

# THE AMMONIUM NITRATE MATERIALS (HIGH NITROGEN CONTENT) SAFETY REGULATIONS 2003

## FMA Guidance Note (Version 1 - 18<sup>th</sup> July 2003)

The following Guidance reflects the FMA's current understanding and interpretation of the Regulations. It may be subject to future amendment in the light of experience gained in working with the Regulations and to reflect changes which may be made to them.

---

### BACKGROUND

These Regulations, which came into force on 1 May 2003, require that nearly all (see Q38 below) solid Ammonium Nitrate (AN) with a nitrogen content of greater than 28% from ammonium nitrate (i.e., AN content > 80%) will need to be subject to a Detonation Resistance Test (DRT), carried out at an accredited laboratory. This applies equally to material manufactured in the UK, imports from the European Union and imports from all other sources. Other than during the transitional period, material which is not supported by an appropriate DRT **cannot** be marketed (unless exempt by HSE for use other than a fertilizer) and measures must be taken to render this material safe from the risk of detonation. (A separate Guidance has been produced by the FMA for this purpose).

Under these Regulations when the delivery point is not the final user (e.g. farmer) suppliers of relevant AN must provide their customers with a uniquely numbered copy of the DRT certificate. Suppliers of AN are reminded that the enforcement of this Regulation depends on the supplier maintaining an audit trail for the product from manufacture to final user. Original certificates, uniquely numbered copy certificates and records of transactions must be maintained for a period of at least two years after the date of supply.

These Regulations apply to Great Britain only. Northern Ireland have their own controls on AN. (The Explosives (Northern Ireland) Order 1972).

### QUESTIONS AND ANSWERS

#### Manufacture / Import

**Q1. How frequently do DRTs need to be carried out?**

A1. i) GB/EU

Once every production run, or if a production run is longer than 92 days, every 92 days where there is no alteration to the composition or characteristic of the product.

A new DRT is required for a new product or if there is a change of composition or characteristic of an existing product.

ii) Products imported from outside the EU

For each batch of material consigned to a single importer from which a representative sample of that batch can be obtained for a DRT. This may comprise one or more deliveries to the GB.

*See reg 2, definitions for “batch” and “production run”.*

**Q2 What is the difference between a “guaranteed copy” of the DRT certificate and a “unique numbered copy”?**

A2. A “guaranteed copy” is one which has been certified as a true copy of the original by a person who also certifies that he has no interest in the outcome of the DRT. This type of copy is required when a manufacturer or seller has more than one office from which product from a single batch is sold and thus will require guaranteed copies in each office so that “unique numbered copies” can be produced to accompany consignments of material sold.

The “unique numbered copy” is the copy of the original certificate which has to be supplied to the customer (unless he is the final user). The unique numbered copy will have recorded on it the amount of product to which it applies.

*See A20*

**Q3. For how long is a DRT certificate valid?**

A3 i) GB/EU Product

The DRT certificate covers product manufactured in a production run or, where the production run is longer than 92 days, the product manufactured in a 92-day period, provided the quality and properties of the product remain unchanged. A new 92-day period will commence as of the date of the taking of the next sample.

ii) Other Imports

Product entering GB must arrive within 60 days from date of the test being completed but there are several provisions if a delay is outside the control of the importer. Once in GB the product remains covered by the certificate as long as the quality and properties of the product remain unchanged.

*See reg 4(2).*

**Q4. Does product manufactured within the period referred to in A3(i) remain covered by the DRT Certificate after the end of this period?**

A4 Yes, the Certificate remains valid subject to the proviso in A3(i).

**Q5. If product from outside the EU reaches GB within the 60-day period (see A3(ii)), can it be placed on the GB market after the 60 days have expired?**

A5. Yes, the accompanying certificate remains valid subject to the provisos described in A3 (ii).

**Q6. How should a DRT be carried out?**

A6. A 25 kg representative sample should be taken from each batch. The sampling must be carried out or supervised by a sampling body which is accredited under standard ISO 17020 or ISO 17025 which will certify that the sample is representative of the batch. The sample should then be sent to a competent laboratory which is accredited under standard ISO 17025 for the DRT to be carried out. See Q7 and Q8.

*See reg 2, definition for “competent laboratory” and “sampling body”, reg 3(2) and reg 4(1).*

**Q7. How can I identify those sampling bodies which have the relevant ISO accreditation?**

A7. The UK Accreditation Service (UKAS) website ([www.ukas.org](http://www.ukas.org)) lists all accredited bodies. *Note:* At the time of producing the Guidance there are no sampling bodies accredited for the sampling of AN. However, some are in the process of applying for such accreditation.

