



2024/2788

31.10.2024

COMMISSION DELEGATED REGULATION (EU) 2024/2788

of 23 July 2024

amending Annex II to Regulation (EU) 2019/1009 of the European Parliament and of the Council as regards the polymers in Component Material Category 11

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 ⁽¹⁾, and in particular Article 42(1) thereof,

Whereas:

- (1) Regulation (EU) 2019/1009 lays down rules on the making available on the market of EU fertilising products. Pursuant to the requirements related to the component material categories ('CMCs') 8 and 9 laid down in Part II of Annex II to this Regulation, EU fertilising products may contain certain polymers.
- (2) The ubiquitous presence of tiny fragments of synthetic or chemically modified natural polymers, which are insoluble in water, degrade very slowly and can easily be ingested by living organisms, raises concerns about their general impact on the environment and, potentially, on human health. That is particularly valid for polymers intentionally added to EU fertilising products which are subsequently released to the environment.
- (3) Therefore, Regulation (EU) 2019/1009 set out an obligation for the Commission to assess by 16 July 2024 the biodegradability criteria of two categories of polymers belonging to CMC 9: polymers controlling the water penetration into nutrient particles and thus the release of nutrients ('coating agents') and polymers increasing the water retention capacity or wettability of the product ('water retention polymers').
- (4) On 23 June 2021, the Commission adopted Delegated Regulation (EU) 2021/1768 ⁽²⁾ adding new categories of polymers in Component Material Categories 1 and 11. Such polymers are normally used as technical additives, to increase the agronomic efficiency or the safety of the products. In order to identify which polymers do not cause any environmental concern and therefore should be included in CMCs 1 and 11, the Commission took into account the scientific opinions issued by the Risk Assessment Committee ⁽³⁾ and the Committee for Socioeconomic Analysis of the European Chemical Agency in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁴⁾, on intentionally added microplastic particles to consumer or professional use products of any kind. Thus, only natural polymers, which have not been chemically modified, biodegradable polymers or soluble polymers may be used as materials belonging to CMCs 1 or 11.

⁽¹⁾ OJ L 170, 25.6.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1009/oj>.

⁽²⁾ Commission Delegated Regulation (EU) 2021/1768 of 23 June 2021 amending, for the purpose of its adaptation to technical progress, Annexes I, II, III and IV to Regulation (EU) 2019/1009 of the European Parliament and of the Council laying down rules on the making available on the market of EU fertilising products (OJ L 356, 8.10.2021, p. 8, ELI: http://data.europa.eu/eli/reg_del/2021/1768/oj).

⁽³⁾ RAC ECHA. 2020. Opinion on an Annex XV dossier proposing restrictions on intentionally added microplastics (ECHA/RAC/RES-O-0000006790-71-01/F).

⁽⁴⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1, ELI: <http://data.europa.eu/eli/reg/2006/1907/oj>).

- (5) Subsequently, the Commission adopted Regulation (EU) 2023/2055⁽³⁾ which introduces a general restriction in Regulation (EC) No 1907/2006 of placing on the market of synthetic polymer microparticles ('the general restriction'). Certain categories of polymers and polymers meeting biodegradability or solubility criteria set out in Regulation (EC) No 1907/2006 are excluded from the general restriction.
- (6) EU fertilising products are excluded from the scope of the general restriction, waiting for the outcome of the assessment on biodegradability criteria for coating agents and water retention polymers. However, the requirements for polymers belonging to CMC 11 typically used as technical additives should be aligned to the requirements for polymers exempted from the general restriction. Firstly, the materials belonging to CMC 11 are already subject to some provisions of Regulation (EC) No 1907/2006, specifically adapted to their use as component materials in EU fertilising products. Secondly, the polymers which may be used as materials belonging to CMC 11, typically technical additives, such as anti-dusting or anti-caking agents, are not fulfilling a specific function during a certain period after their application to soils, like coating agents and water retention polymers, they do not have to slowly degrade and there is no justification to introduce or maintain specific biodegradation rules for them. Thirdly, the general restriction in Regulation (EC) No 1907/2006 applies to similar polymers in national fertilising products, except for coating agents or water retention polymers which are to meet the same criteria as the ones to be laid down in accordance with Regulation (EU) 2019/1009. Aligning the requirements for materials belonging to CMC 11 to those in Regulation (EC) No 1907/2006 is thus needed both to ensure coherence by applying the same rules to similar materials contained in either harmonized or non-harmonised products, and to achieve the objectives pursued by introducing the general restriction in Regulation (EC) No 1907/2006, which could be jeopardized by maintaining more lenient rules in Regulation (EU) 2019/1009.
- (7) Regulation (EU) 2019/1009 should therefore be amended accordingly.
- (8) Regulation (EU) 2023/2055 is to start applying to national fertilising products from 17 October 2028. For coherence reasons and to allow sufficient time to adapt to the requirements introduced by this Regulation, the same transitional period should apply,

HAS ADOPTED THIS REGULATION:

Article 1

Point 1 in section 'CMC 11: BY-PRODUCTS WITHIN THE MEANING OF DIRECTIVE 2008/98/EC' in Part II of Annex II to Regulation (EU) 2019/1009 is amended as follows:

- (1) point (b) is replaced by the following:
- '(b) polymers, other than:
- (i) polymers that are the result of a polymerisation process that has taken place in nature, independently of the process through which they have been extracted and which are not chemically modified substances within the meaning of Article 3, point (40), of Regulation (EC) No 1907/2006;
 - (ii) polymers that are degradable in accordance with Appendix 15 of Annex XVII to Regulation (EC) No 1907/2006;
 - (iii) polymers that have a solubility greater than 2 g/L in accordance with Appendix 16 of Annex XVII to Regulation (EC) No 1907/2006; or
 - (iv) polymers that do not contain carbon atoms in their chemical structure;'
- (2) the following point (ba) is inserted:
- '(ba) polymers covered by CMC 8 and CMC 9,'.

⁽³⁾ Commission Regulation (EU) 2023/2055 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards synthetic polymer microparticles (OJ L 238, 27.9.2023, p. 67, ELI: <http://data.europa.eu/eli/reg/2023/2055/oj>).

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from 17 October 2028.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 July 2024.

For the Commission
The President
Ursula VON DER LEYEN