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Circular economy package

COMMISSION STAFF WORKING DOCUMENT

STAKEHOLDER FEEDBACK

on the

Proposal for a

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**INTRODUCTION**

The proposal for a revised Fertiliser Regulation was adopted on 17 March 2016. Following the Better Regulation Guidelines, stakeholders and citizens were invited to provide within 8 weeks feedback on the Commission's proposal, i.e. until 12 May 2016.

The comments received through this post adoption consultation are publicly available on the Register of Commission Documents website:

[http://ec.europa.eu/transparency/regdoc/?fuseaction=feedbackreport&docId=3092157](http://ec.europa.eu/transparency/regdoc/?fuseaction=feedbackreport&docId=3092157)

Altogether, 102 comments were received, mostly from industry and business organisations (80%). Most comments concern specific interests of the fertiliser industry.

All the comments received were analysed but only the most critical comments are reflected here.

The present document will be transmitted to the European Parliament and the Council.

**GENERAL COMMENTS**

The main interest for most of the respondents is that their products could qualify as "CE marked fertilising product". Industry is very much interested in creating a single market for their fertilising products. The key elements of the Commission's proposal are overall supported by the respondents. Optional harmonisation is most welcomed by producers of organic fertilisers, whereas some of the inorganic fertiliser producers called for full harmonisation.

Few critical comments were received about the choice of the regulatory technique. For some companies active in the production of inorganic fertiliser, the format of the current Fertiliser Regulation should be kept.

The proposed extended scope is generally supported. However, some respondents commented on the term "fertilising products", which they found misleading, as some of these products are not aimed at feeding plants.

The proposed extension of the REACH registration requirements for the substances introduced in the tonnage band below 10 tons per year received a number of critical comments, as regards the additional costs that it could generate in particular for SMEs.

Some respondents asked for a clarification on the legal status of dual-use of products, which could be marketed either as fertilising products or plant protection product depending on the concentration of the active substance.

A number of questions were received on the applicability of the proposed modules for conformity assessment. According to compost and biogas associations the implementation of third party certification for compost and digestate under module D1 would not be an incentive to apply for the CE mark, taking into account that national provisions for such products are often more relaxed.
For blenders and growing media producers, stakeholders argued that it would be sufficient to gather technical documentation and provide a declaration of conformity for groups of fertilising products containing the same ingredients but in different concentrations. For several industry associations, a system of coordination between conformity assessment bodies should be established in order to prevent that some bodies would be more permissive than others.

A period of 10 years for keeping records of the products supplied to the market is generally seen as too long. A period of 5 years would be considered as more appropriate taking into account the shorter storage period of fertilising product compared to other products subject to NLF and the similar period imposed by tax laws in a large number of Member States.

A number of critical comments were received on Article 6(8), which obliges manufacturers to inform competent authorities in case a CE marked fertilising product presents an unacceptable risk. Fertiliser manufacturers should only be held responsible for compliance with maximum limits laid down in the Fertiliser Regulation and not for undefined risks.

**SPECIFIC COMMENTS**

Many comments were submitted on the Technical Annexes. On the Component Material Categories (CMCs) most of the received comments proposed to extend the scope of eligible component materials:

- For CMC 2 (non-processed or mechanically processed plant…) an extension to "commonly used processes", such as enzymatic hydrolysis, fermentation, frost treatment, milling etc. was proposed;

- For CMC 3 (compost), it was proposed also to include food and feed industry by-products and wastes and the use of clay soils;

- For CMC 4 (energy crop digestate), the extension to crop residues and manure was proposed;

- For CMC 5 (other digestate than energy crop digestate), the suggestion was made to include also suitable biodegradable packaging and tableware products;

- For CMC 6 (food industry by-products), the proposal is to consider also by-products from fruit juices, wine, beer and the canning industry;

- For CMC 7 (micro-organisms), the proposed list of authorised microbial plant biostimulants is considered by many stakeholders as too restrictive;

- For CMC 9 (nutrient polymers), the suggestion was made to include also natural polymers.
• For CMC 10 (other polymers than nutrient polymers): industry requests to remove the requirement or to set a sufficiently long transitional period to develop and market alternatives. Biodegradability requirements should take into account the functional life of the coating. Therefore, the 24 months period should start counting after the end of the functional life of the coating.

A large number of comments were also received on the definition of the different Product Function Categories, for example for inorganic fertilisers which should be defined positively and not by exclusion of other categories according to the industry.

• For PFC 1(B) (organo-mineral fertilisers) it was proposed by stakeholders that the use of more than one organic material should be allowed and for plant biostimulants also mixtures between microbial plant and non-microbial plant biostimulants should be recognised.

• For PFC 3 (soil improvers), the relevant European organisation suggested to cover also mulches as a sub-category. One stakeholder representing the entire value chain of the bioplastics industry, proposed to include specifically biodegradable plastic mulch into this category.

• For PFC 4 (growing medium) there seems to be a concern that most products would have to be labelled as blends as they result from different ingredients.

Comments were also received on the definition of liquid organic fertilisers where it was suggested that the proposed limit of maximum 40% dry matter content is arbitrary and in practise too low.

Some comments were received stating that in some languages it is not possible to differentiate between blend and mixture., which may call for clarifying the scope of blends under PFC 7.

A number of critical comments were received on the proposed limit values for heavy metals. A majority of producers of organic-based fertilising products supports a common list of limit values for heavy metals for all organic fertilisers. For the limit value for cadmium, the inorganic fertiliser industry strongly opposed the proposed limit values, by proposing no limits at all, 90 mg Cd/kg P₂O₅, 80 mg Cd/kg P₂O₅ with a revision clause or accepting "à la limite" 60 mg Cd/kg P₂O₅.

Finally, on labelling most of the respondents were of the opinion that it is not clear whether the nutrient content must be declared only above a certain threshold and how such a declaration should be made.

In general, the labelling of the components is seen as a disclosure of the company's know how and therefore not supported.