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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Technical Harmonisation (Dangerous Substances - Fertilisers)
N° Cion doc.:	ST 6896/23 + ADD1-ADD4 - COM (2023)98 final
Subject:	Proposal for a Regulation amending Regulation (EU) 2019/1009 as regards digital labelling of EU fertilising products - Comments by AT, BE, CZ, DE, FR

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
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		
(Text with EEA relevance)		
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,		
Having regard to the proposal from the European Commission,		
After transmission of the draft legislative act to the national parliaments,		
Having regard to the opinion of the European Economic and Social Committee ¹ ,		

¹ OJ C , , p. .

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
Acting in accordance with the ordinary legislative procedure,		
Whereas:		
(1) Annex III to Regulation (EU) 2019/1009 lays down the labelling requirements applicable to EU fertilising products. The information referred to in Annex III is to be provided on a label in a physical form attached to that packaging or, for the labelling elements that cannot be provided on the label due to the packaging being too small, in a separate leaflet accompanying that packaging ('physical label'). Products without a packaging are accompanied by a leaflet. The labelling requirements concern various parameters linked to the agronomic efficiency of EU fertilising products (e.g., content of nutrients in a fertiliser) and the content of such products (e.g., quantity). The labelling requirements also cover information needed for the protection of human health and the environment when using EU fertilising products (e.g., information needed for the correct application of Council Directive		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
91/676/EEC ²) and information needed for the correct handling and use of such products after purchase (e.g., information on storage conditions).		
(2) The form in which EU fertilising products are labelled in accordance with Regulation (EU) 2019/1009 should be adapted to technological and societal changes in the field of digitalisation.		
(3) Providing information on a label in a digital form ('digital label') has clear benefits. Digital labelling can improve the communication of labelling information both by avoiding overcrowded physical labels and by allowing users to rely on various reading options available only for digital formats, such as increased font, automatic search, loud speakers or translation into other languages. In addition, digital labelling of EU fertilising products contributes to the ongoing progress with regard to digitalisation of the European		DE: DE. A possible "translation into other languages" must not result in information not having to be provided in a language that is easy to understand (e.g. German in Germany)....

² Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
agricultural sector and can facilitate the reporting obligations of farmers regarding the use of such products. Digital labelling can also lead to a more efficient management of the labelling obligations by economic operators, by facilitating the update of labelling information and permitting a more targeted information to users. In addition, digital labelling can contribute to reducing labelling costs all along the supply chain, given that the labels of EU fertilising products may be changed following a transaction between economic operators, before reaching end-users,		
(4) However, digital labelling can also create new challenges for the vulnerable population groups, in particular persons with no, or insufficient, digital skills or persons with disabilities, and thus accentuate the digital divide. Therefore, digital labelling should be introduced in Regulation (EU) 2019/1009, under certain conditions, taking into account the need to ensure a high level of protection of human health and the environment, and the digital readiness.		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
(5) Economic operators should remain free to choose if to provide a digital or physical label. This will ensure that such economic operators have flexibility to opt for the rules most appropriate to their situation. It is particularly important not to create unjustified costs for small and medium-sized enterprises for which digital labelling might be challenging, given the reduced volumes or types of EU fertilising products.		
(6) The choice to provide a digital label lies primarily with manufacturers and importers, who are responsible for fulfilling the labelling requirements set out in Annex III to Regulation (EU) 2019/1009. Nevertheless, to maximise the use of digital labels and thereby improve the communication of information to users, distributors should also have the possibility to digitise the label of EU fertilising products that they make available on the market, based on the information already provided by the manufacturer. The extent of digital labelling should depend on two factors: if the EU fertilising products are made available to economic operators or to end-users and if the	FR: (6) The choice to provide a digital label lies primarily with manufacturers and importers, who are responsible for fulfilling the labelling requirements set out in Annex III to Regulation (EU) 2019/1009. Nevertheless, to maximise the use of digital labels and thereby improve the communication of information to users, distributors should also have the possibility to digitise the label of EU fertilising products that they make available on the market, based on the information already provided by the manufacturer.	FR: The same rules on digitalisation should apply to all EU fertilising products. regardless of the packaging of the product (with or without packaging) and regardless of the destination of the product (economic operators or to end-users) To be deleted: “The extent of digital labelling should depend on two factors: if the EU fertilising products are made available to economic operators or to end-users and if the products are provided with or without a packaging.”

