

Marketing and use of explosives precursors

2010/0246(COD) - 12/03/2015 - Follow-up document

In accordance with Article 18(2) of Regulation (EU) No 98/2013 on the marketing and use of explosives precursors, the Commission presented a report on the possibilities to transfer relevant provisions on ammonium nitrate from Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) into the Regulation on explosives precursors.

Ammonium nitrate (CAS RN 6484-52-2) is a chemical substance widely used as a fertiliser in the European Union. It can act as an oxidising agent and explodes when mixed with certain other chemicals. For this reason, ammonium nitrate fertilisers with a high nitrogen content are subject to technical requirements.² Because of these properties, ammonium nitrate fertilisers have been misused for the illicit manufacture of explosives. To protect against such misuse, access by members of the general public to ammonium nitrate as a substance or in mixtures is restricted and controlled.

At present, there are provisions on ammonium nitrate in both REACH and the Regulation on explosives precursors.

At the end of 2007, [the EU Action Plan](#) on Enhancing the Security of Explosives called for restrictions on the sale of ammonium nitrate fertilisers to the general public. There is thus a general agreement that the marketing and use of ammonium nitrate poses serious security concerns.

The Commission considers that as the risks relate to public security, the **restrictions on ammonium nitrate** are better placed in the Regulation on Explosives Precursors and would support the transfer of the relevant provisions from REACH, as originally intended in its [2010 proposal](#) for a regulation on the marketing and use of explosives precursors.

However, given the **continuing lack of consensus** from one of the co-legislators, i.e. the Council, on this issue, both in terms of the desirability of the transfer itself and the exact form it would take (i.e. whether ammonium nitrate would simply be transferred to Annex I, or whether separate arrangements would be made), a legislative proposal to transfer the provisions would probably not garner enough support in Council.

Member States that object to the transfer argue that it would weaken security around ammonium nitrate, as it may allow national competent authorities to make the substance available to the general public via licensing or registration regimes, which they are entitled to set up under Regulation (EU) No 98/2013.

In addition, the Commission notes that the **competent authorities in Member States have had little time to gather relevant experience** from implementing the Regulation on Explosives Precursors, as it only entered into force on 2 September 2014. It is therefore reasonable that Member States may want to examine the costs and benefits of the transfer at a later date.

Consequently, the Commission does not at present intend to propose legislation to transfer the relevant provisions on ammonium nitrate from REACH to the Regulation on Explosives Precursors. Instead, it will re-examine the possibility and the exact nature of such a transfer as part of a larger review planned for 2017 under the latter Regulation.