Council of the European Union

Brussels, 27 February 2023
(OR. en)

Interinstitutional File: 2023/0049(COD)

6896/23
ADD 1

ENT 38
MI 144
COMPET 151
IND 75
CHIMIE 14
AGRILEG 31
ENV 182
IA 33
CODEC 270

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	27 February 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 98 final
Subject:	ANNEXES to the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/1009 as regards the digital labelling of EU fertilising products

Delegations will find attached document COM(2023) 98 final.

Encl.: COM(2023) 98 final

EUROPEAN
COMMISSION

Brussels, 27.2.2023
COM(2023) 98 final

ANNEXES 1 to 2

ANNEXES

to the

proposal for a Regulation of the European Parliament and of the Council

amending Regulation (EU) 2019/1009 as regards the digital labelling of EU fertilising products

{SEC(2023) 99 final} - {SWD(2023) 48 final} - {SWD(2023) 49 final} -
{SWD(2023) 50 final}

ANNEX I

Annex III to Regulation (EU) 2019/1009 is amended as follows:

(1) Part I is amended as follows:

(a) point 1 is amended as follows:

(i) point (d) is replaced by the following:

‘(d) instructions for intended use concerning application rates, timing and frequency, and target plants or mushrooms;

(da) other instructions for intended use than those listed in point (d);*’;

(ii) point (h) is replaced by the following:

‘(h) a list of all ingredients above 5 % by product weight or volume, or in the case of products in liquid form by dry weight, in descending order of magnitude;*’;

(iii) the following points (i) and (j) are added:

‘(i) an identification in accordance with Article 18 of Regulation (EC) No 1272/2008 of any ingredient on the list referred to in point (h) that is a substance or a mixture*;

(j) the designations of the relevant CMCs as referred to in Part I of Annex II for each ingredient listed in point (h).*’;

(iv) the following paragraph is added:

’Naturally occurring substances may, in addition to the information requested in point (i), be identified by their mineral names.’;

(b) the following points are added:

‘12. Where the EU fertilising product contains peat, its presence shall be indicated on the label.

13. Where economic operators provide a digital label in accordance with Article 11a(1) and (2), the data carrier used on that digital label shall be accompanied by the warning: “A physical label must be provided in accordance with Regulation (EU) 2019/1009 before the product is made available on the market to end-users in a packaging of up to 1000 kg” or by a similar warning.

14. Where economic operators provide a digital label in accordance with Article 11a(3) second subparagraph, the data carrier used for that digital label shall be accompanied by the statement ”More comprehensive information on the product is available online” or by a similar statement.

15. Where economic operators provide a digital label in accordance with Article 11a(4), the data carrier used for that digital label shall be accompanied by the statement ”Information on the agronomic efficiency and the safe handling of the product is available online’ or by a similar statement.”;

(2) Part II is amended as follows:

(a) in section 'PFC 1: FERTILISER', point 3(b), (c) and (d) are replaced by the following:

'(b) the nitrification inhibiting compound content shall be expressed as a % by mass of the total nitrogen (N) present as ammonium nitrogen (NH_4^+) and urea nitrogen (CH_4N_2O);*

(c) the denitrification inhibiting compound content shall be expressed as a % by mass of the nitrate (NO_3^-) present;*

(d) the urease inhibiting compound content shall be expressed as a % by mass of the total nitrogen (N) present as urea nitrogen (CH_4N_2O).*';

(b) section 'PFC 1(A): ORGANIC FERTILISER' is amended as follows:

(i) point (d) is amended as follows:

– in point (iv), the second indent is replaced by the following:

'– where the soluble content of those nutrients is at least a quarter of the total content of those nutrients,

(1) as the total content; and

(2) as the content soluble in water;*';

– points (v) and (vi) are replaced by the following:

'(v) organic carbon (C_{org});*

(vi) dry matter;*';

(ii) points (e) and (f) are replaced by the following:

'(e) the ratio of organic carbon to total nitrogen (C_{org}/N);*

(f) production date;*';

