

FRENCH REPUBLIC

Ministry of Agriculture, Agri-food and
Food Sovereignty

Order of amending the maximum cadmium content permitted in certain fertilising products and the maximum permissible inputs of this contaminant when fertilising products are used

NOR:

The Minister for Health, Families, Independence and People with Disabilities, the Minister for the Economy, Finance and Industrial, Energy and Digital Sovereignty, the Minister for Ecological Transition, Biodiversity and International Negotiations on Climate and Nature and the Minister for Agriculture, Agri-Food and Food Sovereignty.

Having regard to Regulation (EU) No 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;

Having regard to the Order of xxx establishing the values and procedures for assessing the safety and end-of-waste status criteria for fertilisers and growing media;

Having regard to the Order of xxx establishing the maximum permissible levels of metal trace elements and organic trace compounds added to the soil when fertilisers are used;

Having regard to opinions 2020-SA-0146 of 28 January 2021 and 2021-AST-0120 of 2 November 2021 of the National Agency for Food, Environmental and Occupational Health and Safety;

Having regard to the observations made during the public consultation carried out between ... and ... pursuant to Article L123-19-1 of the Environmental Code;

Having regard to notification No xxx of xxx addressed to the European Commission,

Hereby order:

Article 1

As of 1 January 2030,

I. the Order of xxx establishing the values and procedures for assessing the safety and end-of-waste status criteria for fertilisers and growing media is amended as follows:

1. Table 1 of Annex I is replaced by Annex 1;
2. Table 1 of Annex II is replaced by Annex 2;
3. Table 1 of Annex III is replaced by Annex 3.

II. Table 1 of Annex II to the Order of xxx establishing the maximum permissible levels of metal trace elements and organic trace compounds added to the soil when fertilisers are used is replaced by Annex 4.

Article 2

I. No later than 1 January 2032, the Government shall draw up a report on the possibility of reducing the cadmium limit to 20 milligrams of cadmium per kilogram of P_2O_5 for mineral or organo-mineral fertilisers with a P_2O_5 content exceeding 5% by gross mass and up to 1 milligram of cadmium per kilogram of dry matter for fertilising products with a P_2O_5 content of less than 5% by gross mass.

This report shall be accompanied by a proposed implementation timetable for achieving the above-mentioned targets by 1 January 2038 at the latest. This shall be established on the basis of the technological considerations and socio-economic factors available, including the security of supply of fertilising products.

II. On the date established on the basis of the conclusions of the report referred to in I., and no later than 1 January 2038, the Order of xxx establishing the values and procedures for assessing the safety and end-of-waste status criteria for fertilisers and growing media shall be amended as follows:

1. for mineral and organo-mineral fertilisers with a P_2O_5 content of more than 5% by gross mass, the maximum cadmium content indicated in Table 1 in Annexes I and II shall be set at 20 milligrams of cadmium per kilogram of P_2O_5 ;
2. for mineral and organo-mineral fertilisers with a P_2O_5 content of less than 5% by gross mass, the maximum cadmium content indicated in Table 1 in Annexes I and II shall be set at 1 milligram of cadmium per kilogram of dry matter;
3. for fertilisers and growing media other than those referred to in 1. and 2., the maximum cadmium content shall be lowered as far as possible on the basis of the conclusions of the report referred to in I.

III. On the date established on the basis of the conclusions of the report referred to in I., and no later than 1 January 2038, the Order of xxx establishing the maximum permissible inputs of metal trace elements and organic trace compounds when fertilisers are used shall be amended as follows:

1. the reference annual input of cadmium for category A1, A2 and B2 fertilisers, as referred to in Table 1 of Annexes I and II, is reduced to 2 grams per hectare per year;
2. the one-off input of cadmium for category A1, A2 and B2 fertilisers, as referred to in Table 1 of Annexes I and II, is reduced to 6 grams per hectare.

Article 3

Fertilisers and growing media that do not comply with the maximum levels established for the purposes of Article 1 shall no longer be placed on the market or used after 1 January 2030.

Article 4

This Order shall be published in the *Official Journal* of the French Republic.

Done on [].