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
products are provided with or without a packaging.		
(7) Economic operators should be allowed to provide all the labelling elements referred to in Annex III of Regulation (EU) 2019/1009 in a digital label only for the EU fertilising products supplied to other economic operators, with or without a packaging. The use of digital labels in such cases can reduce the labelling costs in the supply chain. Importers or distributors will have the possibility to affix a physical label to the EU fertilising product directly in the official languages needed for their specific situation. In addition, labelling costs can be avoided in case of blending, packaging or re-packaging of EU fertilising products, since the products can be labelled with a physical label only once, before reaching end-users. As products are supplied to economic operators, the communication of information to end-users is not affected. Where the economic operators choose to provide, in addition to a digital label, a physical label, they should be free to decide which labelling elements to include in that physical label.	FR: To be deleted	FR: The French authorities (FA) are opposed to the proposal to allow the provision of all labelling elements in a digital label for the EU fertilising products supplied to other economic operators. In case of digitalisation, the most important labelling elements (namely “essential information”) should be kept on a physical label. The same rules on digital labelling should apply to all EU fertilising products (EU fertilising products sold to other economic operators, EU fertilising products sold to an end user, EU fertilising products sold without a packaging, EU fertilising products sold in a packaging) .

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
(8) Physical labels remain the preferred way of obtaining information for end-users as by being affixed to packaging such physical labels offer immediate access to information. In addition, the vast majority of EU fertilising products available on the market are used by professional users, such as farmers. While professional users are well accustomed with fertilising products and often rely on consultancy for their fertilisation plans, they tend to belong to more advanced age groups, with more reduced digital skills.		
(9) Where economic operators opt for digital labelling of EU fertilising products supplied to end-users in a packaging, they should therefore ensure that a minimum set of information is also available on the physical label. In this context and with regard to other rules specific to products made available in a packaging, a packaging should contain no more	FR: (9) Where economic operators opt for digital labelling of EU fertilising products, they should therefore ensure that a minimum set of information is also available on the physical label. This will also address the challenges that vulnerable population groups may face. The	FR: The French authorities are opposed to the proposal to allow the provision of all labelling elements in a digital label for the EU fertilising products supplied to other economic operators. In case of digitalisation, the most important labelling elements (namely “essential

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
than 1000 kg in coherence with Commission Regulation (EU) No 142/2011³. Products supplied in a packaging exceeding this limit should be considered as being supplied without a packaging for the purpose of Regulation (EU) 2019/1009. This will also address the challenges that vulnerable population groups may face. The specific information that economic operators should be allowed to provide only on a digital label should therefore reflect the current state of the digitalisation of the society and the particular situation of the users of EU fertilising products. In order to enable all end-users to make informed choices before buying EU fertilising products and to ensure the safe handling and use of such products by all groups of end-users, labelling information concerning the protection of human health and the environment, as well as minimum information on the agronomic efficiency of the EU fertilising products and on their content and use, should always be provided on the physical label.	specific information that economic operators should be allowed to provide only on a digital label should therefore reflect the current state of the digitalisation of the society and the particular situation of the users of EU fertilising products. In order to enable all end-users to make informed choices before buying EU fertilising products and to ensure the safe handling and use of such products by all groups of end-users, labelling information concerning the protection of human health and the environment, as well as minimum information on the agronomic efficiency of the EU fertilising products and on their content and use, should always be provided on the physical label. Regulation (EU) 2019/1009 should clearly indicate which information may be provided only digitally.	information”) should be kept on a physical label. The same rules on digital labelling should apply to all EU fertilising products (EU fertilising products sold to other economic operators, EU fertilising products sold to an end user, EU fertilising products sold without a packaging, EU fertilising products sold in a packaging) . To be deleted: “supplied to end-users in a packaging” “In this context and with regard to other rules specific to products made available in a packaging, a packaging should contain no more than 1000 kg in coherence with Commission Regulation (EU) No 142/2011 . Products supplied in a packaging exceeding this limit should be considered as being supplied without a packaging for the purpose of Regulation (EU) 2019/1009.”

³ Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive, OJ L 54, 26.2.2011, p. 1.

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
Regulation (EU) 2019/1009 should clearly indicate which information may be provided only digitally.		
(10) For EU fertilising products supplied without packaging, the economic operators are to provide the labelling elements in a leaflet. The leaflet, contrary to physical labels, has no physical link to the product itself and therefore does not offer immediate access to the information relevant to the product when handling it. Providing the same labelling elements in digital format would imply an adjustment of the way the information is retrieved without creating significant risks to users. Economic operators should therefore be allowed to provide all the labelling elements referred to in Annex III of Regulation (EU) 2019/1009 in a digital label only for the EU fertilising products supplied without packaging. Where the economic operators choose to provide, in addition to a digital label, a physical label, they should be free to decide which labelling elements to include in that physical label.	FR: to be deleted	FR: The French authorities are opposed to the proposal to allow the provision of all labelling elements in a digital label for the EU fertilising products supplied to other economic operators. In case of digitalisation, the most important labelling elements (namely “essential information”) should be kept on a physical label. The same rules on digital labelling should apply to all EU fertilising products (EU fertilising products sold to other economic operators, EU fertilising products sold to an end user, EU fertilising products sold without a packaging, EU fertilising products sold in a packaging) .

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
(11) To ensure a level playing field among economic operators making available EU fertilising products on the market, and to protect the end-users of such products, requirements for digital labelling should be laid down.		
(12) In order to ensure that users receive all the labelling elements on the digital label and will not need to compile the information both from a physical and a digital label, economic operators using a digital label should be required to include all such labelling elements in that label, even if they are also included on the physical label. The digital label should also contain information allowing end-users to identify and contact the manufacturer of the EU fertilising products, as this is an essential information and providing it digitally will facilitate the link between the product and the digital label. In addition, given that fertilising products are also placed on the market as non-harmonised products, it is important to include on the digital label the CE-mark and any corresponding reference to a notified body, so that end-users can deduce only from using the digital label that the product is marketed in		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
accordance with Regulation (EU) 2019/1009. However, to facilitate the update of certain information to be provided by the manufacturers, which changes frequently and is not used on a daily basis by end-users (more precisely, the batch number and the production date), the manufacturers should have the choice to provide the information either physically or digitally.		
(13) Since digital labels, similarly to physical labels, are a means of providing mandatory information on EU fertilising products to users, economic operators should ensure free access to digital labels. In addition, and in order to improve the chances that users will in practice retrieve the information, the information provided on the digital label should be easily accessible. Economic operators should not mix the information required by Regulation (EU) 2019/1009 with other information not requested by Regulation (EU) 2019/1009, such as marketing or commercial statements. Digital space has no space limitations typical for physical labels affixed to the packaging. It is therefore important to keep the labelling		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
elements provided in accordance with Regulation (EU) 2019/1009 concentrated in one place, so that they are not difficult to find among various other information which economic operators might provide. Economic operators should also ensure that digital labels are presented in a way that takes into account the needs of vulnerable population groups, to further reduce the challenges such groups may face.		
(14) Taking into account both the interest of users to have access to information about EU fertilising products with a relatively long shelf life and the interest of economic operators to avoid unnecessary costs, economic operators should ensure that the digital label is available for a period of 5 years from the moment the EU fertilising product is placed on the market.		DE: DE. We are proposing an extension to seven years.
(15) In order to reduce any potential risks caused by the unavailability of the digital label to vulnerable population groups, in particular as regards EU fertilising products supplied without packaging to end-users, where all the labelling elements may be provided digitally, economic	AT: (to be added.)	AT:

