

Manufacturing and marketing fertilisers if there's no Brexit deal

Summary

How the manufacturing and marketing of fertilisers would be affected if the UK leaves the EU with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect businesses that manufacture or market fertilisers.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario>) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

This notice explains how the manufacturing and marketing of fertilisers would be affected if the UK leaves the EU in March 2019 with no deal.

Before 29 March 2019

Rules and requirements around manufacturing and marketing fertilisers in the UK are currently partially harmonised with the EU. This means there are two frameworks - a domestic framework and an EU framework - under which manufacturers can choose to market their products.

The domestic framework consists of the Fertilisers Regulations 1991 (for Great Britain) and the Fertiliser Regulations 1992 (for Northern Ireland). These set out the requirements on the composition, nutrient content, marking, labelling and enforcement of material described as fertiliser, but do not include material designated as 'EC fertiliser' under the EU framework. Fertilisers with a high nitrogen content are additionally subject to the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003 (for Great Britain); in Northern Ireland there are licensing requirements for ammonium nitrate under the Control of Explosives Precursors etc. Regulations (Northern Ireland) 2014.

The EU framework (Regulation (EC) No 2003/2003) allows qualifying fertilisers to be designated as 'EC fertilisers' and placed on the market across the EU. The key requirements of the EU framework are:

- The 'manufacturer' must be established within the EU. 'Manufacturer' in the EU framework is defined as: 'the natural or legal person responsible for placing a fertiliser on the market; in particular a producer, an importer, a packager working for its own account, or any person changing the characteristics of a fertiliser, shall be deemed to be a manufacturer. However, a distributor who does not change the characteristics of the fertiliser shall not be deemed to be a manufacturer.'
- The designation of 'EC fertiliser' must only be used for fertilisers complying with the EU Regulation.
- The fertiliser must be tested to the standards required by a laboratory approved in a list published by the European Commission.

After March 2019 if there's no deal

If the UK leaves the EU without a deal, the current domestic framework allowing fertilisers to be sold in the UK will remain in place, as it is separate from the EU framework.

Continuing both regimes in parallel will provide the greatest continuity in the short-term, and would be the same as the existing requirements. Over time, the regulatory framework would then be reviewed and rationalised. However, there would be some implications for material labelled 'EC fertiliser' in accordance with the EU Regulation and sold in the UK:

- there would be a suitable time-limited adjustment period during which 'EC fertiliser' could be placed on the UK market as now, to ensure continued supply. Government will consult with industry as to how long this time period needs to be, but it is envisaged to be no more than two years. This would mean UK or EU manufacturers would not have to change their labels immediately.
- there would be an option to use a new 'UK fertiliser' label for fertilisers placed on the UK market after we leave, in accordance with the EU Regulation as converted into UK law.
- after the end of the time-limited adjustment period, fertilisers placed on the UK market would need to comply with the current domestic regime or with the requirements of the new 'UK fertiliser' regime.

Government will publish a new list of laboratories approved to test to the standards required for the new 'UK fertiliser' label. The laboratories would need to meet the same requirements as they do now and test against the same standards as set out in the current EU Regulation.

UK manufacturers would still be able to manufacture their products as 'EC fertilisers' in accordance with the EU framework and UK companies could still export 'EC fertilisers' to the EU. However, they would need to ensure they comply with the EU Regulation, including the requirement that the manufacturer is established within the EU, as broadly defined in the Regulation. Any necessary sampling or analysis must be carried out by a competent laboratory included in the Commission's published list.

There would be no material change for users of fertilisers. All fertilisers currently marketed in the UK could continue to be imported and marketed in the UK provided they met the requirements set out above. The same standards would continue to apply to fertiliser products.

More information

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU Member States. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.

Norway, Iceland and Liechtenstein are party to the Agreement on the European Economic Area and participate in other EU arrangements. As such, in many areas, these countries adopt EU rules. Where this is the case, these technical notices may also apply to them, and EEA businesses and citizens should consider whether they need to take any steps to prepare for a 'no deal' scenario.