



Notification Number: 2007/530/F

## Decree laying down provisions applicable to equipment, sold new or second-hand, for the application of phytosanitary products

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### Message

#### Message 002

Communication from the Commission - SG(2007) D/52256  
Directive 98/34/EC  
Translation of the message 001  
Notification: 2007/0530/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμí έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidējimai nepradedami - Nem nyitja meg a késésekét - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnb - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inledingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioade de stagnare.

(MSG: 200702256.EN)

#### 1. Structured Information Line

MSG 002 IND 2007 0530 F EN 26-12-2007 24-09-2007 F NOTIF 26-12-2007

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EUROPEAN COMMISSION  
GROWTH DIRECTORATE-GENERAL

**Single Market for goods**  
Prevention of Technical Barriers

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#### **4. Notification Number**

2007/0530/F - C40A - E50E

#### **5. Title**

Decree laying down provisions applicable to equipment, sold new or second-hand, for the application of phytosanitary products

#### **6. Products Concerned**

Sprayers (new and second-hand)

#### **7. Notification Under Another Act**

None.

#### **8. Main Content**

Article 41 of Act 2006-1772 of 30 December 2006 on water and aquatic environments (French abbreviation LEMA) introduces an obligation for sprayers, sold new or second-hand by machinery professionals for use in French territory to comply with provisions designed to reduce risks to the environment and public health.

The principles of the 'new approach' Community doctrine were used in drafting texts implementing this article: the draft Decree to which this notification relates provides for an order defining the requirements and creates a regulatory framework for it. It also provides for the publication, for information purposes, of references to standards, technical specifications or manufacturing procedures underpinning the presumption of compliance with these requirements. The said order and notice are notified at the same time as the draft Decree.

These requirements do not cover operator safety, insofar as such requirements are already laid down in the Employment Code, transposing Directive 98/37/EC relating to machinery.

Article 1 of the draft Decree introduces various articles in the Rural Code. These articles cover the definition of various terms used to set rules relating to sprayers, followed by requirements applicable to sprayers sold new, requirements applicable to second-hand sprayers, and miscellaneous provisions (penalties and orders to be issued in implementation of the Decree):

##### **Definitions**

Article D. 526-1 defines the term 'sprayer' based on the concept of machinery taken from the Machinery Directive (concept defined in Article R. 233-83 and R. 233-83-1 of the Employment Code, transposing Article 1 of Directive 98/37/EC relating to machinery). It distinguishes between 'new sprayers', for which the applicable requirements may be taken into account at the design stage, and 'second-hand sprayers', for which the applicable requirements must be defined in consideration of the possibilities for repairs. This distinction is similar to that made for machinery in Article R. 233-49-3 of the Employment Code.

It also defines the term 'machinery professional', the person responsible for compliance when selling a sprayer, which is designed to encompass manufacturers and importers of sprayers as well as retailers of agricultural machinery.

Professional users of sprayers such as farmers, cooperatives for the use of agricultural equipment or service providers for the application of phytosanitary products are not affected, insofar as they do not have competence to ensure the



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compliance of second-hand equipment.

#### Provisions applicable to new sprayers

Article D. 256-2 regulates the establishment, by order, of requirements applicable to sprayers sold new.

Article D. 256-3 authorises the person or company responsible for initially placing the product on the market to use the procedures for certifying conformity with these requirements:

- 'self-certification' if the sprayer is manufactured in accordance with a standard underpinning the presumption of compliance with these essential requirements (general cases);

- type examination by an authorised body, in other cases (specific cases connected with a technological innovation).

In both cases, the person or company responsible for initially placing the product on the market shall draw up environmental technical documentation, made available to officials responsible for investigating and recording infringements.

Article R.256-4 defines bodies authorised to carry out type examinations on the basis of their accreditation for such work and, in the absence of an accredited body (a market which is a priori very restricted), provides for the establishment, by order, of a list of authorised bodies.

Article D. 256-5 defines the mandatory formalities following one of the conformity certification procedures in order to ensure that the sales premises may be traced and inspected: declaration of environmental conformity and marking.

#### Provisions applicable to second-hand sprayers

Article D. 256-6 regulates the establishment, by order, of requirements applicable to sprayers sold second-hand in a similar manner to Article D. 256-6 for new sprayers. It also stipulates that second-hand sprayers must be inspected before sale in order to verify that they are in a good state of repair.

Article D. 256-7 stipulates that an attestation of environmental conformity with these provisions must be issued for second-hand sprayers and filed for the purposes of traceability and inspection as in the case of new sprayers.

#### Miscellaneous provisions (penalties and orders to be issued in implementation of the Decree)

Article R. 256-8 lays down penalties applicable to machinery professionals, whilst specific penalties are set out in Article L. 256-1 for persons or companies responsible for initially placing the products on the market.

Article R. 256-9 specifies the procedures for the reimbursement, provided for by the legislation, of costs incurred in finding and reporting infringements by offenders.

Article D. 256-10 stipulates that various orders shall be taken in implementation of the Decree. The order concerning requirements applicable to boom sprayers and sprayers for trees and shrubs has been notified at the same time as the draft Decree. Those specifying the content of the technical documentation, the declaration of conformity, the certificate of conformity and the marking location and model are currently being drafted and will be notified at a later date.

**Keywords:** sprayers, machinery professionals, environmental technical documentation, declaration of environmental conformity, attestation of environmental conformity.

## 9. Brief Statement of Grounds

The technical rules for the sale of sprayers introduced by the draft Decree to which this notification relates aim to reduce the environmental and public health risks associated with phytopharmaceutical products. In particular, this will prevent contamination of the drinking water supply network, limit contamination of the soil, air and bodies of water caused by product loss during use of the equipment or by waste produced by this usage, ensure regularity of applications in order that localised overdoses may be avoided and ensure that sprayers are kept in a good state of repair.