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
operators should be responsible for providing the labelling elements by alternative means to end-users, upon request. Whenever the digital label is temporarily unavailable, the information should be provided even without a request.	 the information should be provided even without a request, be it by means of physical or electronic documents. FR: (15) In order to reduce any potential risks caused by the unavailability of the digital label to vulnerable population groups, where some labelling elements may be provided digitally, economic operators should be responsible for providing all the labelling elements by alternative means to end-users, upon request. Whenever the digital label is temporarily unavailable, the information should be provided even without a request.	It should be made clear that the information has to be provided, in any form whatsoever. DE: DE: Market surveillance authorities should also have the right to request information in physical form. FR: To be deleted: “supplied without packaging to end-users”
(16) The requirements for the technical documentation set out in Annex IV to Regulation (EU) 2019/1009 should be adjusted to take into account the introduction of digital labels. In addition, taking into account the	FR: (16) The requirements for the technical documentation set out in Annex IV to	FR: To be deleted:

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
possibility to provide only a digital label for EU fertilising products made available to blenders, to facilitate market surveillance, the technical documentation of fertilising products blends should include a specimen of the information provided under Annex III to Regulation (EU) 2019/1009 on the component EU fertilising products.	Regulation (EU) 2019/1009 should be adjusted to take into account the introduction of digital labels. In addition, taking into account the possibility to provide a digital label for EU fertilising products made available to blenders, to facilitate market surveillance, the technical documentation of fertilising products blends should include a specimen of the information provided under Annex III to Regulation (EU) 2019/1009 on the component EU fertilising products.	“only”
(17) In order to keep Regulation (EU) 2019/1009 up-to-date to technical progress, new scientific evidence and the evolution of the digitalisation of the society, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of supplementing the requirements for digital labelling and amending Annex III with regard to which labelling elements economic operators making available on the market EU fertilising products in a packaging to end-users may provide on a digital label only. It is of particular importance that the Commission	FR: To be deleted	FR: The FA have concerns about giving a significant decision-making power to the Commission through the delegate act. Annex III will probably be amended to extend the list of labelling elements allowed to be provided only digitally without taking into account the opinion of the Member States.

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁴ . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.		
(18) When setting out more detailed rules for digital labelling, the Commission should pay particular attention to other Union rules on the provision of information about products or substances and mixtures in a digital format. It should be possible to access all the information requested by various Union rules in one digital space, so that the users have easy access to all the information needed.		

⁴ OJ L 123, 12.5.2016, p. 1.

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
(19) When deciding which labelling elements may be provided only digitally by economic operators making available on the market EU fertilising products in a packaging to end-users, the Commission should take into account the level of digital readiness among users of EU fertilising products and the need to keep the use of such products safe for human health and the environment.		
(20) Regulation (EU) 2019/1009 should therefore be amended accordingly.		
(21) Given that this Regulation introduces the possibility of providing all or part of the labelling requirements in Annex III only in digital labels, its application should be deferred to provide for enough time for the development of the supplementing requirements concerning the digital labelling.	FR: (21) Given that this Regulation introduces the possibility of providing part of the labelling requirements in Annex III only in digital labels, its application should be deferred to provide for enough time for the development of the supplementing requirements concerning the digital labelling.	FR: The FA are opposed to the provision of all labelling elements on a digital label. Essential information should be kept on a physical label. To be deleted: “all or”
(22) The specific objectives of this Regulation, namely to improve the readability		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
of the labels of EU fertilising products and to facilitate the management of such labels by the economic operators, cannot be sufficiently achieved by the Member States. Since they can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, by introducing a possibility to use digital labelling for certain information, this Regulation does not go beyond what is necessary in order to achieve those objectives,		
HAVE ADOPTED THIS REGULATION:		
Article 1		
Regulation (EU) 2019/1009 is amended as follows:		
(1) Article 2 is amended as follows:		
(a) the following point (10a) is inserted:		

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'(10a) "packaging" means a sealable receptacle holding not more than 1000 kg;';		DE: DE: also for liquid fertilising product as volume?
(b) the following point (16a) is inserted:		
'(16a) "data carrier" means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;';	BE: '(16a) "data carrier" means a linear bar code symbol , a two-dimensional symbol or other automatic identification data capture medium that can be read by a device;';	BE: To be delete "linear bar code symbole" A linear barcode symbol is only linked to a price and a name. It cannot refer to a digital label.
	BE: End-user: any natural or legal person who is not an economic operator	BE: A definition of "end-user" should be added. The use of this term without a definition causes problems for the application of Regulation 1069/2009 on animal by-products: farmer? Amateur? ...? In the same context, Belgium asks for a clear

