

**SENATE OF THE REPUBLIC**  
17TH PARLIAMENTARY TERM

**Doc. XVIII**  
**No 142**

**RESOLUTION OF THE 9TH STANDING COMMITTEE**  
(Agriculture and Agri-Food Production)

*(Rapporteur SAGGESE)*

*approved at the session of 26 July 2016*

ON THE

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN RULES ON THE MAKING AVAILABLE ON THE MARKET OF CE MARKED FERTILISING PRODUCTS AND AMENDING REGULATIONS (EC) NO 1069/2009 AND (EC) NO 1107/2009 (COM (2016) 157 FINAL)**

*pursuant to Article 144(1) and (6) of the Rules of Procedure*

**Notified to the President's Office on 28 July 2016**

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The Committee,

Having examined the Proposal for a Regulation of the European Parliament of the Council laying down rules on the making available on the market of CE marked fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009, pursuant to Article 144(1) and (6) of the Rules of Procedure,

whereas:

a regulation which takes account of all types of fertiliser provided for in Italian legislation represents an improvement, eliminating the risk of fraud and guaranteeing equal opportunities for the producers of the different Member States;

in general terms we take a positive view of the proposal, sharing its objective of improving the functioning of the internal market in fertilising products, and also providing agricultural undertakings with a wide variety of products of adequate quality and conforming to environmental and health standards;

while acknowledging that many of Italy's requests were accepted in the pre-negotiation stage, certain problems remain in the Proposal for a Regulation,

expresses a favourable opinion with the following observations:

certain parameters for assessing the quality of the fertiliser are excessively simplified compared to the provisions in Italian legislation, particularly the degree of stability and maturation of the organic fraction, and the concepts of organic and inorganic soil improver, and of fertiliser and plant health product, should therefore be better clarified;

under a common regulation, the Member States should be able to implement more restrictive rules for approval of certain products not considered compatible with the environmental protection of the country receiving them, while also protecting national producers who have invested huge amounts of funds in order to develop products that have a high technological value and are suited to the national environmental situation (i.e. Italian agricultural soils have half of the organic matter content compared to Northern Europe);

the current European legislation on sewage sludge from waste water or the treatment and use of livestock manure should remain the point of reference for their use in agriculture;

the maximum limit and the timescale for reducing cadmium content should be reviewed (setting it at 80 mg/kg) both for organo-mineral fertilisers and for inorganic fertilisers. The initial 60 mg/kg, to be reduced to 40 after three years and to 20 after 12 years, are a measurement and timescale which are too restrictive and which do not take account of the most recent studies on the low accumulation of cadmium in the soil;

appropriate policies to support investments in innovation and research in the environmental protection sector should also be provided for, in order to make the processes of removing cadmium and chemical residues from soils sustainable;

the limits regarding the possibility of using important organic substances

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of fossil origin (peat, lignite etc.), which in Italy have always been used in organic fertilisers, organo-mineral fertilisers and soil improvers, should be removed;

with regard to the category of microbial biostimulants, a more exhaustive list than the one in the proposal should be introduced, and the names of individual populations of micro-organisms which can be used as biostimulants should be specified in more detail;

the relationship between the rules on fertilisers and the rules on waste should be clarified, particularly in relation to the distinction between the concept of natural agricultural substances used in agricultural activity and the concepts of waste and by-product, as well as the definition of end-of-waste status;

in view of the introduction of many new types of fertilisers and hence of CE marked products placed on the market without the related analysis methods being available, a specific transitional mechanism should be adopted to ensure sufficient guarantees of verification;

a reference to the Regulation on organic production (Commission Regulation (EC) No 889/2008 of 5 September 2009) should be included in the text;

appropriate rules on technological additives, such as anti-caking agents and colourants, should be included in the text;

the nickel limit for organic soil improvers should be harmonised and raised, from 50 to 100 mg/kg (since it has been shown that compost - the raw material for organic soil improvers and substrates produced from plant material from acid soils - may have levels above 50 mg/kg);

guidelines should be provided on the procedures to be used for conformity assessment, also taking account of the important role to be played in that regard by economic operators, manufacturers, distributors and importers;

the traceability of the ingredients used in the production of organic fertilisers should be guaranteed by means of detailed labelling, in order to prevent fraud and low-quality products.