The Minister for Agriculture, Agri-food
and Food Sovereignty,

Annie Genevard

The Minister for Ecological Transition,
Biodiversity and International Negotiations on
Climate and Nature,

Monique Barbut

The Minister for the Economy, Finance
and Industrial and Digital Sovereignty,

Roland Lescure

The Minister for Health, Families,
Independence and Persons with Disabilities,

Stéphanie Rist

Annex 1: Table 1. Maximum levels of trace metals and chlorine (in mg/kg of dry matter)

Denominations	Organic fertilisers	Organo-mineral fertilisers	Mineral fertilisers	Inorganic micronutrient fertilisers	Liming material	Organic soil improver	Other soil improvers	Growing medium	Biostimulant	Other fertilisers	Ash or other thermal oxidation materials or derivatives*	Biochar or other pyrolysis and gasification materials*	Recovered high purity materials*
Cd	1.5	2 ⁽¹⁾	2 ⁽¹⁾	200 ⁽³⁾	2	2	1.5	1.5	1.5	1.5	1.5	1.5	1.5
Total Cr	/	/	/	/	/	/	/	/	/	/	400 ⁽⁶⁾	/	400 ⁽⁸⁾
Cr VI⁽⁵⁾	2	2	2	/	2	2	2	2	2	2	2	2	2
Hg	1	1	1	100 ⁽³⁾	1	1	1	1	1	1	1	1	1
Ni	50	50	100	2000 ⁽³⁾	90	50	100	50	50	50	50	50	50
Pb	120	120	120	600 ⁽³⁾	120	120	120	120	120	120	120	120	120
As⁽⁴⁾: As or Inorganic As	40	40	40		40	40	40	40	40	40	40	40	40
	40	40	40	1000 ⁽³⁾	40	40	40	40	40	40	40	40	40
Cu	300	600 ⁽²⁾	600 ⁽²⁾	/	300	300	300	200	600	300	600	600	600
Zn	800	1500 ⁽²⁾	1500 ⁽²⁾	/	800	800	800	500	1500	800	800	800	800
Tl	/	/	/	/	/	/	/	/	/	/	2 ⁽⁶⁾	2 ⁽⁷⁾	2 ⁽⁸⁾
V	/	/	/	/	/	/	/	/	/	/	600 ⁽⁶⁾	/	/
Cl	/	/	/	/	/	/	/	/	/	/	30,000 ⁽⁶⁾	30,000 ⁽⁷⁾	/

(1) If P₂O₅ < 5% in gross mass. Otherwise 40 expressed in mg/kg of P₂O₅.

(2) These levels do not apply when Cu or Zn has been intentionally added as a declared trace element.

(3) These levels are expressed in mg relative to the total content of trace elements expressed in kg [mg/kg of the total content of trace elements, i.e. boron (B), cobalt (Co), copper (Cu), iron (Fe), manganese (Mn), molybdenum (Mo) and zinc (Zn)].

(4) Analysis of inorganic arsenic is not compulsory if the total arsenic content is within the maximum level for inorganic arsenic. Analysis of total arsenic is optional if the maximum content of inorganic arsenic is respected.

(5) Analysis of chromium VI is not mandatory if the total chromium content complies with the maximum content of chromium VI. With the exception of ash or other thermal oxidation materials or derivatives and recovered high purity materials, analysis of total chromium is optional if the maximum chromium VI content is respected.

(6) The maximum levels for total chromium, thallium, vanadium and chlorine shall be complied with in accordance with Part II, CMC13, of Annex II to Regulation (EU) No 2019/1009.

(7) The maximum levels for thallium and chlorine shall be complied with in accordance with Part II, CMC14, of Annex II to Regulation (EU) No 2019/1009.

(8) The maximum levels for total chromium and thallium shall be complied with in accordance with Part II, CMC15, of Annex II to Regulation (EU) No 2019/1009.

Ash, biochar or high purity materials used to manufacture a fertiliser or growing medium shall comply with the criteria in Table 1.

In the case of a mixture consisting of at least two names, each of them shall comply with the corresponding requirements of Table 1.

