRAIGHT AMMONIUM NITRATE FERTILIZERS OF HIGH NITROGEN CONTENT

##### 1. Porosity (oil retention)

The oil retention of the fertilizer, which must first have undergone two thermal cycles of a temperature ranging from 25 to 50 °C, must not exceed 4 % by weight.

##### 2. Combustible ingredients

The percentage by weight of combustible material measured as carbon must not exceed 0.72 %

for fertilizers having a nitrogen content of at least 31.75 % by weight and must not exceed 0.74 % for fertilizers having a nitrogen content of at least 28 % but less than 31.75 % by weight.

3. pH

A solution of 10 g of fertilizer in 100 ml of water must have a pH of at least 4.75.

4. Particle size analysis

Not more than 5 % by weight of the fertilizer must pass through a 1 mm mesh sieve and not more than 3 % by weight must pass through a 0.75 mm mesh sieve.

5. Chlorine

The maximum chlorine content is set at 0.702 % by weight.

6. Heavy metals

Heavy metals should not be added deliberately, and any traces which are incidental to the production process should not exceed the limit fixed by the Committee.

## ANNEX II DESCRIPTION OF THE TEST OF RESISTANCE TO DETONATION REFERRED TO IN ARTICLE 7

The test must be carried out on a representative sample of fertilizer. Before being tested for resistance to detonation, the whole mass of the sample is to be thermally cycled not more than five times.

The fertilizer must be subjected to the test of resistance to detonation in a horizontal steel tube under the following conditions: placed at 150 mm intervals and supporting the tube horizontally. The test is to be carried out twice. The test is deemed conclusive if in both tests one or more of the supporting lead cylinders is crushed by less than 5 %.