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OPINION OF THE 13TH STANDING COMMITTEE  
(LAND USE, ENVIRONMENT, ENVIRONMENTAL ASSETS)  
(Rapporteur: VACCARI)

20 July 2016

The Committee,

whereas:

the inclusion of the Proposal for a Regulation in the circular economy package encourages consideration, from a scientific point of view and taken as a whole, of the many cycles involved in agriculture: the water cycle, the carbon, oxygen/ozone and methane cycles, the nutrient cycle (in particular nitrogen, phosphorus and potassium), the pedogenic cycles and the vegetation cycles;

in fact, nature operates by means of closed cycles and does not involve waste, since every element is renewed by means of processes which are studied by science so that they can be replicated in a laboratory or at full scale, possibly transferring knowledge of innovations of industrial interest;

the circular economy's focus on issues of the production of innovative fertilisers contributes to the closure of natural and anthropogenic cycles and is consistent with development strategies in which economic growth occurs without an increased consumption of resources, based on scientific, technological, social and organisational innovation and on a range of new skills and knowledge;

Considering that:

the approach set out in the Proposal for a Regulation must be reflected in a strong and specific manner in legislative instruments which deal with the issue of waste and of water purification, protecting the soil and the environment, energy policies, combating climate change, green chemistry, labelling, the bioeconomy, improving inter-sectoral cooperation and cooperation between the public and private sectors (e.g. by means of industrial symbiosis models) and the illegal flow of waste, including dangerous waste;

increasing organic matter in soils plays a central role in tackling climate change, the non-sustainable use of the soil, the over-exploitation of agricultural and pasture areas, the development of irrigation practices which are often non-sustainable, offering a possible solution to those problems;

in the rules on fertilisers, environmental protection and sustainability requirements must also be treated as priorities;

whereas:

the Proposal for a Regulation provides for the setting of particularly restrictive limits for cadmium: an initial limit of 60 mg/kg of P2=O5, to be reduced subsequently to 40 and then to 20 over 12 years;

the Proposal for a Regulation, in relation to substances entering

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anaerobic digestion plants, does not distinguish between organic waste, livestock manure and agricultural by-products and, in particular, it identifies two component material categories (CMCs): digestate from energy crops (CMC 4) and digestate other than from energy crops (CMC 5), obtained from other materials including organic waste. This is very different from the situation in Italy. In fact, the digestate produced by biogas plants located in agricultural holdings is normally obtained from a mixture of substances of exclusively agricultural or agro-industrial origin. Recently, the Decree of the Ministry of Agricultural, Food and Forestry Policy of 25 February 2016, published in the ordinary supplement to *Official Gazette* No 90 of 18 April 2016, 'Criteria and general technical provisions for the regions to regulate the agricultural use of livestock manure and waste water and the production and agricultural use of digestate' provides for two types of digestate for agricultural use (agro-livestock and agro-industrial as specified in Article 22 of the Decree, with the specific exclusion of organic waste);

the beneficial effects of organic matter on soils are well known, e.g.: the development of microbial communities in numerical and biodiversity terms; the fast degradation of simple components (sugars, amino acids etc.); the slow degradation of complex components (cellulose, hemicellulose, lignin, chitin etc.); the development of positive relationships between microbial communities;

