

# Digital labelling of EU fertilising products

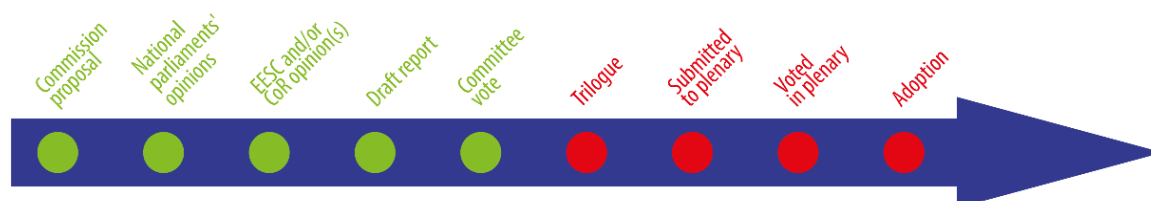
## OVERVIEW

On 27 February 2023, the European Commission published a proposal for a regulation to allow voluntary digital labelling of EU fertilising products. This initiative follows similar EU legislative initiatives establishing the digital labelling of goods in other economic sectors, such as batteries. The rationale for digital labelling is provided by the deployment of digital solutions, such as QR codes, that can lower the cost of labelling while facilitating the updating of content, and also by the increasing complexity of physical labelling, which can prove difficult to read.

Against this backdrop, the proposal introduces a set of voluntary digital labelling schemes for EU fertilising products. The schemes' requirements depend on the packaging arrangements and the users of the products (economic operators or end-users). The proposal also introduces a single set of technological requirements for all established labels, to ensure that labels are accessible free of charge, including for vulnerable groups.

In Parliament, the file was assigned to the Committee on the Internal Market and Consumer Protection. On 25 October 2023, the Committee adopted the report unanimously with 39 votes in favour and one abstention. It includes amendments to improve the accessibility of digital labels, in particular for people with disabilities, as well as for vulnerable individuals. On 17 November 2023, Coreper agreed to the text of the Council negotiating mandate.

<b>Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2019/1009 as regards the digital labelling of EU fertilising products</b>		
<i>Committee responsible:</i>	Internal Market and Consumer Protection (IMCO)	COM(2023) 98 27.2. 2023
<i>Rapporteur:</i>	Maria Grapini (S&D, Romania)	2023/0049(COD)
<i>Shadow rapporteurs:</i>	Antonius Manders (EPP, Netherlands), Catharina Rinzema (Renew, Netherlands), Francisco Guerreiro (Greens, Portugal), Adam Bielan (ECR, Poland)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Conclusion of trilogue negotiations	



## Introduction

[Regulation \(EU\) 2019/1009](#) laying down rules on the making available on the market of EU fertilising products was adopted on 5 June 2019, under Article 114 of the Treaty on the Functioning of the European Union (approximation of laws). It superseded the harmonisation rules on EU fertilisers provided by [Regulation \(EC\) 2003/2003](#).

Since 2019, the Commission has adopted several similar or related legislative initiatives, introducing either digital labelling for specific products or creating legal obligations for product-specific information to be accessible digitally. The proposal for a regulation concerning batteries and waste batteries (2020/0353 (COD)) provides for the digital labelling of batteries; the co-legislators reached a provisional [agreement](#) on this proposal on 9 December 2022. Under the proposal for a regulation establishing a framework for [ecodesign requirements](#) for sustainable products (2022/0095 (COD)), products on the internal market would have to comply with ecodesign and information requirements. Such requirements would be stored in a registry set up by the Commission, and would be accessible via a data carrier (such as a barcode) on the product, its packaging or its documentation.

## Existing situation

Labelling for EU fertilisers is set by Regulation (EU) 2019/1009. The impact of the Regulation has not yet been specifically assessed, but in 2020 the Commission published its [report](#) on the fitness check of the most relevant chemicals legislation (excluding REACH). Among its conclusions, it noted that not all the opportunities to improve and simplify the communication of chemical hazards and safety information to consumers have been seized, including those presented by digital technologies.

In addition, the Regulation has extended labelling requirements, which creates an overload in the contents of each label. While such an extension caters better for the appropriate use of products characterised by innovative components, as well as growing social interest in their environmental and health impacts, it also constrains labels' readability.

