

# EU Fertilizer Regulation

## The “New Approach”

Position of Fertilizers Europe

September 2010

Fertilizers Europe is of the opinion that the existing Fertilizer law (Regulation EC 2003/2003) has proven to be a good piece of legislation with many positive aspects. However, in view of the consequences of the implementation of the Mutual Recognition regulation (EC 764/2008), we see now the necessity of a fully harmonized legislation on plant nutrients.

In that respect, Fertilizers Europe can see some advantage to adhere to a concept of “essential requirements” backed-up by harmonized standards and the inclusion of organo-mineral, organic fertilizer, soil improvers etc into such a harmonized approach.

But, switching from the concept of a fertilizer legislation based on fertilizer type designation and going to a ingredient-based legislation may induce much more flexibility in product registration which may put security and safety at risk. This has to be carefully considered to avoid serious consequences for our industry and its environment.

In this paper Fertilizers Europe gives its first comments on the proposed scope and structure as presented in the draft discussion paper circulated by DG Enterprise on 15/09/2009, but not on the details (e.g. to the figures in annex 2 of the draft).

### 1) Fertilizer type designation versus fertilizer nutrient ingredients

The type designation concept as used in the existing fertilizer Regulation EC 2003/2003 served appropriately the purpose of inherent safety and environmental aspects.

For example, a CAN fertilizer has, to be put on the market, to fulfill special requirements for fillers and, by this, does guarantee safety and agronomical benefits in soils; in the proposed text for a “new approach” regulation, it is not possible to cover this aspect using a simple “AN ingredient” category.

A similar situation is valid for products like ammonium sulphate, ammonium sulphate/nitrate, urea and AN. They are well known in the market under their product name and mentioning only their nitrogen content will not give enough information.

Would an ingredient based approach be decided upon, Fertilizers Europe would propose that provisions are made under EN Standards, where these characteristics of the fertilizers (e.g. minimum nutrient content, maximum content of filler, aspects of mixing with other ingredients) are defined. Such Standards would be mandatory: each fertilizer, which is placed on the market, would have to comply with such EN Standard.

### 2) Lists of ingredients

Ingredients should be clearly defined. In that respect the Annex of the new regulation should include several lists which differentiate the type of ingredient, such as but not limited to:

- A list for “Nutrient containing substances”
- A list for “Technical additives”, such as the coating materials.
- A list for the “Non nutrient active ingredients”, such as urease inhibitors or nitrification inhibitors.

### 3/ Possibility to combine “the registered ingredients as they wish”.

Fertilizers Europe warns the Commission that no limitation on the combination of ingredients can lead to serious unsafe situations.

For example, mixing elemental sulphur with ammonium nitrate, potassium nitrate or sodium nitrate induces chemical reaction where the remaining products present less safe characteristics<sup>(1)</sup>.

Fertilizers Europe is of the opinion that there should be a “combination list/matrix” for possible mixtures allowed between ingredients. For registration of new ingredients, the necessity to test the compatibility with other ingredients should be included and mandatory in the registration procedure.

(1) EFMA Guidance for the Compatibility of Fertilizer blending materials

### 4) Gaps in information

Fertilizers Europe would like to stress that the information given in the tables in annex II is not complete. For example, Calcium Ammonium Nitrate (CAN) is missing in the list of nitrogen nutrient ingredients. Such a list

could be completed at later stage, but the fertilizer industry wants to make sure that the list is including all existing products at the beginning, and might not be used to introduce not agreed/registered ingredients.

#### **5) CAS numbers**

In the lists of ingredients, CAS numbers are given when available: for example calcium nitrate, which can be chemically produced under three different forms (e.g. calcium nitrate water free, calcium nitrate tetrahydrate and calcium nitrate fertilizer grade), has three CAS numbers, corresponding to each of these forms. However, Fertilizers Europe is of the opinion that the CAS number may be sufficient, but not necessary to define an ingredient. For example natural occurring ingredients such as mined ores do not have a CAS number. It is therefore suggested that using CAS number is not kept by the EU Commission in the new approach.

#### **6) Inclusion of organic and organo-mineral fertilizers, soil improvers**

Fertilizers Europe strongly advocates that all materials which provide nutrients such as organic fertilizer, organo-mineral fertilizers and soil improvers are included in the “new approach”, and therefore have to fulfill the same obligations/restrictions as mineral fertilizers (e.g. max. levels for heavy metals, minimum nutrient levels etc.). Providing that all ingredients are defined by an “EN Standard”, all organics can be listed as ingredients, being included in a separated list (another chapter) in the Annex II. The necessary “compliance to directives on health security” has to be clearly mentioned as a preamble to this list/chapter of “organic ingredients”.

#### **7) Inclusion of liming materials**

Liming materials should be included in the new approach regulation. Typical characteristics such as minimum levels should be addressed in mandatory standards.

#### **8) Inclusion of growth media**

Growth media are often complemented with nutrients; Fertilizers Europe is therefore of the opinion that they should be included in the new approach regulation.

#### **9) Inclusion of coating agents, additives and processing aids**

Fertilizers Europe asks that, at first, the types of coating agents are clearly defined:

- a) Coating agents which are added for agronomical reasons, such as polymers for controlled-release fertilizers, could be added in the lists of annex 2.
- b) Process additives include also coating agents, additives and processing aids used to improve/modify physical characteristics of the ingredient used. Fertilizers Europe is of the opinion that these technical agents are already regulated by REACH, and the suppliers of these technical agents have already to comply with this new chemical legislation. Some of these products are patented or commercially protected; in these cases, the active ingredients are not known by all fertilizer producers or, when the information is provided, it is done under confidentially basis.

Fertilizers Europe, therefore, does not agree on a positive list which would list these ingredients and be included in Annex 2:

- If necessary when above a certain minimum content, such ingredient should only be “mentioned” with their REACH denomination.
- Alternatively for commercially protected ingredients, a positive list containing groups of substances (e.g. Poly-olefins) could be accepted: this would allow to avoid declaring proprietary knowledge of Fertilizers Europe members

#### **10) Labeling (Article 26)**

Fertilizers Europe feels that the inclusion of labeling for cadmium content is unacceptable at this stage. The discussion on a regulation for cadmium in phosphate fertilizers is ongoing, and should be finalized before any decision is made. Fertilizers Europe remains with its position that the content of cadmium in phosphate fertilizers should be maximum 60 mg cadmium/kg P<sub>2</sub>O<sub>5</sub>. Any proposed levels lower than that is unacceptable.

#### **11) Inclusion of new fertilizer ingredients (procedure referred to in Article 43-2)**

Fertilizers Europe advocates that new fertilizer ingredients can already be marketed once they have been accepted by the Technical Committee, without having to wait for the official publication. This request is made as long as the time line between acceptation and publication is unacceptably long, as it is today.