

# Making available on the market of CE marked fertilising products

2016/0084(COD) - 17/03/2016 - Legislative proposal

**PURPOSE:** to guarantee the functioning of the internal market in fertilizing products while ensuring that CE marked fertilising products on the market fulfil the requirements providing for a high level of protection of human, animal, and plant health, safety and the environment.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** the conditions for making fertilisers available on the internal market have been partially harmonised through [Regulation \(EC\) No 2003/2003](#) of the European Parliament and of the Council.

Virtually all product-types currently included in the existing Fertilisers Regulation are conventional, inorganic fertilisers, typically extracted from mines or chemically produced in line with a linear economy model. These processes are both energy consuming and CO<sub>2</sub>-intensive.

**Around 50 % of the fertilisers currently on the market are left out of the scope of the Regulation.** This is true for a few inorganic fertilisers and for virtually all fertilisers produced from organic materials, such as animal or other agricultural by products, or recycled bio-waste from the food chain.

As a result, **fertilisers sourced in line with the circular economy remain non-harmonised.** Their access to the single market is therefore dependent on mutual recognition between Member States, which is often difficult due to diverging national rules.

Furthermore, the existing Fertilisers Regulation fails to address environmental concerns arising from contamination by EC-fertilisers of soil, inland waters, seawaters, and ultimately food.

The ex-post evaluation of the existing Fertilisers Regulation conducted in 2010 concluded that the Regulation **could be more effective in promoting innovative fertilisers**, and that adjustments would also be needed to **better protect the environment**. The Commission proposes to establish harmonised conditions for making fertilisers made from recycled or organic materials available on the entire internal market in order to provide an important incentive for their further use.

**IMPACT ASSESSMENT:** the impact assessment compared status quo (referred to as option 1) with four other policy options. Under the four options, the scope of harmonisation would be extended to fertilisers from organic raw materials and to other fertiliser-related products, and limit values would be introduced for contaminants.

**The final proposal corresponds with the option that would build on the ['New Legislative Framework'](#) ('NLF'),** with one conformity assessment procedure varying between material categories. This was considered to be the best policy choice because it would lead to administrative simplification, in particular for fertilising products from well identified, primary raw materials, and ensure flexibility, while at the same time ensuring that the use of harmonised fertilising products does not pose unacceptable risks to health or the environment.

CONTENT: the proposal seeks to **repeal the existing Fertilisers Regulation** and to address the problems identified in the evaluation conducted in 2010. It has also been identified as one of the key legislative proposals under the [circular economy](#) action plan.

The main policy objective of the initiative is **to incentivise large-scale fertiliser production in the EU from domestic organic or secondary raw materials in line with the circular economy model**, by transforming waste into nutrients for crops.

The draft regulation provides a **regulatory framework** radically easing access to the internal market for such fertilisers, thereby levelling their playing field with that of mined or chemical fertilisers produced in line with a linear economy model. This would contribute to the following circular economy objectives by:

- allowing valorisation of secondary raw materials, hence enabling improved use of raw materials and turning eutrophication and waste management problems into economic opportunities for public and private operators;
- increasing resource efficiency and decrease import dependency for raw materials essential to European agriculture, in particular phosphorus;
- boosting investment and innovation in the circular economy, hence creating jobs in the EU;
- contributing to relieving the fertilisers industry from its current pressure to reduce CO<sub>2</sub>-emissions under ETS, by allowing it to produce fertilisers from less carbon-intensive feedstock.

**A second policy objective is to address the issue of soil and food contamination and introduce harmonised cadmium limits for phosphate fertilisers.** The Regulation introduces strict limits for cadmium in phosphate fertilisers. The limits will be tightened from 60 mg/kg to 40 mg/kg after three years and to 20 mg/kg after 12 years, reducing health and environmental risks.

**To achieve these objectives**, the proposal:

- sets out the **subject matter, scope and definitions, as well as the fundamental principles of free movement and marketability of CE marked fertilising products**. The provision on product requirements are contained in the Annexes, which include the substantive requirements for the categories of end products in accordance with their intended function (Annex I), as well as for the categories of component materials that can be contained in CE marked fertilising products (Annex II). Annex III specifies the labelling requirements;
- lays down the **obligations of economic operators** involved in making CE marked fertilising products available on the market;
- sets out the **general principle for conformity of CE marked fertilising products**. It refers to Annex IV, which describes in detail the conformity assessment procedures applicable to CE marked fertilising products, depending on their component material categories and their product function categories. It also refers to Annex V, which sets out the model structure for the EU declaration of conformity.
- sets out the provisions on **notified bodies**, and on **market surveillance**.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.