**Q8. Who is capable of carrying out the DRT?**

A8. **GB**

The Health and Safety Laboratory (HSL) at Harpur Hill, Buxton, Derbyshire, SK17 8JN. Telephone No: 0114 289 2000, Fax No 0114 289 2050.

**EU**

TNO Prins Maurits Laboratory, Lange Kleiweg 137, 2288 GJ Rijswijk (ZH), The Netherlands. Tel: 00 31 15 2843437, Fax: 00 31 15 2843958

Federal Institute for Materials Research and Testing (BAM), Unter den Eichen 87, 12200 Berlin, Germany. Tel: 00 49 30 8104-0, Fax: 00 49 30 8112029

National Institute for Industrial Environment and Risks (INERIS)  
Parc Technologique, Alata, Verneuil en Halatte F-60550, France.  
Tel: +33 44 55 6677, Fax: +33 44 55 66 99

Further laboratories may seek accreditation in the future.

**Q9 As an importer what are my responsibilities in respect of a DRT certificate and other information?**

A9. i) Imports from the EU

The documentation for the imported product must include a DRT certificate.

*See reg 4(1).*

ii) Other Imports

You should ensure that the appropriate DRT certificate and identification document are sent to Defra not later than 5 days before the anticipated arrival date of the material into GB.

You should ensure that either a valid guaranteed true copy DRT certificate or HSE Exemption certificate is presented to Customs when the import declaration is made.

If the consignment has all the necessary documentation for clearance your import agent handling the importation will be notified if an inspection by a Trading Standards Officer (TSO) is required. Normally any inspections will take place within 48 hours of the TSO being notified by Customs of the product arrival.

*See reg 4(2)d and Schedule 3.*

**Q10. What should a manufacturer do if his product fails the DRT or the certificate ceases to be valid?**

A10. i) As soon as practically possible notify the enforcing authorities and the Executive of the fact and of the measures he will take to render the product safe (see separate FMA Guidance).

ii) If required, arrange for a new DRT to be carried out. See Q6.

iii) Keep the failed material separate from any other batch.

*See reg 3(3).*

**Q11. If part of a batch, (See Q10) fails to comply with the Regulations because it is contaminated or in poor condition, but the remainder of the batch is not affected, can the remainder be supplied using the original DRT certificate?**

A11 Yes, as long as it is clearly demonstrated that the remaining part of the batch is not affected and guaranteed/copy/unique numbered copy certificate is annotated to show how much of the original quantity covered by the certificate was damaged material.

**Q12. What if imported product arrives but the importer is not in receipt of an appropriate DRT or the product is contaminated or in poor condition**

A12. A sample will be taken by the relevant Trading Standards Officer and submitted for a DRT at a competent laboratory, (see A8). The product will be stored at the importers expense until the results of the DRT are known. If the products fails the test, it must be rendered harmless or otherwise disposed of in an appropriate manner, (see A10(i)) Product that passes the test can be placed on the market.

All non-EU imports are required to have a valid DRT or HSE Exemption certificate before being consigned to the UK. Without the necessary document entry to free circulation will be refused.

Where a consignment at import is clearly contaminated or in poor condition so as to fail an inspection the TSO will give various options to render the product innocuous. (See separate FMA Guidance).

**Q13. What action do I take if my boatload of imported product has a total quantity which differs from the tonnage stated on the DRT certificate?**

A13. The DRT certificate must be amended to reflect the actual tonnage following appropriate dialogue with the relevant enforcement authority. The importer must keep records of the transaction and provide proof, if necessary, of the final discharge tonnage of the boat.

**Supply**

**Q14. What if an importer has reason to believe that any of the particulars given in the identification document as required by reg 4(2)(d) are inaccurate?**

A14. Before supplying the material he must obtain an updated version of the identification document and send it to Defra. Compliance with normal storage requirements must be maintained at all times.

*See reg 5(2).*

**Q15. What if product covered by a DRT certificate becomes contaminated or is in poor condition)**

A15. This must **not** be supplied. See Q10.