(c) section 'PFC 1(B): ORGANO-MINERAL FERTILISER' is amended as follows:

(i) point 1(d) is amended as follows:

– in point (iv), the second indent is replaced by the following:

'– where the soluble content of those nutrients is at least a quarter of the total content of those nutrients,

(1) as the total content; and

(2) as the content soluble in water;*';

– points (v) and (vi) are replaced by the following:

'(v) organic carbon (C_{org});*

(vi) dry matter;*';

(ii) point 5 is amended as follows:

– in point (b), the second indent is replaced by the following:

'– where the soluble content of those micronutrients is at least a quarter of the total content of those micronutrients,

(1) as the total content; and

(2) as the content soluble in water;*';

– in point (c), the second indent is replaced by the following:

'– the amount of chelated/complexed micronutrient(s) as % by mass;*';

– point (ca) is replaced by the following:

'(ca) where the declared micronutrients are chelated by chelating agent(s), the pH range guaranteeing acceptable stability;*';

(d) in section 'PFC 1(C)(I): INORGANIC MACRONUTRIENT FERTILISER, point 1(d)(iv), the second indent is replaced by the following:

'– where the soluble content of those nutrients is at least a quarter of the total content of those nutrients,

(1) as the total content; and

(2) as the content soluble in water;*;

(e) section 'PFC 1(C)(I)(a): SOLID INORGANIC MACRONUTRIENT FERTILISER' is amended as follows:

(i) point 2 is replaced by the following:

'2. The granulometry of a solid inorganic macronutrient fertiliser shall be indicated, expressed as % by mass of the product passing through a determined sieve.*';

(ii) point 4 is amended as follows:

– the introductory sentence is replaced by the following:

'For coated solid inorganic macronutrient fertilisers, the following shall be indicated:';

– the following points (-a) and (-aa) are inserted:

'(-a) the name of the coating agents;

(-aa) the percentage of fertiliser coated by each coating agent;*';

(iii) point 8 is amended as follows:

– in point (b), the second indent is replaced by the following:

'–where the soluble content of those micronutrients is at least a quarter of the total content of those micronutrients,

(1) as the total content; and

(2) as the content soluble in water;*';

– in point (c), the second indent is replaced by the following:

'– the amount of chelated/complexed micronutrient(s) as % by mass;*';

– point (ca) is replaced by the following:

'(ca) where the declared micronutrients are chelated by chelating agent(s), the pH range guaranteeing acceptable stability;*';

(f) section ‘PFC 1(C)(I)(b): LIQUID INORGANIC MACRONUTRIENT FERTILISER’ is amended as follows:

(i) point 1 is replaced by the following:

‘1. The label shall indicate whether the liquid inorganic macronutrient fertiliser is in suspension or in solution.*’;

(ii) point 6 is amended as follows:

– in point (b), the second indent is replaced by the following:

‘– where the soluble content of those micronutrients is at least a quarter of the total content of those micronutrients,

(1) as the total content; and

(2) as the content soluble in water;*’;

– in point (c), the second indent is replaced by the following:

‘– the amount of chelated/complexed micronutrient(s) as % by mass;*’;

– point (ca) is replaced by the following:

‘(ca) where the declared micronutrients are chelated by chelating agent(s), the pH range guaranteeing acceptable stability;*’;

(g) section ‘PFC 1(C)(II): INORGANIC MICRONUTRIENT FERTILISER’ is amended as follows:

(i) point 1 is replaced by the following:

‘1. In the inorganic micronutrient fertiliser, the following shall be indicated:

– the declared micronutrients listed by their names and chemical symbols of the declared micronutrients, in the following order: boron (B), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo) and zinc (Zn);

– the names of their counter-ions when the declared micronutrients are intentionally added.*’;

(ii) in point 2, the second indent is replaced by the following:

‘– the amount of chelated/complexed micronutrient(s) as % by mass.*’;

(iii) point 2a is replaced by the following:

