

# Regulation on the handling of explosives precursors

**Statutory authority:** Prescribed by the Norwegian Directorate for Civil Protection 2 June 2015 with statutory authority in Act No. 20 of 14 June 2002 relating to the Prevention of Fire, Explosion and Accidents involving Hazardous Substances and the Fire Services' Duties connected with Rescue Operations (Fire and Explosion Prevention Act) § 5, § 6, § 20a, § 26, § 27 and § 43, cf. administrative decision 1 September 2003 no. 1161 and 1. June 2015 no. 580.

**EEA references:** EEA Agreement, Annex II, Chapter XV and XXIX (Regulation (EU) No 98/2013).

## Chapter 1 – General provisions

### § 1 Purpose

The regulation shall contribute to explosives precursors not going astray or ending up in the wrong hands and used for unwanted intentional events.

The regulation shall also contribute to protection of life, health, environment and material values against unwanted intentional incidents and accidents during the handling of these explosives.

### § 2 Scope

The regulation includes handling of the following explosive precursors and mixtures containing them:

Hydrogen peroxide, above 12 % w/w	Hexamine
Nitromethane, above 30 % w/w	Sulphuric acid
Nitric acid, above 3 % w/w	Acetone
Potassium chlorate, above 40 % w/w	Potassium nitrate
Potassium perchlorate, above 40 % w/w	Sodium nitrate
Sodium chlorate, above 40 % w/w	Calcium nitrate
Sodium perchlorate, above 40 % w/w	Calcium ammonium nitrate
	Ammonium nitrate (in concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher)

The specified concentration limits apply unless otherwise is explicitly stated in provisions in this regulation.

The regulation does not apply to articles, pyrotechnic articles and equipment et cetera or medical products, in accordance with (EU) No 98/2013 on the marketing and use of explosives precursors Article 2 No. 2.

### § 3 Implementation of Regulation (EU) No 98/2013

Chapter XV and XXIX of Annex II to the EEA Agreement (Regulation (EU) No 98/2013 on the marketing and use of explosives precursors) applies as a regulation with the changes and additions that follow from Annex II, Protocol 1 to the Agreement and the Agreement in general.

### § 4 Definitions

For the purposes of this regulation, the following definitions shall apply:

- a) 'Substance' means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.
- b) 'Mixture' means a mixture or solution composed of two or more substances.
- c) 'Enterprise' means any public or private company regardless of whether the company has been established for professional profit or not.
- d) 'End-user' means whoever uses or consumes explosives precursors in their own enterprise, and does not sell them on or in any other way make them available to others.
- e) 'Handling' means any interaction with explosives precursors such as manufacturing, storage, treatment, transport, loading, unloading, acquiring, trading, import, export, transfer, use and destruction thereof.

Otherwise, the definitions in Regulation (EU) no. 98/2013 Article no. 3 apply.

## **§ 5 Requirement of diligence**

Anyone who handles explosives precursors has an obligation to show diligence and do what is necessary to prevent such substances from going astray, or ending up in the wrong hands, and to prevent accidents. The requirement of precaution applies regardless of the concentration limits listed in the first subsection in § 2.

## **§ 6 Prohibition for members of the general public**

Explosive precursors listed in the first column, first subsection in § 2, shall not be made available to or handled by members of the general public and only be made available to or handled by enterprises with a professional need. Export of the explosives precursors to members of the general public, is prohibited.

In accordance with § 1 in the REACH regulation, cf. Regulation (EC) No. 1907/2006, concerning the registration, evaluation, authorization and restriction of chemicals, Annex XVII, Chapter 58, members of the general public and enterprises with no professional necessity shall not have access to or handle substances or mixtures with 16% by weight of nitrogen in relation to ammonium nitrate or higher.

# **Chapter 2 – Requirements for organizational arrangements and physical security**

## **§ 7 Requirements for registration of enterprises**

An enterprise who wishes to import, manufacture, use, possess, sell or in any other way make available explosives precursors listed the first column, first subsection in §2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, must be registered in the Register of Business Enterprises or the Central Coordinating Register for Legal Entities. Enterprises registered abroad must be able to submit equivalent documentation from public registration authorities in their country of origin.

## **§ 8 Requirements of declaration and reporting**

An enterprise which manufactures or imports explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, shall declare these in the Norwegian Product Register. Such declaration applies also for explosives precursors imported for use in their own enterprise. The declaration applies regardless of amount and area of application. The declaration shall give complete information about the substances or mixtures compositions.

Declaration of the explosives precursors shall be done at the latest when production, sale or professional use starts in Norway. The enterprise shall without undue delay and on its own initiative update the information if there are changes in the reported information. Information concerning the actual amount that is produced, imported and exported per year shall be reported on an annual basis.

