



EUROPEAN COMMISSION

*Brussels, 14.7.2016
C(2016) 4468 final*

Dear President,

The Commission would like to thank the Senat 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 Circular Economy action plan {COM(2015) 614 final}. The transition towards a 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 Senat for extending the harmonisation to fertilisers originating from organic raw materials and to other products such as plant biostimulants. Indeed, one of the aims of this proposal is to facilitate the free movement of nutrients recovered from biowaste or other secondary raw materials within the Single Market.

In response to the more technical points in the Opinion, the Commission would like to refer the Senat 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 Senat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Elżbieta Bienkowska
Member of the Commission*

*Mr Călin POPESCU-TĂRICEANU
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ANNEX

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

On point (2) 1. a):

The Commission has proposed an exhaustive list of component material categories of which CE marked fertilising products may consist. For secondary raw materials, that list only contains materials with a long history of use in fertilising products throughout EU Member States. Furthermore, their use is made subject to conditions aimed at guaranteeing a high level of protection of health and the environment.

On point (2) 1. b):

For animal by-products, the Commission proposes that CE marked fertilisers can only contain derived products having reached an end point in the manufacturing chain, which will be defined under Regulation (EC) 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 ('Animal by-products Regulation')¹ and ensures that the products are processed to such an extent that they no longer pose a significant risk to public or animal health.

On point (2) 1. c):

For products originating from waste, the Commission has proposed to oblige manufacturers to set up a quality assurance system under the supervision of conformity assessment bodies which would be supervised by the public authorities in the Member States.

On point (2) 1. d):

The Commission proposes that the Council Directive concerning the protection of waters against pollution caused by nitrates from agricultural sources ('Nitrates Directive')² would continue to apply and that Member States would remain free to regulate the use of fertilising products. One of the objectives of the Commission's proposal is to also facilitate the large-scale production of organic fertilisers, which can be transferred from regions defined as vulnerable under the Nitrates Directive to other regions in the EU.

On point (2) 1. e):

The Commission has proposed specific labelling requirements for both organic and inorganic fertilisers which are intended to help farmers make informed choices.

¹ OJ L 300, 14.11.2009, pp. 1-33.

² OJ L 375, 31.12.1991, pp. 1-8.

On point (2) 1. f):

Organic fertilisers are already widely used on agricultural soil throughout the EU. The Commission's proposal aims at defragmenting the EU market for such products. By offering economies of scale, the free movement of such products within the Single Market would incentivise innovation in products that are more effective and can be customised to various crops and soil properties.

On point (2) 1. g):

The Commission is examining ash-based products, biochar and struvite to define quality and safety requirements in view of their possible inclusion within the list of eligible component material categories of which CE marked fertilising products may consist. Those products could thereby move freely within the entire Single Market to the benefit of Romanian and other producers.

On point (2) 1. h):

The intention of the Commission's proposal is to only include categories in the list of eligible component materials for which strict safety and quality requirements can be defined and commonly agreed. Products containing other materials would remain subject to national law and to the Treaties' general rules on the free movement of goods.

On point (2) 1. i):

The rules on product requirements and the conformity assessment in the Commission's proposal are aimed at ensuring that all CE marked fertilising products are safe. Food safety rules are already harmonised at EU level to a large extent and are generally perceived as providing for a very high level of protection.

On point (2) 1. j):

According to the Commission's proposal, economic operators would have to make sure that their products comply with the requirements set out in the Regulation. However, market surveillance tasks would remain the competence of national authorities.

On point (2) 1. k):

Damages from exposure to impurities can potentially be irreversible both in the case of inorganic and organic fertilising products. For many organic products, the Commission has proposed to strengthen the safety guarantees by involving independent conformity assessment bodies, taking into account the potential risks related to this product category.

On point (2) 1. l):

The intention of the Commission's proposal is to only include categories in the list of eligible component materials for which strict safety and quality requirements can be defined and commonly agreed.