Part II of Annex II to the Proposal for a Regulation establishes the requirements relating to the component material categories (CMCs) for fertilisers. With regard to the category of food industry by-products (CMC 6), only food industry factory lime, molasses and vinasse are included;

the Proposal for a Regulation creates scenarios that favour the performance of controls, dealing with aspects relating to the obligations of economic operators (Chapter 2), the conformity of CE-marked fertilising products (Chapter 3), the notification by Member States of bodies authorised to carry out third-party conformity assessment tasks (Chapter 4) and market surveillance (Chapter 5). In this respect it should be stressed that the control strategy is extremely important for all fertilisers, and particularly in order to create trust amongst farmers in products from inherently variable organic or secondary material sources;

comments favourably on the proposal, while making the following points:

with regard to the limits set for the presence of cadmium in soils, we would note that the current processes for removing cadmium (decadmiation) are not fully sustainable from an environmental point of view because of the chemical residues they release, and appropriate policies therefore need to be provided for to support investments in innovation and research in this sector, in order to make those processes fully sustainable;

with regard to substances entering anaerobic digestion plants, it should be specified that anaerobic digestion plants for the production of biogas which use livestock manure of agricultural origin are classified as renewable energy production plants, unlike biogas plants which use waste, which are classifiable as treatment and recovery plants;

in relation to the positive impact of the organic matter on soils, we would point out that Legislative Decree No 75 of 29 April 2010, 'Consolidation and review of the rules on fertilisers, pursuant to Article 13 of Law No 88 of 7 July

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2009', provides a precise and detailed classification of fertilisers. In the case of organic fertilisers, organo-mineral fertilisers and soil improvers, organic substances of fossil origin, such as peat and lignite, are listed, and specifications regarding the preparation methods and the essential components, minimum levels for elements and/or substances used, criteria for assessment etc. are indicated in table form (Annexes 2 and 5 of the aforementioned Decree). Peat is a soil improver rich in organic matter, humic and fulvic acids and nutrients for the soil; it promotes permeability, the rooting of plants, aeration and loosening of soil, and also acts as a thermo-regulating mulch. There are three principal types of it: acid, neutral and humified, the use of which, according to Chapter 2 of Annex 5 of the aforementioned decree, is limited to horticulture (market gardening, floriculture, arboriculture, nursery). We therefore believe that the Proposal for a Regulation should clarify the definition of organic soil improvers, in order to cover that type of natural organic soil improver as well;

since in Italy and in other Members States bordering the Mediterranean there are diverse and numerous agro-industrial activities, a list should be included in the Proposal for a Regulation of by-products originating from food production and agro-industrial activities, as provided in Annex I of the Decree of the Ministry of Economic Development of 6 July 2012 published in the ordinary supplement of *Official Gazette* No 159 of 10 July 2012;

with regard to controls, the control strategy should be extended to all economic operators involved in the production of CE marked fertilisers, including public and private recovery operators (such as operators of waster water treatment plants and waste management establishments which produce compost or or digestate), producers of fertilisers and authorised representatives, importers and exporters, intermediaries, the distribution network, in cooperation with national authorisation bodies and conformity assessment bodies.

## OPINION OF THE 14TH STANDING COMMITTEE

## (EUROPEAN UNION POLICIES)

(Rapporteur: ORELLANA)

18 May 2016

The Committee,

given that the Proposal for a Regulation forms part of the package of proposals on the 'circular economy' and is in response to the 2010 *ex-post* evaluation of Regulation (EC) No 2003/2003 of the European Parliament and of the Council on fertilisers, which it is intended to repeal and replace. This is aimed at establishing European legislation also for innovative fertilising products, often containing nutrients or organic matter recycled from biowaste or other secondary raw materials, which have difficulties accessing the internal market due to the existence of diverging national rules and standards. In fact, nearly all of the types of products listed in the current regulation on fertilisers are inorganic fertilisers of a conventional type, usually extracted by mining or obtained by chemical means. Around half of the fertilisers currently on the market are therefore excluded from the scope of the regulation, in particular fertilisers sourced in line with the circular economy model.

