

MUTUAL RECOGNITION

INFORMATION RELATING TO PRIOR AUTHORISATION FOR FERTILISERS, SOIL IMPROVERS AND GROWING MEDIA¹

Not all fertilisers require an authorisation (“derogation”) prior to placing them on the Belgian market². A difference should be made between:

- fertilisers complying with the legal regulations and
- fertilisers which do not comply with the regulations and which are subject to prior authorisation (derogation)

1) LEGAL PROVISIONS IN BELGIUM

Fertilisers which do not meet the requirements set out in Regulation (EC) No 2003/2003 relating to (inorganic) fertilisers are required to comply with the Belgian legal provisions as mentioned in the Royal Decree of 28 January 2013 on the marketing and the use of fertilisers, soil improvers and growing media (*Arrêté royal du 28 janvier 2013 relatif à la mise sur le marché et à l'utilisation des engrais, des amendements du sol et des substrats de culture*). This Royal Decree “Fertilisers” applies to the trade in and the use of fertilisers, soil improvers, growing media, sewage sludge and each other product with a specific stimulating effect on plant production.

Annex I to this Royal Decree provides an overview of products which may be marketed, in the same way as in EU Regulation 2003/2003 (designation, description, requirements and markings).

The Service Pesticides and Fertilisers, on behalf of the minister, may permit the marketing of products not listed in Annex I (in compliance with Article 5 of the Royal Decree “Fertilisers”) by granting derogation.

In case of fertilisers derived from waste, the Service Pesticides and Fertilisers is not the only Belgian authority involved, as the regional governments are competent to regulate the protection of the environment - especially the rules for using products – and therefore have to agree. For this purpose, the product must be in a positive list or be covered by a certificate of use, in which case a copy of this certificate must be enclosed.

When derogation is sought for a waste-based fertiliser, the Service Pesticides and Fertilisers shall inform the competent regional authorities. The Service Pesticides and Fertilisers shall provide the contact details of the competent regional authorities if needed.

¹ In accordance with article 10.1.a) of Regulation (EC) No 764/2008

² In this document: fertilisers = organic and mineral fertilisers, soil improvers and growing media, unless specifically stated

2) MUTUAL RECOGNITION AND DEROGATION

No derogation is required for fertilisers which are already (or not) authorised for sale in a Member State and which meet the Annex I provisions.

If a fertiliser authorised for sale in a Member State does not comply with the Royal Decree "Fertilisers", derogation should be applied for to the Service Pesticides and Fertilisers of Belgium's Federal Public Service of Health.

In other words, a mutual recognition procedure corresponds to a derogation application.

DOES THE PRODUCT MEET THE BELGIAN LEGAL PROVISIONS?

In case of doubt, the Service Pesticides and Fertilisers can be asked by email to determine, free of charge, if a fertiliser comes under Annex I of the Royal Decree "Fertilisers".

Please note that this consultation is informal and is not an application as such.

3) APPLICATION FOR MUTUAL RECOGNITION

An application for mutual recognition (or derogation) can be made by letter³ to Belgium's Federal Public Service of Health (in French, Dutch or English).

In accordance with Article 4 of EU Regulation 764/2008, following documents are to be part of the application:

- Product-related technical rules (legislation), certified by the Member State and upon which the application for mutual recognition is based (in French, Dutch or English)
- The raw materials used and their origin
- A short description of the manufacturing process
- A *recent* product analysis carried out by an approved laboratory (in case of a non-Belgian laboratory, please enclose a copy of the approval issued by the competent authority, accompanied by the analysis method if appropriate)
- A label or accompanying document (in French or Dutch) as an example
- The purpose(s), dose(s) and instructions for use
- As the case may be, all documents proving that the product meets the requirements of Regulation 1069/2009 or any other EU food safety and environment protection legislation.

The mutual recognition procedure only starts when a complete dossier is submitted. The time limit for processing the application is *four months from receipt of the complete dossier (and payment)*.

The cost of processing the application is € 1500. A bill shall be sent upon receipt of the application, if necessary accompanied by a letter.

Applications sent by email and not authenticated by a third party shall be considered as information requests on whether prior authorisation is required or not.

³ An application can be made by email if it is authenticated by a third party.

LINK

The Belgian Royal Decree is available at <http://www.health.belgium.be/>

- click on the tab "Environment" on the right-hand side
- then on "Chemical Substances" > "Fertilisers" ; only in French or Dutch: > législation > titre: 1. Législation nationale – AR 28 Janvier 2013 - "normes produits" (product standards)

COMPETENT AUTHORITY

Federal Public Service of Health, Food Chain Safety and Environment
Directorate-General for Animals, Plants and Food
Service Pesticides and Fertilisers
Eurostation BLOCK II, 7th floor
Place Victor Hortaplein 40 box 10
1060 Brussels

Contact details:

Alfred Generet
alfred.generet@sante.belgique.be
Phone: 02/524 72 61
Fax: 02/524 72 99

Heleen De Norre
Heleen.DeNorre@gezondheid.belgie.be
Tél. 02/524 72 94
Fax. 02/524 72 99