The rules form part of the implementation of a priority action of the 2006-2009 interministerial plan for reducing risks associated with pesticides (PIRRP) published in June 2006 by the Ministers responsible for the environment, agriculture, health and consumer affairs in response to the following observation: In 2004, France ranked third in the world market in phytosanitary products and first in Europe (75 100 tonnes of active substances sold of which 90% were for agricultural use) and fourth in Europe per hectare farmed (excluding grassed areas). Use of these products can generate direct and indirect risks for humans (both the user and the general population subject to exposure via the air, water and food) and ecosystems (biodiversity). Available evidence demonstrates that:



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- there is wide-spread contamination of water by pesticides. The target of reaching good environmental and chemical status by 2015, set by the framework directive on water, has been achieved by only one third of watercourses and half of all groundwater. However, from the point of view of pesticides, the quality of the water supply is good, with 99% of samples taken meeting standards;

- certain pesticides have been detected in other areas of the environment: in soils, for example there is a strong persistence of organochlorines which have been banned for over 10 years, or the air;

- the potential effects on human health, shown through epidemiological studies, can be chronic (for example congenital deformities, cancers and lymphoma) or acute, although it is not systematically possible to prove the cause and effect relationship. For example, farmers have a lower rate of cancer than other sections of the population, but there is an increased risk of a number of particular types of cancer.

At Community level, similar observations have led the European Union (EU) to introduce a set of measures aimed at reducing the environmental and public health risks associated with the use of pesticides, and, more generally, achieving a more sustainable use of pesticides and significant overall reduction in risks and usage (cf. Commission communication of 12 July 2006 entitled: 'A Thematic Strategy on the Sustainable Use of Pesticides' [COM(2006) 372]. The measure introducing an obligation for equipment used to apply pesticides to meet environmental requirements before being placed on the market forms part of the measures laid down in this strategy. This particular measure has not, however, been incorporated into the Proposal for a Directive of 12 July 2006 establishing a framework for Community action to achieve a sustainable use of pesticides, currently being examined by the Council and the European Parliament. In this area, the Commission will propose a separate directive at a later date which could amend Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery and amending Directive 95/16/EC.

In order to meet the timeline laid down by the French parliament in Article 102(I) of Act 2006-1172 of 30 December 2006 on water and aquatic environments (LEMA) for the entry into force of this measure (1 January 2009) and the deadlines set by the 2000/60/EC framework directive on water for achieving good water status (in 2015), it is necessary to adopt national regulations quickly, pending the adoption of a Community-level directive harmonising environmental requirements relating to equipment for the application of pesticides.

This draft legislation has been well received by farmers, who believe that the impact on farming revenue will be minimal.

Compliance with this new law will not pose difficulties for machinery professionals.

All new sprays manufactured according to standards NF EN 12 761-1, -2 and -3 (September 2001) on sprayers and distributors of liquid fertilisers – environmental protection are guaranteed compliant with the requirements laid down in the application of the draft Decree. This standard is well-known by manufacturers of sprayers and has proven to be materially applicable. Furthermore, a number of specific requirements corresponding to points of these standards which will require structural modifications to sprayers if they are not already compliant, do not become obligatory until 1 January 2011, in order to allow manufacturers sufficient time to adapt their production. In addition, the main procedure for certifying conformity with these principal requirements (self-certification) is similar to that applicable to sprayers under Directive 98/37/EC relating to machinery.

For sprayers sold second-hand, only the requirements corresponding to points of this standard which do not entail structural modifications and which present the strongest environmental benefits have been retained, in order to ensure that the measure is proportional. The inspection of sprayers required to verify that second-hand sprayers are in a good state of repair is an inspection which all sprayers in service must also undergo every five years from January 2009 pursuant to Article L. 256-2 of the Rural Code. The texts implementing this article will be notified to the Commission at a later date.

## 10. Reference Documents - Basic Texts

Articles L 256-1 and 2 of the Rural Code

<http://www.legifrance.gouv.fr/WAspad/VisuArticleCode?commun=CRURAL&code=&h0=CRURALNL.rcv&h1=2&h3=Article L. 253-1 of the Rural Code>

<http://www.legifrance.gouv.fr/WAspad/VisuArticleCode?commun=CRURAL&code=&h0=CRURALNL.rcv&h1=2&h3=>



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Article L. 254-8 of the Rural Code

<http://www.legifrance.gouv.fr/WAspad/VisuArticleCode?commun=CRURAL&code=&h0=CRURALNL.rcv&h1=2&h3=>

Article L. 213-1 of the Consumer Code

<http://www.legifrance.gouv.fr/WAspad/VisuArticleCode?commun=CCONSO&code=&h0=CCONSOML.rcv&h1=2&h3=>

Articles R. 233-83 and R. 233-83-1 of the Employment Code

<http://www.legifrance.gouv.fr/WAspad/VisuArticleCode?commun=CTRAVA&code=&h0=CTRAVAIR.rcv&h1=2&h3=1>

#### **11. Invocation of the Emergency Procedure**

NO

#### **12. Grounds for the Emergency**

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#### **13. Confidentiality**

a) NO

b) -

#### **14. Fiscal measures**

b) NO

#### **15. Impact assessment**

no impact assessment

#### **16. TBT and SPS aspects**

TBT aspect (Agreement on Technical Barriers to Trade)

a) YES

b) -

SPS aspect (Agreement on Sanitary and Phytosanitary Measures)

a) NO

b) The draft is not a sanitary or phytosanitary measure pursuant to Annex A to the SPS Agreement.

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