



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title

DG ENTR – Impact assessment on a Proposal for a Regulation of the European Parliament and of the Council relating to fertilisers, liming materials, soil improvers, growing media and plant bio-stimulants, and repealing Regulation (EC) No 2003/2003

(draft version of 25 June 2014)*

(A) Context

Regulation (EC) No 2003/2003 (Fertilisers Regulation) lays down the rules for the placing on the market of a set of so called “EC fertilizers” which are inorganic fertilisers, liming materials and some fertiliser additives. All other ‘national’ fertilisers falling outside the scope of the Fertilisers Regulation are placed on the market in each Member State in accordance with national rules. While these national fertilisers should freely circulate within the internal market according to the mutual recognition principle, some Member States question the assumption that equivalent criteria for the protection of the environment and human health are applied in other Member States. In addition, inadequate consideration of the environment and public health; and market access problems for innovative products are considered further weaknesses of the current EU Fertilisers Regulation. This impact assessment aims to support a possible revision of the EU Fertilisers Regulation to address these concerns.

(B) Overall opinion: POSITIVE

The report has been improved to some extent in line with the Board's recommendations, but needs further work on a number of aspects. First, the report should provide greater evidence of the extent of market fragmentation for different fertiliser categories and environmental and public health concerns, clarifying the relevance of divergent national rules as a possible driver and if the lack of standardisation of testing procedures is also a fundamental problem driver. Second, the report should better define the content of each option particularly with regards to proposed safety, quality and labelling requirements, the need to develop harmonised European Norms and transitional provisions. It should explain why no alternatives were considered for the maximum permitted values of contaminants clarifying if Member States can adopt more stringent limit values. Third, it should discuss at greater length the order of magnitude of key impacts such as those on human health and environment objectives; or those on the availability and price of

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

fertilisers; also it should better justify the assumptions underpinning the calculation of the development costs of harmonised EN standards. Finally, it should explain why an open public consultation was not carried out and clarify how stakeholders' concerns regarding the preferred option have been addressed.

(C) Main recommendations for improvements

(1) Provide further evidence on the scale of the problems and the relevance of their underlying drivers. The report should provide greater evidence of the extent of market fragmentation for different fertiliser categories (e.g. differentials in the price and availability of products across the EU, intra-EU trade trends). On this basis it should further clarify the relevance of the divergence of national rules among possible drivers (given that the harmonisation of regulation for inorganic materials has not led to measurable increases in competition or intra-EU trade or the fact that trade in organic materials is limited primarily because of an high transport costs to market values ratio). In addition, the report should also provide greater evidence of the size of environmental and public health concerns, given that existing national legislation already put in place contaminant limits and industry views the existing Fertilisers Regulation as providing an adequate level of protection and flexibility. Finally, the report should explain whether the lack of standardisation in testing procedures is a fundamental problem driver and discuss any shortcoming in the existing standards relative to specific health or environmental problems.

(2) Better present the policy options, including their compliance and transitional provisions. The report should better define the content of each option, particularly with regards to the proposed safety, quality and labelling requirements and the need to develop harmonised European Norms standards. Also, it should set out in greater detail transitional provisions envisaged during co-existence of both regulations; clarifying how long different regimes would co-exist and how any potential risks from such overlap would be managed. More specifically, the report should provide a better description of the operational terms of Option 4, clarifying how it would mitigate any safety risks due to the proposed co-existence of three different forms of compliance procedures (4A, 4B, 4C) for inorganic fertilisers. The report should also clarify if alternative options were proposed for maximum permitted values of contaminants, and, if not, why (since they are not risk-based limit values but stem from the application of the precautionary principle). Finally, the report should make clear whether member states could adopt more stringent limit values and how the risk of divergent limit values would be mitigated.

(3) Better evidence-based assessment of impacts and comparison of options. The report should discuss at greater length the order of magnitude of the key impacts such as those on human health and environment objectives, or those on the availability and price of fertilisers. It should better justify the assumptions underpinning the calculation of development costs of harmonised EN standards and add labelling requirements costs to compliance cost calculations. Finally, the report should provide a more robust comparison of options providing more extensive justifications for the view that all options achieve similar level of effectiveness and the choice of preferred option (given its risk in terms of implementation highlighted above). Finally, it should better assess the risk for the effectiveness of the initiative the fact that the use of fertilizers continues to be regulated at national level.

(4) Better present the views of stakeholders. The report should explain why an open public consultation was not carried out but only targeted consultations. It should also discuss in greater detail how stakeholders' concerns on the preferred option (costs of third party certification, development of harmonised standards or registration of agronomic additives and plant bio-stimulants) have been taken into account.

(D) Procedure and presentation

The report should better present the intervention logic of the proposed initiative. It should also provide all essential information in the main text and refer to annexes only for details. Accessibility for a non-expert reader needs to be improved.

(E) IAB scrutiny process

Reference number	2012/ENTR/001
External expertise used	No
Date of IAB meeting	Written procedure. First submission discussed on 22 January 2014 meeting.