



Brussels, 20 May 2022  
(OR. en)

8744/1/22  
REV 1

ENT 63  
MI 346  
COMPET 289  
ENV 389  
CHIMIE 41  
IND 142  
DELECT 74

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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No. Cion doc.: C(2022) 1422 Final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 22.3.2022 amending Annexes II, III and IV to Regulation (EU) 2019/1009 of the European Parliament and of the Council for the purpose of adding recovered high purity materials as a component material category in EU fertilising products  
- Intension not to raise objections

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1. On 22 March 2022, the Commission submitted the above draft Delegated Regulation to the Council in accordance with Articles 42 (1) and 44 (4) of Regulation (EU) 2019/1009<sup>1</sup>.
2. This delegated Regulation amends Annex II to Regulation (EU) 2019/1009 by adding recovered high purity materials of 95% or more as a new Component Material Category, Annex III, by adding specific labelling requirements, and Annex IV by setting up the legal framework for the relevant conformity assessment for EU fertilising products containing such materials.

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<sup>1</sup> Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 (OJ L 170, 25.6.2019, p. 1);

This initiative conforms to the 2020 Circular Economy Action Plan, aimed at by-products and recovered waste, and contributing to the functioning of the EU market for secondary raw materials.

3. Pursuant to Article 42(3) of Regulation (EU) 2019/1009, in conjunction with Article 6 of Directive 2008/98/EC<sup>2</sup>, there are component categories of materials, such as ammonium salts, sulphate salts, phosphate salts, elemental sulphur, calcium carbonate, and calcium oxide, which will ensure high agronomic efficiency. These by-products cease to be waste following a recovery operation if used for specific purposes, have an existing market or demand, and if their use does not lead to overall adverse impact on human health and the environment.
4. Delegations had until 3 May 2022 to object to the delegated act. By the deadline, no delegation has raised objections. **The Italian delegation indicated on 10 May 2022 that it would take a position neither for nor against the delegated act, but abstain at Coreper. There is, therefore, no qualified majority to object to the delegated act. On that basis, there is no ground for the Council to object to the delegated act.**
5. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm the non-opposition to the draft Delegated Regulation, as set out in document ST 7575/22 + ADD 1 as an item without discussion at one of its forthcoming meetings.

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<sup>2</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3)