An enterprise which does not have a declaration obligation in accordance with the first subsection and that wishes to sell or in other ways make available explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, shall report to the Norwegian Directorate for Civil Protection by electronic registration.

The Norwegian Directorate for Civil Protection must have received the report before purchase explosives precursors, start selling the explosive precursors or otherwise making them available in Norway. The enterprise is obligated on its own initiative and without undue delay to report changes of which precursors they sell or in any other way make available.

## **§ 9 Systematic health, environment, safety and security work**

An enterprise shall identify dangers and problems that may arise during the handling of explosives precursors, and in the light of this conduct a risk assessment for accidents and the risk for the explosives precursors going astray. The risk assessment shall include external and internal circumstances.

The enterprise shall, as a result of the risk assessment, make plans and implement measures to prevent explosives precursors from going astray and to prevent accidents.

The enterprise shall ensure that everyone handling explosives precursors have the sufficient knowledge and skills to carry out their tasks in a safe and secure manner.

The obligation for systematic health, environment and safety work shall apply regardless of the concentration limits listed in the first subsection in § 2.

## **§ 10 Obligation to report suspicious transactions, thefts or significant and inexplicable disappearances**

An enterprise handling the explosives precursors is obligated to, without undue delay, report suspicious transactions or attempts at such transactions, thefts or significant and inexplicable disappearances of said precursors to the National Criminal Investigation Service (KRIPOS) in accordance with Regulation (EU) No 98/2013 Article 9.

The enterprise shall keep sufficient record of their stocks of explosives precursors, to be able to quickly identify thefts or significant and inexplicable disappearances.

The provisions apply regardless of the given concentration limit values listed in the first subsection in § 2.

## **§ 11 Requirement to keep a record of transactions**

An enterprise shall keep records of undertaken transactions involving explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16 % by weight of nitrogen in relation to ammonium nitrate or higher.

The record of transactions shall include information about:

- a) The suppliers of the explosives precursors, including their address and company number
- b) The customers of the explosives precursors, including their address and company number
- c) The individual transaction; including name of the goods that contain explosives precursors, which precursor it contains, amount, date and time of transaction.

Where the customer is an end-user, the record shall include information about the name of the person making the purchase, method of payment and intended use.

For new customers, the records shall also contain a signed declaration stating that explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, shall not be made available to or handled by members of the general public or enterprises with no professional need, and that the customer is aware of the obligations that follow from this regulation.

For new customers who are going to resell explosives precursors or existing end-user-customers who are going to start to resell, the record shall also contain a signed declaration that the reporting requirements in the third and fourth subsection in § 8 are fulfilled.

The enterprise is obligated to keep the information for at least five years and on request make all the information available to The Norwegian Directorate for Civil Protection.

## **§ 12 Obligation to inform the next link in the supply chain**

An enterprise which makes the explosives precursors, listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, available to other enterprises, shall no later than the time of delivery give them written information stating that the precursors are subject to restrictions and shall not be made available to the general public or enterprises with no professional necessity.

An enterprise that makes the explosives precursors, listed in the first subsection in § 2, available, have the obligation to give written information about reporting according to §10 at the latest when the customer receive the explosives precursors.

The obligations of this provision only apply for new customers or when the enterprise delivers substances or mixtures that are new for an existing customer.

## **§ 13 Proof of identity requirement**

Anyone who on behalf of an enterprise makes a purchase or otherwise acquires explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, must provide valid proof of identity and document his or her affiliation with the enterprise. A confirmed copy of the proof of identity of the buyer can be sent to the seller if the purchase or acquirement happens without attendance in person. Where purchasing or acquiring of substances or mixtures

containing concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, an additional documentation is required to confirm that the enterprise has a professional necessity for the substance.

The requirements in the first subsection do not apply to established customer relationships where the seller has knowledge of the person who purchases the goods, and that person's affiliation with the enterprise. For purchase in accordance with the first subsection after the third sentence, the seller is obligated to know the enterprise's professional need.

#### **§ 14 Requirements of storage of explosive precursors**

The explosive precursors listed in the first column, first subsection in § 2 and with concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, must be stored such that they are not available to unauthorized persons and securely locked in suitable building, room, cabinet or another device, or inside a fenced and admission controlled area.

Where the risk assessment in accordance with § 9 requires it, the enterprise has an obligation to do further security measures, such as camera surveillance, guarding, alarm or extra burglary protection.

The enterprise shall have procedures for and record of who has access to the storage or storage area.

At places of sale, explosive precursors listed in the first column, first subsection in § 2 and with concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, shall be stored in areas inaccessible to customers.