In this context, the proposal is an opportunity to make the most of digital solutions to increase the readability of labelling without compromising the objectives of protecting public health and the environment.

## European Parliament starting position

On 10 July 2020, the Parliament adopted a [resolution](#) on the chemical strategy for sustainability, where it welcomed Commission investments promoting innovative digital technologies to track chemicals along the supply chain. It also asked for the development of a specific digital tool to ensure that imported and exported chemicals and products comply with the same standards as those governing chemicals and products produced and used in the Union.

In its [resolution](#) of 10 February 2021 on the new circular economy action plan, the Parliament supported the introduction of digital product passports. It considers that this would enable companies, consumers and market surveillance authorities to keep track of a product's climate, environmental, social and other impacts throughout the value chain, and have reliable information on the durability of the product and its maintenance, reuse, repair and dismantling possibilities and end-of-life handling.

On 16 February 2023, the Parliament adopted a [resolution](#) on ensuring the availability and affordability of fertilisers. Digitalisation is deemed to improve fertilisation efficiency, thereby helping to alleviate the adverse ecological impacts, as well as the increased costs of fertilisers (due, among other causes, to the pressures on energy prices and certain raw materials following Russia's illegal invasion of Ukraine).

## European Council and Council of the EU starting position

On 15 March 2021, the Council of the EU adopted [conclusions](#) on the sustainable chemicals strategy of the Union, where it noted that digital tools can support compliance with European environmental provisions and the enforcement of EU environmental law.

## Preparation of the proposal

### Public consultation

Following the publication of the above-mentioned 2020 report on the fitness check, the Commission has conducted two rounds of interactions with stakeholders and national authorities. Between 14 July and 20 September 2021, on the basis of an [inception impact assessment](#), the Commission collected feedback from 70 respondents regarding the introduction of digital labelling in three regulations: [Regulation \(EC\) No 1272/2008](#), Regulation (EU) 2019/1009 and [Regulation \(EC\) No 648/2004](#) on, respectively, classification, labelling and packaging of chemical substances and mixtures, fertilising products and detergents. A majority of respondents support the introduction of digital labelling.

The Commission received more than 200 [responses](#) to a public consultation organised from 24 November 2021 to 17 February 2022. A majority of respondents said they had already used digital technologies to access information on (relevant) products, and to support the provision of information through digital technologies with complementary purposes: such as providing more detailed and/or targeted information, ensuring accessibility in several languages, and facilitating the update of information. The Commission also consulted the public on the arrangements for providing such digital labels. For instance, on 15 March 2022 the Commission Expert Group on Fertilising Products was convened to [discuss](#) how to design such digital labels for a wide range of users. The [impact assessment report](#) also mentions the organisation of 'usability testing' sessions, where up to 48 participants, from complementary professional and geographical backgrounds, were asked to test several technological solutions, such as [QR codes](#), [datamatrix codes](#), [1D barcodes](#) and [URLs](#). QR codes and URLs were deemed to be the most easily usable and preferred solutions.

### The impact assessment

The [impact assessment](#) received a positive opinion from the Regulatory Scrutiny Board on 22 July 2022. It includes three main policy options: a) development of a guidance document; b) allowing the optional use of digital labels for fertilisers through different sub-options (such as differentiating the information content to be digitalised among the labelling requirements); and c) ensuring the digital provision of all relevant information for specific categories of products. The preferred option put forward in the impact assessment is the optional digitalisation of certain information, without making a distinction between professional/non-professional users, combined with the optional digitalisation of all the information for products sold to industrial users or products sold in bulk.

## The changes the proposal would bring

Article 4(1) of Regulation (EU) 2019/1009 provides that EU fertilising products shall be labelled in accordance with several labelling requirements, defined in annex to the Regulation (in particular Annex III). The proposal mainly introduces a set of digital labels for EU fertilising products on a voluntary basis. The extent of the information to be provided digitally depends on the nature of the buyer (economic operator or end-user). It contains five articles, which modify Articles 2, 6, 8 and 42 of Regulation (EU) 2019/1009, and includes three new articles (Article 11(a), Article 11(b) and Article 11(c)), as well as Annex III.

**Article 1** provides for a new point 10(a) in Article 2 of Regulation (EU) 2019/1009 to specify that packaging means a sealable receptacle holding up to 1 000 kg.