‘2a. Where the declared micronutrients are chelated by chelating agent(s), the pH range guaranteeing acceptable stability shall be indicated.*’;

(h) section ‘PFC 1(C)(II)(a): STRAIGHT INORGANIC MICRONUTRIENT FERTILISER’ is amended as follows:

(i) point 1 is replaced by the following:

‘1. The label shall indicate the relevant typology, as referred to in the table under PFC 1(C)(II)(a) in Part II of Annex I.*’;

(ii) in point 2, the second indent is replaced by the following:

‘– where the soluble content of the micronutrient is at least a quarter of the total content of that micronutrient:

(1) as the total content; and

(2) as the content soluble in water;*’;

(i) in section ‘PFC 1(C)(II)(b): COMPOUND INORGANIC MICRONUTRIENT FERTILISER’, point 3, the second indent is replaced by the following:

‘– where the soluble content of the micronutrients is at least half of the total content of those micronutrients:

(1) as the total content; and

(2) as the content soluble in water;*’;

(j) in section ‘PFC 2: LIMING MATERIAL’, the fifth indent is replaced by the following:

‘– reactivity and method of determination of reactivity, except for oxide and hydroxide limes.*’;

(k) section ‘PFC 3(A): ORGANIC SOIL IMPROVER’ is amended as follows:

(i) the first indent is replaced by the following:

‘– pH;*’;

(ii) the third indent is replaced by the following:

‘– organic carbon (C_{org}) content, expressed as % by mass;*’;

(iii) the fifth indent is replaced by the following:

‘– the ratio of organic carbon to total nitrogen (C_{org}/N).*’;

(l) section ‘PFC 4: GROWING MEDIUM’ is amended as follows:

(i) the second indent is replaced by the following:

‘– pH;*’;

(ii) the fourth, fifth, sixth and seventh indents are replaced by the following:

‘– nitrogen (N) extractable by $CaCl_2$/DTPA (calcium chloride/ diethylenetriaminepentaacetic acid; ‘CAT-soluble’), if above 150 mg/l;*

– phosphorus pentoxide (P_2O_5) extractable by $CaCl_2$/DTPA (calcium chloride/ diethylenetriaminepentaacetic acid; ‘CAT-soluble’), if above 20 mg/l;*

– potassium oxide (K_2O) extractable by $CaCl_2$/DTPA (calcium chloride/ diethylenetriaminepentaacetic acid; ‘CAT-soluble’), if above 150 mg/l;*

– production date*.’;

(m) section ‘PFC 5: INHIBITOR’ is replaced by the following:

‘PFC 5: INHIBITOR

1. All ingredients shall be declared by product weight or volume in descending order of magnitude.*

2. The content of the inhibiting compound(s) as % by mass or volume shall be declared.*

3. The use instructions referred to in point 1(da) of Part I of this Annex shall contain information on:

(a) the types of EU fertilising products with which the inhibitor may be mixed*, in particular:

(i) for the nitrification inhibitor referred to in PFC 5(A) in Part II of Annex I, an EU fertilising product in which at least 50 % of the total nitrogen (N) content consists of the nitrogen (N) forms ammonium (NH_4^+) and urea (CH_4N_2O);*

(ii) for the urease inhibitor referred to in PFC 5(C) in Part II of Annex I, an EU fertilising product in which at least 50 % of the total nitrogen (N) content consists of the nitrogen (N) form urea (CH_4N_2O);*

(b) the minimum and maximum recommended concentration of inhibiting compound(s) when mixed with a fertiliser prior to its use:

(i) for the nitrification inhibitor referred to in PFC 5(A) in Part II of Annex I, expressed as a % by mass of the total nitrogen (N) present as ammonium nitrogen (NH_4^+) and urea nitrogen (CH_4N_2O);*

(ii) for the denitrification inhibitor referred to in PFC 5(B) in Part II of Annex I, expressed as a % by mass of the nitrate (NO_3^-) present;*