Annex 2: Table 1. Maximum levels of trace metals and chlorine (in mg/kg of dry matter)

Trace metals	Maximum levels
Cd: If the P₂O₅ content is less than 5% by gross mass	3 or 2 for mineral and organo-mineral fertilisers
If the P₂O₅ content is greater than 5% by gross mass	40 mg/kg of P ₂ O ₅
Cr⁽¹⁾: Total Cr or Cr VI	120 ⁽²⁾ 2
Hg	2
Ni	60 ⁽³⁾
Pb	180
As⁽⁴⁾: Total As or Inorganic As	40 40
Cu	600 ⁽⁵⁾
Zn	1500 ⁽⁵⁾ ⁽⁶⁾
Tl⁽⁷⁾	2
V⁽⁸⁾	600
Cl⁽⁹⁾	30,000

(1) Analysis of chromium VI is not mandatory if the total chromium content complies with the maximum content of chromium VI. Analysis of total chromium is optional if the maximum chromium VI content is respected.

(2) Except for the designations specific to fertilisers produced and used on Reunion Island under Standard NF U 44-051: 330 mg/kg of dry matter.

(3) Except for the names in Standard NF U 44-051 specific to fertilisers produced and used on Reunion Island: 200 mg/kg of dry matter.

Except for liming materials that comply with a marketing authorisation provided for in Article L255-2, or with a permit provided for in Articles L255-3 and L255-4, or with a compulsory standard or specification referred to in Article L255-5(1) and (3) respectively: 90 mg/kg of dry matter.

Except for mineral fertilisers and ‘other soil improvers’ that comply with a marketing authorisation provided for in Article L255-2, or with a permit provided for in Articles L255-3 and L255-4, or with a mandatory standard or specification referred to in Article L255-5(1) and (3) respectively: 100 mg/kg of dry matter.

In the case of growing media composed entirely of mineral components and intended for professional use in horticulture, green roofs or vertical gardens, this limit value applies to the bioavailable content.

(4) Analysis of inorganic arsenic is not compulsory if the total arsenic content is within the maximum level for inorganic arsenic. Analysis of total arsenic is optional if the maximum content of inorganic arsenic is respected.

(5) These levels do not apply when Cu or Zn has been intentionally added as a declared trace element.

(6) Specific labelling for products with values between 800 and 1500 ppm.

(7) Only for ash (or other thermal oxidation materials or derivatives), biochar (or other pyrolysis and gasification materials) and recovered high purity materials, as defined in Annex II, Part II of Regulation (EU) No 2019/1009.

(8) Only for ash (or other thermal oxidation materials or derivatives) as defined in Annex II, Part II of Regulation (EU) No 2019/1009.

(9) Only for ash (or other thermal oxidation materials or derivatives) and biochar (or other pyrolysis and gasification materials) defined in Annex II, Part II of Regulation (EU) No 2019/1009.

Annex 3: Table 1. Maximum levels of trace metals (in mg/kg of dry matter)

Trace metals	Maximum levels
Cd	5
Cr⁽¹⁾: Total Cr or Cr VI	800 2
Hg	5
Ni	200
Pb	500
Total As or Inorg. As⁽²⁾	60 60
Cu	1000
Zn	3000

(1) Compliance with the maximum total chromium content is mandatory. Analysis of chromium VI is not mandatory if the total chromium content complies with the maximum content of chromium VI.

(2) Analysis of inorganic arsenic is not compulsory if the total arsenic content is within the maximum level for inorganic arsenic.

Annex 4: Table 1 – Maximum permissible inputs of metal trace elements for a Category B2 fertiliser

	Reference annual input (flow) (g/ha)	One-off input (g/ha) with the input frequency adjusted accordingly
As	90	270
Cd	5	15
Cr	600	1800 ⁽¹⁾
Cu	1000	3000
Hg	10	30
Ni	300	900 ⁽²⁾
Pb	900	2700
Zn	3000	9000

(1) Except for organic soil improvers originating exclusively from volcanic soils on Reunion Island for use exclusively on sugar cane crops grown on Reunion Island and on public green spaces on Reunion Island: 4,950 g/ha.

(2) Except for organic soil improvers originating exclusively from volcanic soils on Reunion Island for use exclusively on sugar cane crops grown on Reunion Island and on public green spaces on Reunion Island: 3000 g/ha.

‘Public green spaces’ means vegetated public areas, to the exclusion of any area in which plants are grown for human or animal consumption.