

FERTILISING PRODUCTS

MUTUAL RECOGNITION REGULATION 2019/515

**Fertilisers, soil improvers, growing media and related products
To be applied from 19 April 2020**



CONTACT

FPS Health, Food Chain Safety and Environment
Service Plant protection products and Fertilisers
Eurostation II, Place Victor Horta 40 box 10
1060 Brussels
BELGIUM

Website: www.phytoweb.be
E-mail: fytoweb@health.fgov.be
Tel.: +32 (0)2 524 97 97 (call center FOD)

DOCUMENT INFORMATION

Version 2.2
03/07/2020
<https://fytoweb.be/en/fertilizers>

This guidance is purely informative and cannot be separated from existing legislation. Despite of the efforts made constructing this guidance, errors cannot be excluded. The FPS Health, Food Chain Safety and Environment cannot be taken responsible for the damage using this guidance may cause. Regional or other federal rules that apply related to fertilising products remain in force.

Authorisation of fertilising products in Belgium

Not all fertilising products¹ require an authorisation (“derogation”) prior to making them available on the Belgian market. A difference should be made between:

- a. fertilising products complying with the legislation and
- b. fertilising products which do not comply with the legislation and which are subject to prior authorisation (derogation)

A) Fertilising products complying with the legislation

Fertilising products available on the Belgian market must comply with the provisions of:

- Regulation (EC) 2003/2003 relating to (inorganic) s, OR
- the Belgian 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 applies to the trade in and the use of fertilisers, soil improvers, growing media, sewage sludge and any product with a specific stimulating effect on plant production.

The products that may be marketed in Belgium are listed in Annex I to this royal decree, in the same way as in Regulation (EC) 2003/2003 (designation, description, requirements and declarations for the label).

B) Fertilising products NOT complying with the legislation and for which a derogation is necessary

Fertilising products which do not comply with the provisions of one of both legislations can be placed on the market via a specific authorisation procedure.

According to article 5 of the Royal decree of 28/01/2013, the Service Plant protection products (PPP) and Fertilisers may allow the marketing of products not listed in Annex I (of the Royal decree or Regulation 2003/2003) by granting a “derogation”.

¹ In this document: fertilising products = organic and mineral fertilisers, soil improvers, growing media and related products (including biostimulants with fertilising effect)

In case of fertilising products derived from waste, the Service PPP and Fertilisers is not the only Belgian authority involved. The regional authorities have to agree as they are competent to regulate waste recycling and the protection of the environment, in particular via the rules for using products. 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 added to the application dossier.

When derogation is sought for a waste-based fertilising product, the Service PPP and Fertilisers shall inform the competent regional authorities.

Mutual recognition and derogation

Mutual recognition is foreseen by Regulation (EU) 2019/515 of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State.

Fertilising products complying with the royal decree of 28/01/2013

No derogation is required in Belgium to trade a fertilising product, which is already (or not) authorised for sale in a Member State, if it meets the provisions of annex I of the Royal decree of 28/01/2013.

Fertilising products NOT complying with the royal decree of 28/01/2013

If a fertilising product, authorised for sale in a Member State, does not comply with the Royal decree of 28/01/2013, an application for derogation should be submitted at the Service Plant protection Products 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 Plant protection products and Fertilisers can be asked by email to determine, free of charge, if a fertilising product meets the provisions of Annex I of the Royal decree of 28/01/2013.

Please note that this consultation is informal and is not considered as an application for mutual recognition as such.

Procedure for application for mutual recognition

An application for mutual recognition (derogation) can be submitted at the Service Plant protection products and Fertilisers (in French, Dutch or English):

- By written application or
- By online application at www.phytoweb.be > Fertilizers.