(iii) for the urease inhibitor referred to in PFC 5(C) in Part II of Annex I, expressed as a % by mass of the total nitrogen (N) present as urea nitrogen (CH_4N_2O).*';

(n) section 'PFC 6: PLANT BIOSTIMULANT' is replaced by the following:

'PFC 6: PLANT BIOSTIMULANT

The following information shall be provided:

(a) physical form;

(b) production date;*

(ba) expiry date;

(c) application method(s);*

(d) effect claimed for each target plant;* and

(e) any relevant instructions related to the efficacy of the product, including soil management practices, chemical fertilisation, incompatibility with plant protection products, recommended spraying nozzles size, sprayer pressure and other anti-drift measures.*';

(o) section 'PFC 6(A): MICROBIAL PLANT BIOSTIMULANT' is replaced by the following:

‘PFC 6(A): MICROBIAL PLANT BIOSTIMULANT

1. All intentionally added micro-organisms shall be indicated.

2. Where the micro-organism has several strains, the intentionally added strains shall be indicated.

3. The concentration of micro-organisms and, where applicable, strains shall be expressed as the number of active units per volume or weight, or in any other manner that is relevant to the micro-organism, e.g. colony forming units per gram (cfu/g).*

4. The label shall contain the following phrase: ‘Micro-organisms may have the potential to provoke sensitising reactions’.’;

(p) in section ‘PFC 7: FERTILISING PRODUCT BLEND’, the second paragraph is replaced by the following:

‘Where the fertilising product blend contains one or more plant biostimulants belonging to PFC 6, the concentration of each plant biostimulant in the blend shall be indicated in g/kg or g/l at 20 °C.*’.

ANNEX II

Part II of Annex IV to Regulation (EU) 2019/1009 is amended as follows:

(1) in section 'Module A – INTERNAL PRODUCTION CONTROL', point 2.2. is amended as follows:

(a) point (c) is replaced by the following:

'(c) the EU declarations of conformity for the component EU fertilising products of the fertilising product blend and a specimen of their physical label or leaflet in accordance with Article 11a and, if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier of the component EU fertilising products,';

(b) point (e) is replaced by the following:

'(e) a specimen of the physical label or the leaflet referred to in Article 11a providing the information required in accordance with Annex III and, if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier,';

(2) in section 'Module A1 – INTERNAL PRODUCTION CONTROL PLUS SUPERVISED PRODUCT TESTING', point 2.2. is amended as follows:

(a) point (c) is replaced by the following:

'(c) the EU declarations of conformity for the component EU fertilising products of the fertilising product blend and a specimen of their physical label or leaflet in accordance with Article 11a and, if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier of the component EU fertilising products,';

(b) point (e) is replaced by the following:

'(e) a specimen of the physical label or the leaflet referred to in Article 11a providing the information required in accordance with Annex III and, if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier,';

(3) in section 'Module B – EU-TYPE EXAMINATION', point 2.2 is amended as follows:

(a) point (c) is replaced by the following:

'(c) the EU declarations of conformity for the component EU fertilising products of the fertilising product blend and a specimen of their physical label or leaflet in accordance with Article 11a and, if the information is provided only in a digital label in accordance with that Article, a specimen of the data carrier of the component EU fertilising products,';

(b) point (e) is replaced by the following:

'(e) a specimen of the physical label or the leaflet referred to in Article 11a providing the information required in accordance with Annex III, and if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier,';

(4) in 'Module D1 – QUALITY ASSURANCE OF THE PRODUCTION PROCESS', point 2.2. is amended as follows:

(a) point (c) is replaced by the following:

‘(c) the EU declarations of conformity for the component EU fertilising products of the fertilising product blend and a specimen of their physical label or leaflet in accordance with Article 11a, and if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier of the component EU fertilising products,’;

(b) point (e) is replaced by the following:

‘(e) a specimen of the physical label or the leaflet referred to in Article 11a providing the information required in accordance with Annex III, and if the information is provided only on a digital label in accordance with that Article, a specimen of the data carrier,’.