

NEW FERTILIZER REGULATION

POSITION OF FERTILIZERS EUROPE

ON

PRESENTATION AND COMMENTS MADE BY DG ENTERPRISE ON

“ESSENTIAL SAFETY AND QUALITY REQUIREMENTS FOR FERTILIZING MATERIALS”,

“NEW APPROACH APPLIED TO THE REVISED FERTILIZER REGULATION - OBLIGATIONS OF ECONOMIC OPERATORS”

17 MARCH 2014

PRELIMINARY STATEMENT

FERTILIZERS EUROPE is supporting a fertilizer regulation where all products put on the market provide a true agronomic function, are well defined and controllable and do not generate a negative impact on health or the environment.

European farmers must also be provided with the most appropriate and instructive information available.

Furthermore, Fertilizers Europe is striving to have the quality of our products duly differentiated, valued and communicated to the market through new standards and appropriate labelling.

This position has been clearly expressed and communicated in our position paper of December 2012, still valid, and further complemented on specific issues on 15 May 2013, both communicated to DG Enterprise.

Under these principles, our commitment to contribute to setting up this regulation was there, and our involvement as high as possible.

The last status report and explanations presented by DG Enterprise during the Fertilizer Working Group meeting of 17 March 2014 gives rise to concerns whether the above objectives can be met by the approach presented by DG Enterprise. We wish in this document to express again our position on the future regulation, and more specifically for the sub category inorganic fertilizers.

1) INSIDE THE TEXT OF THE NEW REGULATION:

⇒ Core text - Definitions:

During the preparatory phase, in 2012, significant efforts and time have been dedicated to defining product categories, sub-categories, products and product mixtures. We would like to stress the following points:

- **Inorganic fertilizer:** A definition has been agreed and presented end of 2012 by DG Enterprise. We are still missing an agreed value for the “maximum carbon content” to complement this definition; **the industry has proposed a 1% maximum carbon content**, without taking account of additives.
- **Compound fertilizers:** Fertilizers Europe considers essential to differentiate:
 - **“Complex fertilizers”**, obtained by chemical reaction, by solution, or in its solid state by granulation.
 - **“Blended fertilizers”**, obtained by dry mixing of several fertilizers, with no chemical reaction.

This differentiation is justified for two important reasons:

- **Quality:** The homogeneity of all granules of complex fertilizers offers a more even spreading of their nutrient content, without physical segregation between the nutrients as each granule contains all nutrients in their declared composition.
- **Security:** For compound fertilizers based on ammonium nitrate, complex fertilizers make impossible the separation of AN for malicious misuse, a manipulation unfortunately easily doable with blended fertilizers.

⇒ Annexes - Essential requirements:

We think that we should keep the following minimum quality requirements, as presented by DG Enterprise in its status report of 19 November 2012, a report which was referred to in the 17 March 2014 meeting of the Fertilizer Working Group:

○ **Essential QUALITY requirements:**

- A "**minimum nutrient content**" for each primary nutrient. Fertilizers Europe proposes that the following minimum levels are set for inorganic fertilizers, as also proposed by a majority of Member States in 2012:
 - 3% for total N
 - 3% for total P (expressed as P_2O_5)
 - 3% for total K (expressed as K_2O)

 - **Other quality requirements for all fertilizers:**
 - **Phytotoxicity:** Absence of phytotoxicity should be guaranteed by setting maximum limit to any contaminant or by-product which may be harmful for the crop, such as biuret in urea which should be limited to 1.2% for a 44% ureic N content (2.7% of the ureic N content).
 - **Compatibility table:** Mixture of fertilizers should respect a compatibility table.

 - **For nitrogen fertilizers:** A **positive list of the forms** of nitrogen allowed (nitric, ammoniacal, ureic, etc) should be defined. These forms must be **declared on the label**.

 - **For phosphorus fertilizers:**
 - A **positive list of the forms** of phosphorus allowed should be defined. The forms currently used are the phosphatic forms (the PO_4^{3-} based products).
 - The **types of solubility** to be declared should be defined:
 - Total P_2O_5
 - Water solubility
 - Solubility in neutral ammonium citrate
 - For soft rock, solubility in formic acid.
- Additionally:
- A **minimum solubility level** should be fixed for each of the solubility types, to avoid that plant-unavailable phosphorus materials are put on the market as "fertilizer", to the detriment of farmers and the environment, but also depleting unnecessarily very limited global P reserves.
 - Solubility levels must be **declared on labelling**.

