



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
The Director

Brussels,
PP/nb(2019)8854738

Dear [REDACTED]

Thank you for your e-mail of 25 November 2019 (Int. Ref. ARES(2019)7243388) asking for clarification with respect to the evolution of provisions concerning substances and co-formulants approved in organic production under the new organic Regulation and for an update on the review of the list of substances approved in organic production. I will address your question assuming you are referring to co-formulants included in plant protection products. Please accept my apologies for the late reply.

Currently, in organic farming, plant protection products may be used only when the measures described in Article 12(1)(g) and (h) of Regulation (EC) No 834/2007¹ do not adequately protect plants from pests. Furthermore, Article 16(1) of Regulation (EC) No 834/2007 requires that products and substances to be used as plant protection products in organic production have to be specifically authorised and included in a restricted list. Those products and substances may only be used in so far as the corresponding use is authorised in general agriculture in the Member States concerned in accordance with the relevant Union provisions or national provisions in conformity with Union law.

At present a restricted list of **active substances** authorised for use in plant protection products in organic farming is set out in Annex II to Regulation (EC) No 889/2008², which indeed refers to active substances approved under Regulation (EU) No 540/2011³.

¹ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02007R0834-20081010&qid=1396976187958&from=EN>

² Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1)

[REDACTED]

Products and substances, other than active substances, used in the composition of plant protection products, such as co-formulants, have not been authorised in Annex II of Regulation (EC) No 889/2008. They are subject to the national provisions as laid down in Article 16(4) and (5) of Regulation (EC) No 834/2007.

In order to address your question on co-formulants, I will refer to the specific horizontal rules on plant protection products, in particular to Regulation (EC) No 1107/2009⁴ concerning the placing of plant protection products on the market. While the approval of active substances is dealt with at European level, the authorisation of a plant protection product (including its composition and its conditions of use) is the responsibility of the Member States. Thus, whether a plant protection product may contain or not a certain co-formulant, is part of the authorisation given by a Member State on its territory. Nevertheless, Article 27 of Regulation (EC) No 1107/2009 provides for the setting of a negative list of co-formulants which are not accepted for inclusion in plant protection products to be defined at EU level. The Commission has prepared a draft Regulation establishing a first list of unacceptable co-formulants, which will be soon made available for commenting via the feedback mechanism⁵ before being submitted to a vote in the Standing Committee on Plants, Animals, Food and Feed..

You asked for an update on the new provisions on this subject under the new organic Regulation (EU) 2018/848⁶ which will be applicable from 1 January 2021 and therein, the same principles of prevention and restriction of use of plant protection products in organic production are confirmed under its Article 6.

Moreover, Article 24 of the same organic Regulation provides for the Commission to authorise certain products and substances for use in organic production and with respect to plant protection products, it clearly refers to the active substances to be used in plant protection products. In addition, Article 9 (3) provides for the following: *“For the purposes and uses referred to in Articles 24 and 25 and in Annex II, only products and substances that have been authorised pursuant to those provisions may be used in organic production, provided that their use in non- organic production has also been authorised in accordance with the relevant provisions of Union law and, where applicable, in accordance with national provisions based on Union law. The following products and substances referred to in Article 2(3) of Regulation (EC) No 1107/2009 shall be allowed for use in organic production, provided that they are authorised pursuant to that Regulation:*

- (a) safeners, synergists and co-formulants as components of plant protection products;*
- (b) adjuvants that are to be mixed with plant protection products.*

³ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and Council as regards the list of approved active substances (OJ L 153, 11.6.2011 p.1)

⁴ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC, (OJ L 309, 24.11.2009, p.1)

⁵ https://ec.europa.eu/info/law/better-regulation/initiatives?facet_select_field=brp_inve_resource_type;parents_all=744&field=brp_inve_category=All&field=brp_inve_fb_status=All&field=brp_inve_leading_service=All%20?&topics=All&stage_type=ISC_WORKFLOW&feedback_status=All&type_of_act=All

⁶ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018 p.1)

The use in organic production of products and substances for purposes other than those covered by this Regulation shall be allowed, provided that their use complies with the principles laid down in Chapter II.”

As a consequence, the new organic Regulation clarifies that Member States can allow co-formulants to be used in organic production, provided that they are authorised in compliance with horizontal rules and their use complies with the principles laid down in Chapter II of organic legislation.

Finally, the Commission is currently working on proposals for implementing acts in accordance with Article 24(9) to authorise products and substances in accordance with paragraphs 1 and 2 of Article 24 which will concern the following categories of products and substances:

- a) active substances to be used in plant protection products;
 - b) fertilisers, soil conditioners and nutrients;
 - c) non-organic feed material of plant, algal, animal or yeast origin or as feed material of microbial or mineral origin;
 - d) feed additives and processing aids;
 - e) products for the cleaning and disinfection of ponds, cages, tanks, raceways, buildings or installations used for animal production;
 - f) products for the cleaning and disinfection of buildings and installations used for plant production, including for storage on an agricultural holding;
 - g) products for cleaning and disinfection in processing and storage facilities.
- a) food additives and processing aids;
 - b) non-organic agricultural ingredients to be used for the production of processed organic food;
 - c) processing aids for the production of yeast and yeast products.

The proposals will be based on the lists of approved substances which are currently included in the relevant Annexes of Regulation (EC) No 889/2008 and at the same time will take into account any available technical reports by the European Expert Group for Technical advice on Organic Production (EGTOP) published in the most recent period. Reports of EGTOP are publicly available at the following address:

https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/co-operation-and-expert-advice/egtop-reports_en

The present opinion is provided on the basis of the facts as set out in your e-mail of 25 November 2019 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