In accordance with Regulation 2019/515, a number of documents should be included in the application dossier. Two cases are distinguished:

A) Mutual recognition declaration is available

The following documents must be submitted:

- i. The completed mutual recognition declaration (in French, Dutch or English);
- ii. The coordinates of the storage site situated on the Belgian territory – in case there is no storage site in Belgium, this should also be mentioned;
- iii. The raw materials used and their origin;
- iv. A short description of the manufacturing process;
- v. 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) – this analysis must include the relevant agronomic parameters and contaminants (heavy metals, micro-organisms and organic contaminants);
- vi. An example of the label or accompanying document (in French or Dutch);
- vii. The destination(s), dose(s) and instruction(s) for use;
- viii. If appropriate, all documents proving that the product meets the requirements of Regulation 1069/2009 or any other EU food safety and environment protection legislation.

B) Mutual recognition declaration is not available

The following documents must be submitted:

- i. The commercial name(s) of the concerned product;
- ii. The coordinates of the storage site situated on the Belgian territory – in case there is no storage site in Belgium, this should also be mentioned;

- iii. The name and address of the operator responsible for making the concerned product available on the market (coordinates appearing on the label);
- iv. The product-related technical rule (legislation), certified by the Member State and upon which the application for mutual recognition is based (in French, Dutch or English);
- v. The raw materials used and their origin;
- vi. A short description of the manufacturing process;
- vii. 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) – this analysis must include the relevant agronomic parameters and contaminants (heavy metals, micro-organisms and organic contaminants);
- viii. An example of the label or accompanying document (in French or Dutch);
- ix. The destination(s), dose(s) and instruction(s) for use;
- x. If appropriate, 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 starts only when a complete dossier has been submitted.

The estimated time necessary for processing the application is six months from receipt of the complete dossier (including payment).

If the dossier is not complete within 6 months from the submission date, the Service PPP and Fertilisers can decide to close the application for mutual recognition. A new application will need to be submitted if applicable².

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

Please note that applications sent by email shall be considered as information requests on whether a derogation is required or not.

² See Article 5 of Regulation 2019/515 and title 6.3 of the Guidance document on the application of the mutual recognition principle in the field of goods

Miscellaneous

No market access without prior authorisation

Article 5.3 of Regulation 2019/515 clearly indicates that operators are not allowed to make a product, that is subject to a prior authorisation procedure, available on the market during the assessment.

Products already available on the market and for which no prior authorisation has been granted yet, must be withdrawn from the market by 19 April 2020.

Biostimulants: "plant protection products" or "fertilising products" legislation?

The service Plant protection products and Fertilisers distinguishes biostimulants falling under "plant protection products" legislation³ from biostimulants falling under "fertilising products" legislation, taking into account at least the claims present on the product label. An explanatory document has been published on our website. If the product is considered to fall under the "plant protection products" legislation, the mutual recognition application as "fertilising product" will be judged as not justified.

Helpful documents

ROYAL DECREE OF 28 JANUARY 2013 ON THE MARKETING AND THE USE OF FERTILISING PRODUCTS, SOIL IMPROVERS AND GROWING MEDIA (only available in French and Dutch)
<https://fytoweb.be/fr/legislation/engrais/legislation-nationale-arrete-royale-du-28-janvier-2013>

DOCUMENT "BORDERLINE PRODUCTS" (PPP <> fertilising products; only available in French and Dutch)
<https://fytoweb.be/en/plant-protection-products/specific-products/borderline-products>

³ Regulation (EC) 1107/2009 of 21 October 2009 concerning the placing of plant protection products on the market

GUIDANCE DOCUMENT OF THE EUROPEAN COMMISSION

Guidance document on the application of the mutual recognition principle in the field of goods

Competent authority

Federal Public Service Health, Food Chain Safety and Environment

DG APF (Animals, Plants and Foodstuffs)

Service Plant protection products and Fertilisers

Eurostation II, 7th floor

Place Victor Horta 40 box 10

1060 Brussels

Contact details:

Alfred Generet

alfred.generet@health.fgov.be

Tel. +32 (0)2/524 72 61

Fax. +32 (0)2/524 72 99

Heleen De Norre

heleen.denorre@health.fgov.be

Tel. +32 (0)2/524 72 94

Fax. +32 (0)2/524 72 99