**Article 11(a)** on the forms of labelling defines two main schemes for the digital labelling of EU fertilising products. Article 11(a)(3) specifies that, whenever such products are made available on the market to end-users, the digital label is optional, and its content is always to be duplicated on the physical label required by Regulation (EU) 2019/1009. Article 11(a)(4) provides an exception concerning products made available on the market to end-users without packaging. In such a case, as an alternative to the leaflet mentioned in the Regulation, a digital label can be used. When EU fertilising products are made available on the market to economic operators, the digital label can be used as an alternative to the physical label provided for in the Regulation.

Article 11(a) also applies these new schemes in the two articles of Regulation (EU) 2019/1009 concerning the respective obligations of manufacturers (Article 6) and importers (Article 8).

**Article 11(b)** spells out the content and the technological requirements to be applied to digital labels. Article 11(b)(1) and (2) specify the nature of the information to be included in the digital label and presented separately from any additional content the economic operator would like to add in the digital label. Article 11(b)(3) provides for the IT requirements of the label, which shall be accessible free of charge, searchable, and presented in a way that facilitates the needs of vulnerable groups. The availability of digital labels – for a period of five years from placement on the market – is aligned with that of physical labels.

**Article 11(c)** on obligations of economic operators providing a digital label aims to minimise the use of data by economic operators to avoid any use that is not absolutely necessary for providing the information to be included in the digital label. Article 11(c)(5) also allows the Commission to adopt delegated acts to update the requirements to be complied with by the digital labels. This includes the possibility to harness new IT developments while ensuring technological neutrality.

Article 2 provides for the entry into force of the Regulation on the twentieth day following that of its publication in the Official Journal of the EU. However, it shall apply only from the first day of the 31st month after its entry into force.

## Advisory committees

The European Economic and Social Committee adopted an [opinion](#) on the EU strategy on fertilisers during its plenary session of March 2023, based on the report prepared by Arnold Puech d'Alissac (Employers – GR I/France). While being primarily focused on the availability and affordability of fertilisers for EU farmers, the opinion still contains broad support for harnessing innovative technologies to provide solutions to farmers.

## National parliaments

Five national parliaments gave reasoned opinions on the grounds of subsidiarity, with three of them sending a specific contribution by the deadline of 25 April 2023. The Romanian Chamber of Deputies [supports](#) the proposal and suggests monitoring the effects of the new provisions on the environment and on competition. The Spanish Cortes Generales issued an [opinion](#) supporting the proposal, while asking to keep physical labels on packaging to facilitate farmers' compliance with their legal requirements. It also raised the need to ensure the consistency of this initiative with the proposals on ecodesign requirements and on the digital product passport. The German Bundesrat [suggested](#) further extending the duration of the availability of data conveyed by the digital label.

## Stakeholder views<sup>1</sup>

In general, economic operators in the value chain of EU fertilising products consider [digital solutions](#) to be a driver of agricultural performance. In particular, they consider the extension of digital labelling as an opportunity to reduce the financial costs and the environmental impacts associated with the production of packaging prepared in several languages, while facilitating the actual dissemination of the information contained in the relevant label. For instance, the Borealis group is

of the [opinion](#) that the printing of labelling content on physical packaging is not conducive to readability in general, especially for heavy packages.

Regardless of the physical characteristics of the packaging, there is broad agreement among producers that the volume of information to be disclosed is already significant enough to make it difficult to lay it out in a reader-friendly way (illustrated, for instance, in a [paper](#) by the French business association of the fertilising industries). In a similar vein, the downstream users of chemical coordination groups estimate, in a [position paper](#), that the benefits of digitalising labels would prove effective only if the information to be disclosed were not to be extended beyond the current obligations, and if technological neutrality were to be ensured.

Another challenge relates to the management of the transition to digitalising labelling, especially in small and medium-sized enterprises (SMEs). In a [statement](#), SMEunited stresses that the legal framework should not lead to an immediate general mandatory requirement to digitalise all labelling. A voluntary framework should be designed instead, which would give all economic operators the time to develop their solution. This is in line with the view of other operators that would like to start experimenting with digital labelling as soon as possible (see, for instance, the [opinion](#) of the Spanish national federation of fertiliser manufacturers).