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
		distinction between “economic operator” and “end-user”. Does the farmer falls into the category of “economic operator”?
(2) Article 6 is amended as follows:		
(a) in paragraph 5, the following subparagraph is added:		
‘The information referred to in the first subparagraph shall be provided either physically on the packaging or the accompanying document, digitally, or both. Where the information is provided digitally, the requirements set out for digital labels in Article 11b and the obligations set out in Article 11c shall apply.’;	AT: ... or the accompanying document (leaflet), digitally, or ... FR: ‘The information referred to in the first subparagraph shall be provided physically on the packaging or the accompanying document, or both physically and digitally. Where the information is provided digitally, the requirements set out for digital labels in Article 11b and the obligations set out in Article 11c shall apply.’;	AT: The use of the words “accompanying document” and “leaflet” is not consistent in the proposal. It should be clear that accompanying document and leaflet mean the same. FR: To be rewrite “either physically on the packaging or the accompanying document, digitally, or both”.
(b) in paragraph 6, the following		

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subparagraph is added:		
‘The information referred to in the first subparagraph shall be provided physically on the packaging or the accompanying document or both physically on the packaging or the accompanying document and digitally. Where the information is provided digitally, the requirements set out for digital labels in Article 11b and the obligations set out in Article 11c shall apply.’;	FR: ‘The information referred to in the first subparagraph shall be provided physically on the packaging or the accompanying document, or both physically and digitally. Where the information is provided digitally, the requirements set out for digital labels in Article 11b and the obligations set out in Article 11c shall apply.’;	FR: To be rewrite: “physically on the packaging or the accompanying document or both physically on the packaging or the accompanying document and digitally.”
(c) paragraph 7 is replaced by the following:		
‘7. Manufacturers shall ensure that EU fertilising products are accompanied by the labelling elements required under Annex III, provided in the relevant form set out in Article 11a. Those labelling elements shall be:		
(a) in a language which can be easily understood by end-users, as determined by the Member State concerned;		

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
(b) clear, understandable and intelligible;		
(c) accessible for inspection purposes when the EU fertilising product is made available on the market.';		
(3) in Article 8, paragraph 4 is replaced by the following:		
'4. Importers shall ensure that EU fertilising products are accompanied by the labelling elements required under Annex III, provided in the relevant form set out in Article 11a. Those labelling elements shall be:		
(a) in a language which can be easily understood by end-users, as determined by the Member State concerned;		
(b) accessible for inspection purposes when the EU fertilising product is made available on the market.';		
(4) the following Articles 11a, 11b and 11c are inserted:		

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<i>‘Article 11a</i>		
Forms of labelling		
1. Where EU fertilising products are made available on the market in a packaging to economic operators, they shall be accompanied by the labelling elements set out in Annex III in the following form:	FR: To be deleted	BE: See also the proposition of definition of “end-user” (article 1(1))
(a) on a label in a digital form (“digital label”); or.	FR: To be deleted	
(b) on a label in a physical form attached to that packaging or, for the labelling elements that cannot be provided on the label due to the packaging being too small, in a separate leaflet accompanying that packaging (“physical label”).	FR: To be deleted	
2. Where EU fertilising products are made available on the market without packaging to economic operators, they shall be accompanied	FR: To be deleted	

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
by the labelling elements set out in Annex III in the following form:		
(a) on a digital label; or	FR: To be deleted	
(b) on a leaflet accompanying the EU fertilising product.	FR: To be deleted	
3. Where EU fertilising products are made available on the market in a packaging to end-users, they shall be accompanied by the labelling elements set out in Annex III in the following form:	FR: Where EU fertilising products are made available on the market, they shall be accompanied by the labelling elements set out in Annex III in the following form:	FR: To be deleted: “in a packaging to end-users”
(a) on a physical label; or	FR: (a) for EU fertilising products provided in a packaging, on a label in a physical form attached to that packaging or, for the labelling	FR: To be deleted: “on a physical label; or”

