



Joint statement on the EU Fertilising Products Regulation

20th November 2017

Our organisations jointly underline the importance of addressing a number of **important outstanding issues in the proposed EU Fertilising Products Regulation**, including those indicated below. Not all of our organisations are directly concerned by all of the points listed, but we consider that they require attention to achieve a final regulatory text which is workable in implementation, which will facilitate innovation and development of the nutrient circular economy and nutrient stewardship, whilst ensuring the protection of farmers, consumers and the environment.

The signatories call the co-legislators to **conclude this important dossier rapidly**, because implementation is strongly awaited by industry and stakeholders to develop the Circular Economy, whilst **ensuring dialogue** with industry and operators to **ensure that the final text is functional**.

In this context, the European Parliament report adopted 24/10/17 and the Council discussions provide in many respects a good starting point for trilogue discussions.

We particularly underline the following issues:

Positive from the European Parliament as adopted

- A. **Confirm the proposed “Mineral” (<1% organic carbon) and “Low-carbon” fertilisers definitionsⁱ** both in Annex I (PFCs) and Annex III (labelling).
- B. Need to **resolve the exclusion of industry by-products**, which are not waste, as highlighted by the European Parliamentⁱⁱ.
- C. Importance of developing **implementation guidance** and of ensuring **assessment of Regulation implementationⁱⁱⁱ**.
- D. Favour the **co-existence of production lines for CE-marked and National fertilisers** on the same production sites by validating the production site if lines for the processing of input materials authorised are clearly separated from production lines for the processing of other input materials^{iv}.
- E. Confirm the objective to **accelerate and support the “STRUBIAS” process^v**.
- F. **Polymers**, for controlled release fertilisers and for improving stability^{vi}: ensure that biodegradability criteria are feasible and agronomically appropriate.

Positive from both Parliament and Council

- G. **Animal By Products (ABPs)**: in order to enable access to EU fertiliser status of ABP-based products already used as fertilisers today, fix a short deadline (6months) for finalizing CMC11 and for engaging appropriate modification of the ABP Regulation and its delegated acts to ensure coherence for fertiliser uses^{vii}
- H. **Respect normal REACH requirements** (tonnage bands, exempted materials) for relevant CMCs^{viii}.
- I. **Widen** (with appropriate limitations to clean and safe materials):
- **CMC4** (Energy Crop Digestate) to admit other plant materials;
 - **CMC3** (Compost) and **CMC5** (Other digestates) to admit secondary materials from the food industry^{ix};
 - **CMC6** (Food Industry By-Products) to add specified additional materials^x ;
 - **CMC2** (Processed Plant Materials) to extend the specified list of processes^{xi}.

In all cases:

- à clarify that **biowastes** (as defined in Directive 2008/98/EC) or materials susceptible to contain biowastes should only be admitted in CMCs which ensure appropriate sanitisation (CMC3 and CMC5)^{xii};
- à **pathogens and plant pathogens**: safety must be ensured, but limits should only be applied where input materials pose potential risks.

Problematic from Parliament

- J. Labelling: While users need sufficient information for informed decisions, **not everything should be included on labels** to ensure workability, legibility, protect trade secrets and so enable innovation. The requirement to label all CMCs > 1% is disproportionate^{xiii}.
- K. **Avoid future requirements for “double sanitisation” of ABPs, e.g. of animal manures**: ABPs should not be required to already have reached an ABP End Point if they enter a composting or anaerobic digestion process which ensures sanitisation appropriate for the relevant ABP category^{xiv}. Clarify and ensure coherence between CMC11 and other CMCs, e.g. animal manures and other ABPs in composts and digestates)

Issues remaining to be confirmed

- L. Important to **maintain COM delegation for Annexes I-IV^{xv}** to enable innovation in recycling and technological progress, and to enable adjustment of implementation (this is complex new legislation and the first time that many of the concerned product families are regulated at the EU level)
- M. **Nutrient definitions and solubility**.
In all relevant PFC criteria: specify appropriately solubility criteria and organic / inorganic forms of nutrients:
- à in PFC criteria for mineral (and “low-carbon”) fertilisers: keep in Annex I (PFCs) the three phosphorus solubility criteria, that is: in water OR citric acid OR neutral ammonium citrate (NAC) – important: “or” not “and”^{xvi};
 - à for other concerned PFCs, the COM original proposed specifications for phosphorus and nitrogen are appropriate and should not be modified^{xvii}.
- N. In all cases, **relevant solubility requirements** have to be included at the PFC level and coherence should be ensured between PFC criteria and labelling.
- O. **Clarify definitions (what is measured, how, where, when)** of “product lot” (Annex IV) and ensure coherence between tolerances and nutrient requirements. Definitions must be compatible with real industry and distributor practice, with material characteristics and their evolution during transport and storage, and with market surveillance feasibility. They must be specific to and adapted to each PFC.

- P. **Biostimulants:** in addition to the proposed positive list, a pathway must be provided to enable companies to introduce innovative products based on newly identified microorganisms that have been appropriately assessed for safety and function^{xviii}.
- Q. A more **precise definition for PFC 2 Liming material**¹ and a higher minimum neutralizing value of 25 (equivalent CaO) or 15 equivalent (HO-) on the gross mass of the product to ensure sufficient efficiency.
- R. **Contaminants:** to our knowledge, there is no scientific justification for lowering any of the contaminant levels below those set in the COM regulatory proposal text², and to do so could pose significant obstacles to nutrient recycling or to the use of certain natural feedstocks as raw materials³. Furthermore the arsenic limit should be expressed in terms of inorganic arsenic because organic arsenic is not considered problematic⁴.
- S. **Copper and zinc** are essential micronutrients and should remain as labelling requirements only in fertilisers and soil improvers, not limits. Labelling of these elements is not relevant for liming materials PFC2 and inorganic soil improvers PFC3(B).

The amendment numbers below refer to the European Parliament adopted report of 24/10/2017. They are given to facilitate referencing but do not imply support of the wording of these amendments

- i 2, 105, 132, 170, 303, and change “inorganic fertiliser” to “mineral fertiliser” throughout
- ii 15, 24, 89, 220, 222, 281
- iii 44, 102, 103
- iv 240, 248 and 258
- v 14, 30, 81
- vi 275
- vii 11, 12, 13, 30, 35 80, 87, 93, 280
- viii 222
- ix 233, 238, 239, 251, 256, 257, 296
- x 262, 263, 264 = widens to olive processing products and to catalogued feed materials
- xi 228, 229
- xii 242, 315 = authorise bio-waste in CMC4 = problematic
- xiii 282
- xiv 231
- xv 33, 80, 91
- xvi for PFC1(C): 133 appropriate with “or” but 143, 147, 158, 164, 295, 296 inappropriate
- xvii for PFC1(A) and PFC1(B): 127, 287, 292, 293 310 inappropriate
- xviii 82, 83, 84, 85, 86, 94, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218

¹ Proposed definition “liming material: a product aimed at correcting soil acidity, which then improves physical, chemical and biological soil properties, and which contains oxides, hydroxides, carbonates and/or silicates of the nutrients calcium (Ca) or magnesium (Mg)”.

² Lower limits were proposed for lead and arsenic in amendments submitted to the European Parliament Plenary, but these were not voted.

³ E.g. arsenic in seaweed.

⁴ See EFSA https://ec.europa.eu/food/safety/chemical_safety/contaminants/catalogue/arsenic_en

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