○ **Essential SAFETY requirements:**

- **Fillers:** For products containing fillers, especially when based on Ammonium Nitrate (AN), a positive list of the appropriate fillers should be defined, to ensure safety of the product.
- **Contaminants:**
 - Maximum level of contaminants will be defined in proportion to the average application rate of the category.
 - The tests for contaminants will be defined depending on the production processes (especially for products issued from recycled materials).
- **Compatibility table:** Mixtures of fertilizers should respect the compatibility table related to safety.

○ **LABELLING:**

Full transparency towards the market is essential to ensure that farmers make an informed choice of a fertilizer, adapted to the crop need while minimizing the impact on the environment. Labelling is in this respect a fundamental component of the fertilizer regulation, as also underlined by DG Enterprise in its declarations, including during the presentation made on 17 March 2014.

Fertilizers Europe likes to mention that labelling is also an important mean to communicate product quality, and in this respect to help and protect innovation. We are therefore putting particular attention on this aspect, and we would like to raise the following points:

▪ **Definitions related to products:**

The product related definitions guaranty farmers to buy a product of a well specified quality. It is therefore important that the product category, sub-category and/or product type when relevant, are mentioned on the label. Furthermore, information on the formulation are important for the farmer so as to use the appropriate spreading technique. For NPK fertilizers, for example, it is important to mention whether it is a “**Complex fertilizer**” or a “**Blended fertilizer**” (actually a mixture of fertilizers) to choose the appropriate spreading device.

▪ **Essential quality requirements:**

Aside total nutrient content, information should be provided on all essential quality requirements such as nitrogen forms, phosphorus forms, phosphate solubility, as already underlined in the previous chapter on quality.

- **Essential safety requirements:**
Providing that the product complies with the essential safety requirements, the actual level of contaminant should **NOT be labelled**.
- **Compliance with an “EU harmonized product standard”:**
Whenever a product is claimed complying with an EU harmonized product standard, due reference to this standard should be made on the label so that farmers are correctly informed and compliance can be checked.

2) OUTSIDE THE TEXT OF THE NEW REGULATION:

⇒ Product standards:

- **“EU Harmonized product standards”:** Fertilizers Europe considers that the main fertilizer types should be defined through an **“EU Harmonized product standard”**, with the following objectives:
 - **Link with other EU regulations:** Several product types are specified in other regulations, as transport and storage (Seveso directive 2012/18/UE) for example, both at national and international levels. The best way to ensure consistency between the different legal texts concerning the definitions of these products is to use an EU Harmonized product standard.
 - **Link with guidance documents and BAT:** Several product types are specified in many technical guidance documents used for information and training concerning safety in various environments, including for example fire brigades, as well as in official BAT Ref documents (IED Directive 2010/75/EU). The best way to ensure consistency between these technical documents concerning the definitions of these products is again to use an EU Harmonized product standard.
 - **Avoid confusing EU farmers:** For nearly 40 years EU farmers are used to certain denominations which guaranty a minimum nutrient content associated with a nutrient form, allowing them to adapt precisely the products they use to their crop needs while minimizing the impact on the environment. Product denominations such as “Urea” or “Ammonium Nitrate” (AN) correspond to very precise specifications for all EU farmers, which can be protected only by EU Harmonized product standards.

- **Safety:** For product containing filler, especially when based on Ammonium Nitrate, the EU Harmonized product standard is the easiest way to define and control the use of the appropriate filler.
- **Compatibility:** Compatibility between products is an important issue which may affect not only quality but also **safety**. It is of utmost importance to identify precisely the products that cannot be mixed, and this can be done only with precise product definitions, as provided by EU Harmonized product standards.
- **List of EU Harmonized product standards:** Additionally, Fertilizers Europe is of the opinion that these EU Harmonized product standards, after their publication in the OJ, should be listed for easy consultation by market actors, whether farmers, distributors or personnel in charge of safety.
>> This list could be updated and made available by the EU Commission (as for the list of accredited laboratories), or alternatively by the CEN.

⇒ Certification procedures:

We have two important points that we want to raise in this area:

- **Self-certification:**

We welcome the possibility of self-certification for inorganic fertilizers, with the following conditions:

- Exclusion from this procedure of materials issued from waste flows and from industrial by-products or co-products. New products and products issued from waste flows, and from industrial by-products or co-products, should pass an **EU-type examination** where conformity with essential quality and safety requirements will be checked.
- However, industrial by-products which are today used as feed stock for NPK fertilizers under the 2003/2003 should benefit from the self-certification procedure.

- **Negative list:**

A negative list of the “critical materials” which are not allowed to be used as feedstock will be defined. This list will be under the responsibility of the EU Commission.