*See reg 5(4).*

**Q16. Do all customers have to be provided with a unique numbered copy of the DRT certificate?**

A16. When delivering material to a customer, other than when the customer is the final user (e.g. farmer), the supplier **must** provide such a copy of the certificate with each consignment or part consignment. (See Q18). This applies to any situation where the customer will sell on some or all of the product, or use it as a fertiliser ingredient. *Note:* buying groups are not classed as being the “final user” and must be supplied with an appropriate certificate.

*See reg 5(5).*

**Q17. Is it necessary to send the final user (the person who intends to use the material as a fertiliser) a copy of the certificate?**

A17. No, however records of the transaction must be kept.

*See reg 5(8).*

**Q18. If product is supplied directly to a final user on behalf of a customer, such as a distributor, does a unique numbered copy certificate have to be sent and, if so, to whom?**

A18. In this instance it is not necessary to send the customer a copy of the certificate. However, the supplier must keep a record of the delivery so that he is able to account for all products from a particular batch as defined in the regulations. This is essential to maintain the required audit trail.

*See reg 5(9).*

**Q19. If a manufacturer/importer supplies product from a batch to a single customer through a number of deliveries, to a single or multiple locations will a single uniquely numbered copy of the certificate be sufficient to cover all the deliveries?**

A19. Provided the individual deliveries are clearly linked to the certificate this is acceptable. For example by noting on the DRT that the quantity involved is to be delivered in x lorry loads. However, if the delivery is to more than one location the recipient (customer) will need to keep guaranteed copies of the certificate at each location (See Q2.)

**Q20. Can unique numbered certificates be transferred electronically?**

A20. Yes, providing electronic signatures are used to encrypt and guarantee the documents and that an eHub is used to guarantee delivery to the intended recipient.

**Q21 What information should be added to a DRT certificate as it passes through the distribution chain?**

A21. The unique number and quantity of material covered by it.

Example:

	<u>Unique Number</u>	<u>Tonnage</u>
Manufacturer's Copy	ANCo DRT 1	- <sup>1</sup>
To Distributor	ANCo DRT 1/1 (.../2, .../3)	1,000 tonnes
Distributor Sale (not to final user)	ANCo DRT 1/1/1 (.../2, etc)	50 tonnes

<sup>1</sup> Tonnage of 92 day product run will not be known until end of run, therefore it cannot be included in the certificate which is produced at the beginning of the run.

**Q22. What records must a supplier of AN maintain?**

- A22.
- Details of any unique number DRT certificate issued.
  - Quantity of material supplied (see Q19).
  - Persons to whom certificate given.
  - In the case of imported material where an identification document is required, a copy of that document.

These records are to be retained for a period of two years after the date of the supply of the material.

*See reg 5(6) and 5(9).*

**Q23. Who is the “Executive” which is referred to throughout the Regulations?**

- A23.
- For the purposes of notification of a DRT failure (Q10) and HSE enforcement of Regulation 10 it is HM Explosives Inspectorate, 1<sup>st</sup> Floor St Anne's House, University Road, Bootle, Merseyside, L20 3RA. Tel 0151 951 4025, Fax 0151 951 3891.
  - For the purposes of obtaining an exemption certificate for non-fertiliser material (Q38) it is Mines Quarries and Explosives Policy, Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE1 9HS, Tel: 020 7717 6205 Fax: 020 7717 6690

**Keeping**

**Q24. Who is a keeper of relevant AN for the purposes of these Regulations?**

A24. Anyone who holds AN other than when it is:

- i) In packaged form and for his own use as a fertiliser.
- ii) For use as an explosive on the premises to which it is delivered.
- iii) For the purpose of transporting it from one destination to another

*See reg 6(2).*

**Q25. Can AN material be kept if it does not have a valid DRT certificate?**

A25. No, unless the keeper is a manufacturer who is arranging for it to be subject to a DRT or is taking action to deal with the failed material as described in A10 or the keeper has an exemption certificate from the HSE relating to the material.

*See reg 6(3).*

**Q26. How should product from different batches be stored?**

A26. Material from different batches and covered by separate uniquely numbered copies of DRT certificates must be stored separately. In the case of bulk material they should be in separate bays where they can be clearly identified and linked to its the appropriate certificate.

In the case of packaged material, where there is no clear batch identification on the package, in a separate stack where it can be clearly linked to its appropriate certificate.

*See reg 6(5).*

**Transitional**

**Q27. What is the transitional period?**

A27. This is the period of 60 days following the day on which the Regulation came into force (1 May 2003) during which existing stocks of AN material could be kept or supplied subject to specific provisions. The transitional period ended on 30 June 2003.