in the view of the fact that, in particular, the Proposal for a Regulation:

intends to incentivise large-scale fertiliser production from domestic organic or secondary raw materials by transforming waste into nutrients for crops, thereby levelling the playing field between those fertilisers and mined or chemical fertilisers;

introduces harmonised limits for cadmium present in inorganic phosphate fertilisers, in order to minimise the negative impact of cadmium use on the environment and on human health, contribute to a reduction of cadmium accumulation in soil and of cadmium contamination in food and water, and remove the current market fragmentation;

to that end, it repeals the existing Regulation on fertilisers, but allows already harmonised fertilisers to remain on the market subject to compliance with the new safety and quality requirements.

given that the Proposal for a Regulation is intended to extend harmonisation to fertilisers from organic raw materials and to other fertiliser-related products, with a conformity assessment procedure based on the 'new legislative framework' (established by Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 and by Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008), varying between material categories, which allows Member States also to apply national legislation as an alternative to the harmonised European legislation (optional harmonisation);



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having examined the Government's report, drawn up pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012,

comments favourably on the proposal, within its area of responsibility, with the following remarks:

the legal basis is correctly identified as Article 114 of the Treaty on the Functioning of the European Union, which is also the legal basis for the current regulation on fertilisers;

the principle of subsidiarity is respected, since the current obstacles to the free movement of fertilising products of organic origin, i.e. the differing national legislations in this field, cannot be removed by means of unilateral measures by Member States. Furthermore, the second objective, of reducing cadmium contamination in the soil and in foodstuffs, cannot be achieved by Member States individually, since the majority of the fertilisers causing the problem (inorganic phosphate fertilisers) are harmonised at European Union level and only an amendment of the European legislation on maximum limits can therefore achieve that aim;

the principle of proportionality does not appear to have been fully respected and would therefore ask the relevant Committee to consider the following aspects:

in relation to the principle of the free movement of fertilising products conforming to the regulation and bearing the CE marking, enshrined in Article 3 of the proposal, we believe that account should be taken of the different climate situations in Europe and of the soil differences between the different countries of the European Union and within individual Member States, with a view to ensuring the sustainability of agricultural soils, which have differing fertilisation requirements, in order to guarantee an appropriate unique balance and to prevent the erosion of the organic matter present. In this regard, it may be appropriate to include under the aforementioned Article 3 the option for the Member States to be able to draw up planning for soil fertilisation, within which context they could lay down obligatory instructions for the use or non-use of certain ingredients of fertilisers, in specified quantities, in relation to specific pedo-climatic areas;

in relation to the maximum limits for the presence of cadmium in fertilisers, referred to in part II of Annex I to the Proposal for a Regulation, which provide for a reduction from 60 mg/kg to 40 after three years from the entry into force of the regulation and to 20 after 12 years, we believe that that progression may be excessively restrictive, particularly for the Mediterranean countries, where cadmium is naturally present in phosphate rock, one of the few phosphorous mining resources in the world, on which 50 % of the European market for the production of phosphate fertilisers depends. Furthermore, with the current technology, the decadmiation process is economically disadvantageous. We therefore believe that the limit should be kept at 60 mg/kg until it is possible to obtain phosphorus from alternative sources or until adequate decadmiation processes have been developed at sustainable costs;

with regard to the quality criteria for fertilisers, laid down in Annex I to

the Proposal for a Regulation, we would stress the need to take account of the degree of stability and maturation of the organic fraction of fertilisers. Particularly for countries with a Mediterranean climate, the stability of the organic fraction, in the case of products obtained from the recovery of waste biomass, is very important in terms of the balance needed for the organic fertility of soils;

furthermore, we would inform the relevant Committee that we believe that: - the use of organic substances of fossil origin which are used to produce organic fertilisers, organo-mineral fertilisers and soil improvers should be extended; - the list of biostimulant micro-organisms should be extended; - the Proposal for a Regulation should be better coordinated with the exclusion of agricultural substances from the scope of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, and with the exclusion of biostimulants from the scope of Commission Regulation (EC) No 889/2008 of 5 September 2008 on plant health products;

finally, the Committee considers the limits on the presence of heavy metals and other contaminants, present in fertilisers and in biostimulants, set in part II of Annex II to the Proposal for a Regulation, to be appropriate.