The digital labelling of EU fertilising products is also assessed against the need to ensure and improve consumer protection, as well as the environment. The Danish Ministry of Environment has published a [paper](#) where it outlines several requirements to reduce the impact of harmful chemicals on health and the environment. Importantly, the Ministry stresses that not all information should be moved digitally. The availability of digital information on the place of purchase should not be considered enough in itself to take informed choices. The granularity of the information to be moved digitally, as well as the semantics employed, should be harmonised across economic sectors, to improve readability. Then, the accessibility of the information contained on the digital label should be enabled by two complementary objectives: firstly, technological accessibility; secondly, the information should be clear and understandable.

The Swedish Chemicals Agency has adopted [comments](#) in a similar vein: they consider that digital information has to be seen as complementary to physical information. Interestingly, they also refer to the need for the EU law to be aligned with the United Nations globally harmonised system for classification and labelling of chemicals.<sup>2</sup>

The principle of complementarity between physical and digital labels, as well as the need to ensure the readability and accessibility of digital labels, is also supported by consumer organisations, as per the [comments](#) from BEUC (the European consumer organisation).

## Legislative process

The file was assigned to the Parliament's Committee on the Internal Market and Consumer Protection; the Committee on Agriculture and Rural Development provided an opinion. On 25 October 2023, the Committee adopted its [report](#) unanimously with 39 votes in favour and one abstention. Under Amendment 21, a newly proposed Article 6a offers an option to economic operators to provide the required information digitally on the packaging (or on the accompanying document), even when they provide physical labelling. Amendment 20 to Article 6(7) b would require the information on the physical labelling to be 'prominently placed on the packaging'. The report also aims to optimise the user-friendliness of digital labelling, including its IT requirements and its contents. Amendment 18 to Article 2(1) 16a extends the definition of data carrier to any 'externally visible automatic identification data capture medium', facilitating the consistency of the provision with technological evolution. Under Amendment 26, Article 11b (3) would require the updating of the digital content until the expiry date of the fertilising product, or by 10 years after placement of the product on the market if there is no such expiry date. Regarding the content provided by the digital label, an amendment to Article 11b (1) would allow economic operators to include recommendations and best practices for the use of the fertilising product.

Another set of amendments aim to improve the accessibility of labels, both physical and digital, for people with disabilities, as well as for vulnerable individuals. For instance, Amendment 25 to Article 11b (3) specifies the need to adapt digital labelling to facilitate accessibility for persons with disabilities. Amendments 19 and 24, to Article 6(7) a and Article 8 (4) a respectively, both require economic operators to choose digital or physical formats appropriate for conveying information to people with disabilities. The report also amends the proposal to create a new Article 42 (10a), which would require the Commission to carry out an evaluation of the proposed regulation five years after its entry into force. The scope of the evaluation would notably cover the impact of the provisions on the proper functioning of the internal market, the level of consumer protection and the impact on businesses, especially micro-, small and medium-sized enterprises.

On 17 November 2023, COREPER agreed to the text of the Council negotiating [mandate](#). It mainly contains an obligation for economic operators who make fertilising products available on the market to end-users to post the labelling information in a visible place at the point of sale, if they only provide digital labelling. The mandate also includes an amendment adding a requirement to the delegated acts to be adopted by the Commission, which should ensure that any modification of the digital label would not compromise the ability of market surveillance authorities to verify the previous content of the label.

## EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Halleux V., [New EU regulatory framework for batteries: setting sustainability requirements](#), EPRS, European Parliament, March 2022.

Sajn N., [Ecodesign for sustainable products](#), EPRS, European Parliament, May 2022.

## OTHER SOURCES

European Parliament, [Digital labelling of EU fertilising products](#), Legislative Observatory (OeIL).

Fuchs K. et al., '[Effects of Digital Food Labels on Healthy Food Choices in Online Grocery Shopping](#)', *Nutrients*, 2022.

## ENDNOTES

- <sup>1</sup> This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.
- <sup>2</sup> [The United Nations Globally Harmonised System of Classification and Labelling of Chemicals](#) provides globally uniform physical, environmental, and health and safety information on hazardous chemical substances and mixtures. It defines the requirements on the classification of chemicals for physical-chemical, health, and environmental hazards of chemical substances and mixtures. It also includes standardised hazard information to facilitate the global trade of chemicals. The GHS was adopted by the United Nations in 2002 and is periodically updated. As a front-runner, the EU implemented the GHS in the EU in 2008.

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