*See reg 2(3)(c), Reg 7.*

**Q28. If AN material is kept which was produced before 1 May 2003 can this continue to be kept and/or supplied? (See also Q32).**

A28. Yes, if it is:

- i) Accompanied by a DRT certificate, which was obtained in a manner which is appropriate to these Regulations, no earlier than 1 February 2003. In this



instance the sampling body will be considered appropriate if it has submitted an application for accreditation and is awaiting a decision

*See reg 7(i)(a).*

- ii) Not accompanied by a certificate but is awaiting the results of a DRT carried out in conformity with the Regulations and on a sample which was taken no later than 30 June.

*See reg 7(2).*

**Q29. What information must be provided to the customer in the case of A28(ii)?**

- A29. By no later than the time of supply the customer must be informed that a DRT certificate has not been provided and that the results of the test are awaited. Once the results are available, the customer must be provided with an appropriate copy of the certificate.

*See reg 7(3) and 7(4).*

**Q30. What other information has to be provided?**

- A30. The Enforcing Authority and the Executive must be notified that the supplied material is not accompanied by a certificate, and be provided with full details of the supply transaction.

*See reg 7(3)(a)(iii).*

**Q31. What if the sample fails the test?**

- A31. The customer and Enforcing Authority (see A39) must be notified immediately. The material must be treated appropriately to render it safe. See Q10.

*See reg 7(3)(c).*

**Q32. Can AN material held by a blender, for which there is not a DRT certificate, be used as a blend ingredient?**

- A32. Yes, providing it is so used within the 60-day transitional period.

**Testing**

**Q33. If an Inspector samples a product which is covered by a valid DRT certificate can the product continue to be supplied?**

A33. Yes, until the results of the DRT are known and thereafter if the test confirms the validity of the original certificate.

*See reg 8(5)*

**Q34. What happens if the sample referred to in Q33 fails the DRT?**

A34 The original certificate is treated as invalid whilst further tests are carried out on behalf of the keeper of the material and, if need be, in the case of dispute, by an independent competent laboratory. If this confirms the invalidity of the original certificate the material shall be disposed of in an appropriate manner. (See A10(i)).

*See reg 8(3) and 8(5).*

### **Misdescription**

**Q35. Can a product which has been manufactured or imported for use other than as a fertiliser be supplied as a fertiliser material?**

A35 Only if the product has a DRT. Material that is manufactured and imported under the exemption scheme can not be supplied or used as fertiliser.

**Q36. If an AN material is labelled as having an AN content not exceeding 28% AN by weight but on analysis it is shown to exceed 28% AN, can it be sold without a DRT?**

A36. No, should the material on analysis be shown to be a relevant ammonium nitrate material the keeper of the material must arrange for a DRT to be carried out.

*See reg 9.*

**Q37. Does a fertiliser with a total nitrogen (N) content greater than 28% by weight but where the nitrogen derived from AN does not exceed 28% require a DRT certificate?**

A37. No.

### **Non-Fertiliser AN**

**Q38. Does material not intended for use as a fertiliser require a DRT certificate?**

A38. No, any person wishing to supply such material must obtain from the HSE an exemption certificate. Information can be found on the HSE web site <http://www.hse.gov.uk/spd/explosives/anexemp.pdf>

*See reg 10.*

## **Enforcement**

### **Q39. Who is responsible for the enforcement of the Regulations?**

A39. Primary responsibility will lie with the local trading standards departments. They will be supported, as required, by the Health and Safety Executive when safety issues are involved. The HSE will have direct responsibility for enforcing compliance with Regulation 10. Customs and Excise will exercise certain powers in respect of material which is improperly imported.

Contact details:

- Local Authority Coordinating Regulatory Standards (LACORS)  
10 Albert Embankment  
London SE1 7SP  
Tel: 0207 840 7209
  
- HM Explosives Inspectorate  
1<sup>st</sup> Floor St Anne's House  
University Road  
Bootle  
Merseyside L20 3RA  
Tel 0151 951 4025  
Fax 0151 951 3891
  
- HM Customs and Excise  
Contact National Advice Service (NAS), Tel: 0845 010 9000. The NAS will transfer the call to the relevant office.

## **Disclaimer**

**These guidelines have been prepared by the Fertiliser Manufacturers Association (FMA) in consultation with Defra, HSE, HMCE and UKASTA. Neither FMA nor its consultees can accept liability for accident or loss attributable to the use of information given in this guidance.**