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
	elements that cannot be provided on the label due to the packaging being too small, in a separate leaflet accompanying that packaging (“physical label”) Or For EU fertilising products provided without packaging, on a leaflet accompanying the product (“physical label”)	
(b) on a digital label and duplicated on a physical label.	FR: (b) on a label in a digital form (“digital label”) and duplicated on a physical label	
By way of derogation from point b, the labelling elements marked with an asterisk in Annex III do not have to be duplicated on the physical label.		
4. Where EU fertilising products are made available on the market without packaging to end-users, they shall be accompanied by the labelling elements set out in Annex III in the following form:	FR: To be deleted	BE: Some farmers may not be comfortable with the use of digital labels. Recital 4) of the project highlights the problem of vulnerable groups

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
		due to lack of digital literacy. The farmer must have quick access to essential information on the analytical composition of the product he has just purchased. It should therefore be provided in the form of a leaflet. Lack of information on the composition of the product can lead to soil pollution and consequently to financial penalties for farmers
(a) on a digital label; or	AT: on a digital label and duplicated on a physical label; or By way of derogation from point a, the labelling elements marked with an asterisk in Annex III do not have to be duplicated on the physical label, except for the following: – name and address of the economic operator; – designation of product function category (PFC), – CE-marking; – nutrients; – batch number;	AT: It is essential that farmers and other end users receive the most important information, e.g. name, address of the economic operator, designation of product function category (PFC), CE-marking, nutrients, batch, application, storage and hazard information, by the label or accompanying document. The information essential for the proper use of a fertiliser product must always be comprehensible and easily available to end users, regardless of the network availability at the site of purchase, storage or application of

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
	– application, storage and hazard information. BE: (a) on a leaflet accompanying the EU fertilising product; or FR: To be deleted	fertilising products.
(b) in a leaflet accompanying the EU fertilising product.	BE: (b) on a digital label and duplicated on a physical label. By way of derogation from point b, the labelling elements marked with an asterisk in Annex III do not have to be duplicated on the physical label. FR: To be deleted	

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
5. Where economic operators provide a digital label in accordance with this Article, they shall comply with the requirements set out in Articles 11b and 11c.	AT: Where economic operators provide a digital label in accordance with this Article, they shall ensure a consistent labelling in case of dublication and shall comply with the requirements set out in Articles 11b and 11c.	AT: A wording should be added to make clear that the econmic operations are responsible for a consistent labelling information when using a physical and digital label.
<i>Article 11b</i>		
Requirements for digital labels		
1. The digital label shall include:		
(a) the information required pursuant to Article 6(6);	BE: (a) (b) the information required pursuant to Article 6(5), Article 6(6) and article 8(3);	BE: Commission answer in the meeting of 03/05/2023 that the imposition of these requirements on importers as in practice it would be too complex. Does this mean that importers cannot use digital

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		labels? (Addition of Article 6(5) of the FPR is necessary to ensure the traceability of products. The rapid modification of digital labelling allows for rapid adaptation of traceability information. Addition of Article 8(3) of the FPR is necessary to ensure that importers are subject to the same rules as manufacturers.)
(b) the CE marking and, where applicable, the identification number of the notified body, in accordance with Articles 17 and 18;		
(c) all the labelling elements required under Annex III, with the exception of the production date where that date has been provided on the physical label.	FR: (c) all the labelling elements required under Annex III, with the exception where that date has been provided on the physical label.	FR: The FA consider that all the labelling elements required under Annex III should be provided on a digital label, including the production date. It is not relevant and justified to make an exception of the production To be deleted: “of the production date”

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
2. The information referred to in paragraph 1 shall be provided in one place and separated from any information not provided under this Regulation.		
3. The digital label shall be:		
(a) accessible free of charge;		
(b) easily and directly accessible, without a need to register in advance, to download or install applications or to provide a password; accessible to all potential users in the Union;		
(c) searchable;		BE: The notion of "searchable" is not clear. The digital label must be directly accessible without browsing a website.
(d) presented in a way that also addresses the needs of vulnerable groups and supports, as relevant, the necessary adaptations to facilitate		

