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EU restrictions on microplastics may affect agricultural products

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Report Highlights:

At the request of the European Commission, the European Chemicals Agency (ECHA) assessed the environmental and health risks posed by the use of intentionally added microplastics. The resultant proposed restriction includes the use of microplastics for agricultural and horticultural purposes, including polymers utilized for controlled-release fertilizers, capsule suspension plant protection products (PPPs), seed coatings, and biocides. Currently, the proposal to restrict microplastics is open for review and comment. Public consultation on the proposal is due by September 20, 2019. The Commission notes that comments on exposure/risk, benefits, and derogations will have the most impact if submitted by July 20, 2019.

General Information:

At the request of the European Commission, the European Chemicals Agency (ECHA) assessed the environmental and health risks posed by the use of intentionally added microplastics. On January 30, 2019, ECHA publicly released a restriction proposal for the placement of intentionally added microplastics on the EU market. This proposal aligns with the 2018 European Commission's Plastic Strategy to reduce the effect of plastic as an environmental pollutant. The restriction of intentionally added microplastics is possible under REACH legislation.

"Microplastics" is a term used to refer to small, sometimes microscopic, solid particles made of synthetic polymers. "Intentionally added microplastics" are those added to consumer and industrial products to serve a functional purpose (such as polymers used for seed coatings). Such microplastics are commonly used in both agriculture and horticulture.

The proposed restriction includes the use of microplastics for agricultural and horticultural purposes, including polymers utilized for controlled-release fertilizers, capsule suspension plant protection products (PPPs), seed coatings, and biocides. Currently, the proposal is being reviewed by the European Commission and is open for evaluation. Public consultation on the proposal is due by September 20, 2019. The Commission notes that comments on exposure/risk, benefits, and derogations will have the most impact if submitted by July 20, 2019. After the consultation period, ECHA will share its opinion with the Commission. In Spring 2020, it is expected that the Commission will release their decision to restrict intentionally added microplastics under REACH.

If the restriction is adopted, all importers and downstream users of substances containing intentionally added microplastics with a concentration equal to or greater than 0.01% weight by weight (w/w) are expected to comply with the new legislation. Compliance will include a transition period to allow for the substitution of biodegradable alternatives as well as labeling and reporting changes. This includes transitions over time to biodegradable alternatives as well as labeling and reporting changes for derogated products.

For controlled-release fertilizers, the transitional period is between 5-10 years. More specifically, fertilizing products not regulated by the last EU restriction on fertilizers [1] are guaranteed a transition period of +5 years to allow time to develop new biodegradable polymers. Some products, such as fertilizer additives like caking agents, have a transition period as short as 12-18 months. Capsule suspension plant protection products and biocides are provided with a transition period of 5 years. Additionally, other agricultural and horticultural uses (e.g. seed treatment, plant protection products as defined in Regulation (EC) no. 1107/2009, and biocides as defined in regulation (EU) 528/2012) are also provided a transition period of +5 years to allow time to develop new biodegradable alternatives.

Note that fertilizing products that were included in the last EU restriction on fertilizers are exempt from the new restriction to prevent double regulation. However, all derogated products for consumer and professional use containing intentionally added microplastics are expected to comply with new labeling standards within 18 months. Such products must contain a label with the phrase 'contains microplastics > 0.01%', along with user instructions for proper disposal of the product. Additionally, derogated

products must submit annual reports to the ECHA starting within 12 months.

The ECHA recognizes that ambiguity surrounding the term biodegradable has resulted in no formal definition of the characteristic. As such, the ECHA has included criteria for demonstrating the (bio)degradation of viable microplastic alternatives (see Table 21, pg. 92 of the proposal). For products with transition times (i.e. fertilizers and seed coatings), if no proportional biodegradable alternative becomes available, then the ECHA would require a review of proportionality of the proposed action.

The European Seed Association (ESA) has released comments about the difficulty of finding proportional biodegradable alternatives for traditional seed coatings. The ESA notes that the proposed restriction includes an insufficient transition period for seed coatings and suggests that a 10 year transition (like that proposed for fertilizers) would be more adequate. The ESA also addresses the proposal's ambiguity regarding the definition of a microplastic, noting that small seeds are included in the restriction, but large seeds are not.

The ECHA estimates that the resulting costs of the restriction (~€9.2 billion) would be from efforts to determine viable and proportional biodegradable alternatives. The cost of labeling and reporting changes are considered negligible in comparison to reformulation costs.

To submit comments, use the available consultation guidance found at https://echa.europa.eu/documents/10162/13641/public_consultation_guidance_en.pdf/7c4705d5-ad01-43ed-a611-06f1426a595c

[1] Not yet published in the EU official journal. To see the regulation, visit https://data.consilium.europa.eu/doc/document/PE-76-2018-INIT/en/pdf