Brussels, 02 June 2022

Minutes of the third meeting of the expert group to discuss a draft delegated act supplementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council as regards determination of end points in the manufacturing chain of certain organic fertilizers and soil improvers

02 June 2022, Brussels (Webex)

1. Approval of the agenda

An annotated agenda was circulated prior to the meeting and approved at the beginning of the meeting.

2. Nature of the meeting

The meeting was non-public. The meeting was held via Webex with the representatives of the competent veterinary authorities of Member States and EEA countries attending. The Chair noted the absence of the Council and European Parliament.

3. List of points discussed

3.1. Introduction

The Chair recalled that the purpose of the meeting was to discuss the last amendments of the draft non paper for a Commission Delegated Regulation supplementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council as regards determination of end points in the manufacturing chain of certain organic fertilizers and soil improvers (the draft).

The Commission circulated a revised version of the draft, prior to the meeting.

3.2. Discussion on the draft

Following the introductory presentation and explanation by the Commission of the revised draft. Experts asked for clarification of the following:

Interaction between ABP-legislation and Fertiliser Legislation: DG SANTE will determinate certain end-points and after that, DG GROW will place these end-points into the Fertiliser Regulation.

Further amendments of the Implementing Regulation (EU) No 142/2011: Once the draft under discussion is adopted, it will be amended accordingly.

Interaction with TSE-Regulation (EC) No 999/2001: The TSE Regulation restricts exports of processed ruminant protein (PAP). The Commission will check internally the steps to be taken and inform experts.

Prohibitions in Article 36 of Regulation (EC) No 1069/2009: Article 36 of Regulation (EC) No 1069/2009 is not applicable in the discussion on endpoints for certain ABP fertilisers. The legal basis for the current draft - Article 5(2) and (4) of the above mentioned Regulation – refer only

to "…derived products referred to in Article 32 that are already widely used in the Union as organic fertilisers and soil improvers."

Experts raised the following issues:

Can end-points for Category 2 materials not subject to Method 1 be defined?
The Commission clarifies that the legal framework for processing and use of Category 2 materials laid down in Article 13 of Regulation (EC) 1069/2009 applies directly.

To assess microbiological criteria: when must samples be taken in compost or biogas plants?
The Commission: In Article 2(1)(b) and (c) of the draft refers to Chapter III Section 3 of Annex V to Regulation (EC) No 142/2011: "…*taken during or immediately after transformation*….".

There is a need for rewording in Article 4 of the draft, as it is currently not clear, that imported materials can reach an end-point once processed in an approved fertiliser plant in the EU (Article 2(3)).
The Commission: Noted the comment and will improve the text. Imported material cannot by itself reach an endpoint, it must go into an approved fertiliser plant and may reach the end-point only there. Compound fertilisers containing or composed of animal by-products cannot enter the EU without official controls at the Border Control Post (BCP).

Experts asked the Commission to include processed manure in the draft as an endpoint.

Biogas plants using manure do not pasteurize it. May those digestion residues reach the endpoint?
National authorized treatments are not applicable. Only harmonized standards (pasteurization of manure) may apply for the determination of endpoints.

Can an end-point for Category 2 materials that have no rules on exports be implemented (see Article 43(3) of Regulation (EU) No 1069/2009)?
The Commission has noted the question and will assess internally and reply in writing.

CE-marked products cannot be regulated within the ABP-legislation because by reaching an end-point those products are not in the scope of ABP regulation any more.
The Commission: The draft imposes a set of rules on labelling. In Article 3(2) it refers to already published rules for labelling laid down in Regulation (EU) 2019/1009.

4. Conclusions/recommendations/opinions

The Commission thanked Member States for their input and invited them to provide their written feedback by 13 June 2022.

5. Next steps

The Commission explains that currently the internal consultations are ongoing. After the completed internal consultations, the draft will be published for Public feedback of 4 weeks. The Commission informed that at the 7 June 2022 Animal Health Advisory Committee Meeting this topic will also be discussed with the stakeholders.

6. Next meeting

A further expert group meeting is foreseen for the beginning of July 2022.