



EUROPEAN COMMISSION

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C(2016) 7743 final*

*Mr Pietro GRASSO  
President of the  
Senato della Repubblica  
Piazza Madama, 1  
IT – 00186 ROME*

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Opinion on the proposal for a Regulation 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}.*

*This initiative has been identified as one of the key legislative proposals under the EU action plan for the Circular Economy<sup>1</sup>. The transition towards a more circular economy has the potential to create many jobs in Europe while preserving precious and increasingly scarce resources and reducing the environmental impact of resource use.*

*The Commission welcomes the support of the Senato della Repubblica for improving the functioning of the internal market for an increased variety of fertilising products.*

*Since the proposal builds on the principle of free movement of CE marked fertilising products on the internal market, the Commission would not be in favour of introducing a possibility for Member States to implement more restrictive rules for the placing on the market of certain CE marked fertilising products. Instead, the Commission has proposed that all such products should be subject to strict environmental rules at the EU level, as well as to detailed labelling requirements, which would allow Italian farmers to select CE marked products that are well adapted to the specificities of Italian agricultural soils. Nevertheless, the proposal would leave Italy the choice to allow non CE marked products which can meet the more specific needs of Italian farmers onto the Italian market and to allow the use of organic substances of fossil origin (peat, lignite etc.) at national level.*

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<sup>1</sup> COM(2015) 614 final.

*The proposed limit values for cadmium are intended to reduce the current levels of cadmium in soil, mainly for the purpose of reducing food contamination and thereby better protect human health. The Commission agrees with the objective of ensuring that decontamination processes are conducted sustainably, which means that the cadmium should neither be released onto agricultural soils – as is the case in the absence of decontamination – nor be released elsewhere in the environment.*

*In response to the more technical points in the Opinion, the Commission would like to refer the Senato della Repubblica to the annex to this letter.*

*The points made in this reply are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council, in which your government is represented.*

*The Commission hopes that these clarifications address the issues raised by the Senato della Repubblica and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Elżbieta Bieńkowska  
Member of the Commission*

## ANNEX

*The Commission has carefully considered each of the issues raised by the Senato della Repubblica in its Opinion and is pleased to offer the following clarifications.*

### Quality parameters:

*The Commission's proposal aims first and foremost to ensure that fertilising products placed on the single market with the CE mark are safe for human health and the environment while leaving it up to farmers to select the product quality best adapted to their particular needs and agronomic conditions. The proposed labelling requirements are intended to help farmers in this selection.*

### More restrictive national rules:

*As pointed out by the Senato della Repubblica, the proposal aims at guaranteeing equal opportunities for producers in Member States and at improving the functioning of the internal market. A possibility for Member States to implement more restrictive rules for the purpose of protecting the investments of national producers would go against those objectives.*

*Regarding environmental protection, the proposal would ensure that CE marked products meet a high level of protection throughout Europe. The Commission has also proposed detailed labelling requirements for parameters such as the organic matter content, which will allow Italian farmers to select products that are well adapted to the specificities of Italian agricultural soils.*

### Current EU legislation on sewage sludge and manure:

*The proposal would not affect the application of EU legislation on sewage sludge, but makes provision for processed manure to circulate freely in the internal market following strict sanitisation processes to be defined under the Animal By-products Regulation<sup>2</sup>.*

### Maximum limit and timescale for reducing cadmium contamination:

*The Commission finds that the protection of future generations calls for cadmium contamination of European agricultural soils to be reduced as rapidly as is technically feasible and socio-economically acceptable. That is because large sections of Europe's population, in particular children, are currently exposed via food to cadmium levels far above the exposure values deemed tolerable by the European Food Safety Authority. The biggest sources of cadmium contamination of European agricultural soils are phosphate fertilisers and the most widely quoted, recent study on cadmium accumulation in soil<sup>3</sup> finds that even with a cadmium content as low as 20 mg/kg P<sub>2</sub>O<sub>5</sub>, a reduction of soil contamination by a mere 20 % from current levels would take 100 years.*

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<sup>2</sup> OJ L 300, 14.11.2009, pp. 1–33.

<sup>3</sup> Revisiting and updating the effect of phosphate fertilizers to cadmium accumulation in European agricultural soils, Smolders & Six, KU Leuven 2016.

### Peat and lignite:

*According to the Commission's proposal, both peat and lignite could be used for fertiliser production subject to compliance with the requirements for Component Material Category I as defined in Annex II. The Commission is closely following the discussions in the Council regarding the definition of organic fertilisers.*

### Microbial biostimulants:

*The Commission's proposal introduces a list of micro-organisms which have the function of plant biostimulants but not that of plant protection products. The proposal would enable the Commission to extend the list taking into account technical progress and new scientific evidence.*

### Waste rules:

*The Commission's proposal relies on EU waste legislation for the definition of waste and by-products. The proposal excludes waste as such from being CE marked as fertilising products. However, it defines recovery rules for certain waste streams, compliance with which makes the recovered material qualify as having reached the end-of-waste status and thereby as an eligible component material for a CE marked fertilising product.*

### Analytical methods:

*The Commission is in the process of having existing analytical methods examined in view of having them adopted, if deemed appropriate, as harmonised standards which could be used to demonstrate conformity with the proposal. The Commission is of the opinion that the date of application of the proposed Regulation should be set to a moment in time when that standardisation process can be expected to be finalised. If harmonised standards were still not available at that moment in time, the Commission could exceptionally use its proposed empowerment to adopt analytical methods by implementing acts.*

### Organic production:

*The proposal defines requirements for products to bear the CE mark and to be eligible for free movement on the internal market. It does not specify criteria for organic production.*

### Technological additives:

*The proposal would allow technical additives to be incorporated in a CE marked fertilising product, provided that the product would comply with all the requirements of the proposal. Where the technological additive is a substance or a mixture within the meaning of the REACH Regulation<sup>4</sup>, one of those requirements is REACH registration.*

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<sup>4</sup> OJ L 396, 30.12.2006, pp. 1-849.

Nickel limit for organic soil improvers:

*The Commission takes note of the Senato della Repubblica's support for the proposal to impose a nickel limit for organic soil improvers. The Commission has aimed at setting the limit as low as reasonably achievable, and will closely follow the discussions in the Council and the European Parliament on this issue.*

Guidelines on conformity assessment:

*The principles for conformity assessment are described in the Commission's 'Blue Guide' on the implementation of EU products rules 2016<sup>5</sup>.*

Traceability of ingredients in organic fertilisers:

*According to the proposal, a product's manufacturer is responsible for ensuring the product's conformity with the applicable requirements. He or she will have to keep the technical documentation for a period of 10 years and provide national authorities upon request with all the information and documentation necessary to demonstrate conformity.*

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<sup>5</sup> OJ C 272, 26.7.2016 , pp. 1-149.