The requirements of this provision do not apply for substances or mixtures with ammonium nitrate which are used legally to manufacture explosives, cf. Regulation 26 June 2002 no. 922 on the Handling of Explosive Substances.

#### **§15. Exceptions for farmers' storage of fertilizers**

Where there is disproportionate demand for a farmer to store fertilizers with concentrations from 16 to 28% by weight of nitrogen in relation to ammonium nitrate in accordance with §14, the fertilizers shall be stored in one of the following ways:

- a) under daily supervision in an area shielded from public roads and not easily visible or accessible for intruders
- b) under regular supervision locked in a suitable building which is not accessible for intruders
- c) under regular supervision in a locked area which is not easily accessible for intruders
- d) under regular supervision in other suitable lockable device which is not easily accessible for intruders.

Where the risk assessment in accordance with § 9 requires it, the farmer has an obligation to do further security measures, such as camera surveillance, guarding, alarm or extra burglary protection.

Where a farmer keeps fertilizers with a concentration higher than 28% by weight of nitrogen in relation to ammonium nitrate, the requirements in §14 apply.

#### **§ 16. Duty to provide information about the storing or storage location**

An enterprise handling explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, has an obligation to, on request, supply information to the Norwegian Directorate for Civil Protection about storage location, the amount of explosives precursors being stored and what security measures have been implemented.

### **Chapter 3 – Transport, documentation, supervision and sanctions**

#### **§ 17 Transport**

An enterprise handling explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, to which the provisions in Regulation No. 384 of 1 April 2009 on Inland Transport of Dangerous Goods do not apply, shall only offer transport commissions to carrier companies who are sufficiently identified.

Explosives precursors listed in the first column, first subsection in § 2 or with a concentration of 16% by weight of nitrogen in relation to ammonium nitrate or higher, must not be handed over for transport to someone who obviously lacks the necessary knowledge and skills, or do not have the equipment to carry out safe transport.

#### **§ 18 Cover of costs at destruction**

An enterprise or members of the general public who do not legally possess, import or attempt to import explosives precursors listed in the first column, first subsection in §2 or with a concentration of 16% by weight of Nitrogen in relation to Ammonium nitrate or higher, shall be required to pay for the costs of safe destruction.

#### **§ 19 Documentation**

Anyone handling explosives precursors shall at any time be able to document that the requirements, in the Fire and Explosion Prevention Act Chapter 2, 4, 5, provision §6-§16 and conditions of exemptions and other conditions established by the supervisory authority pursuant to the Fire and Explosion Prevention Act §33-§35 and §37- §39, are fulfilled.

#### **§ 20 Supervisory authority**

The Norwegian Directorate for Civil Protection will supervise that the provisions in this regulation are being followed.

The Norwegian Directorate for Civil Protection can let other public or private experts conduct supervision on their behalf.

When executing the supervision, the Fire and Explosion Prevention Act section 33 - 36 shall apply.

## **§ 21 Exemptions**

In special instances after application, and in so far as it will not violate Regulation (EU) No 98/2013, the Norwegian Directorate for Civil Protection can make exemptions from the first subsection in regulation §6.

The assessment will emphasize:

- a) Whether there are alternative suitable substances or mixtures
- b) Whether the applicant is suitable to handle the precursors
- c) Whether the applicant has documented legitimate need of the substance
- d) Whether the applicant has the skills necessary to use the explosives precursors
- e) Which amount and concentration are applied
- f) The length of the exemption period
- g) The applicant`s potential to fulfill the security requirements according to §9 to §11 and §14 to §16.

It might be necessary conditions for the exemption. The Norwegian Directorate for Civil Protection is authorized to make an individual decision to withdraw the exemption if the conditions are not fulfilled.

## **§ 22 Sanctions**

In the event of a violation of the regulation § 5- § 6, Chapter 2 and § 17, or decisions pursuant to the regulation, actions according to the Fire and Explosion Prevention Act § 37 to §40, can be applied.

## **§23 Punishment**

Anyone who intentionally or negligently violates regulation § 5- § 6, Chapter 2 and § 17, or decision made pursuant of these decisions, is punished according to the Fire and Explosion Prevention Act § 42.

## **§ 24 Appeals**

Decisions made by the Norwegian Directorate for Civil Protection can be appealed to the Ministry of Justice and Public Security.

## **§ 25 Entry into force**

This regulation will enter into force on 15. June 2015.

## **§ 26 Transitional provisions**

Security arrangements according to §14, shall be implemented latest within 15. December 2015.

Requirements of declaration and reporting in accordance with § 8 come into force on 15. December 2015.

All customers shall be informed according to the first and second subsection in § 12 the first time purchasing explosives precursors after 15. June 2015, also customers registered before the entry of the enforcement, and even if they only buy substances or mixtures which they have purchased before.