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access by those groups;		
(e) available for a period of 5 years from the moment the EU fertilising product is placed on the market, including in case of an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created it.		DE: DE: We are proposing an extension to seven years. This provision shall also apply in case of insolvency or liquidation. A legal person ceases to exist after a deletion and thus cannot be subject to obligations. The penalty of an infringement would not be possible in any case. Additionally it could make sense if the digital information is kept in a format specified by the Commission possibly on a Commission server for a defined minimum period of time. This could also prevent manipulation and misuse of data.
Where the digital label is available in more than one language, the choice of languages shall not be dependent on the geographical location.		
4. A data carrier used for a digital label shall be printed or placed physically on the packaging or, where the EU fertilising products are made available on the market without a		

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packaging, on the accompanying document or leaflet, visibly, legibly and in a way that allows it to be processed automatically by digital devices.		
<i>Article 11c</i>		
Obligations of economic operators providing a digital label		
1. Economic operators providing a digital label shall not track, analyse or use any usage information for purposes other than what is absolutely necessary for providing the relevant information digitally.		
2. Upon request by the end-users, or without such request where the digital label is temporarily unavailable at the time of purchase, economic operators making available on the market EU fertilising products to such end-users shall provide the information included on the digital label, by alternative means and free of charge.’;		DE: DE: Market surveillance authorities should also have the right to request information in physical form.
(5) in Article 42, the following paragraphs 9		

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and 10 are added:		
‘9. By [OP: please insert the date = the first day of the month following 30 months after the date of entry into force of this Regulation], the Commission shall adopt delegated acts in accordance with Article 44 to supplement Articles 11b and 11c by laying down specific requirements for the digital labelling of EU fertilising products and conditions for fulfilling the obligations of economic operators providing a digital label. Those requirements shall establish, in particular, the types of electronic technical solutions which economic operators may use for providing the digital label, and the alternative means for providing the information referred to in Article 11c(2). When adopting the delegated acts, the Commission shall:		
(a) ensure coherence with other relevant Union acts;		
	AT: (aa) ensure effective and efficient market surveillance	AT: A litera should be added to stress that also the experiences of the market surveillance will be

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
		taken into account when delegated acts are drafted.
(b) encourage innovation;		
(c) ensure technological neutrality by not limiting the choice of technology or equipment, within the bounds of compatibility and interference avoidance;		
(d) ensure that the digital labelling does not compromise the safety of the end-user and the environment;		DE: DE: This aspect is very important with regard to the implementation of the Nitrates Directive. Relevant information must not be lost under any circumstances and must always be physically labelled.
(e) take into account the level of digital readiness among end-users of EU fertilising products.		
10. The Commission is empowered to adopt delegated acts in accordance with Article 44 to amend Annex III, as regards the labelling information which economic operators may	FR: To be deleted	FR: The French authorities have concerns about

Commission proposal	Drafting Suggestions AT, BE, CZ, DE, FR	Comments AT, BE, CZ, DE, FR
provide on a digital label only in accordance with Article 11a(3) point (b), in order to adapt that Annex to technical and scientific progress or to the level of digital readiness among end-users of EU fertilising products. When adopting the delegated acts, the Commission shall take into account the need to ensure a high level of protection of human health and the environment.’;		giving a significant decision-making power to the Commission through the delegate act. Annex III will probably be amended to extend the list of labelling elements allowed to be provided only digitally without taking into account the opinion of the Member States.
(6) Annex III is amended in accordance with Annex I to this Regulation;		
(7) Annex IV is amended in accordance with Annex II to this Regulation.		
Article 2		
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .		
It shall apply from [OP: please insert the date = the first day of the month following 30 months after the date of entry onto force of this Regulation].		

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This Regulation shall be binding in its entirety and directly applicable in all Member States.		
	AT: End BE: End CZ: End DE: End FR: End	AT: End BE: End CZ: End DE: End FR: End