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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 18 November 2022

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 18.11.2022 amending Regulation (EU) 2019/1009 of the European Parliament and of the Council as regards the minimum content of calcium oxide in straight solid inorganic macronutrient fertilisers

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Delegations will find attached document C(2022) 8144 final.

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Encl.: C(2022) 8144 final



Brussels, 18.11.2022  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 18.11.2022**

**amending Regulation (EU) 2019/1009 of the European Parliament and of the Council as regards the minimum content of calcium oxide in straight solid inorganic macronutrient fertilisers**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

On 5 June 2019, the European Parliament and the Council adopted Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products<sup>1</sup>. This Regulation repeals Regulation (EC) No 2003/2003 of the European Parliament and of the Council<sup>2</sup> as of 16 July 2022.

On 10 November 2020, the Commission adopted Regulation (EU) 2020/1666 amending Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers for the purpose of including a new type of EC fertiliser in Annex I<sup>3</sup>.

Commission Regulation (EU) 2020/1666 introduced calcium chelate of iminodisuccinic acid as a new type of inorganic secondary nutrient fertiliser.

Regulation (EU) 2019/1009 should be amended to take into account this development.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Member States have been consulted in the Commission expert group on fertilising products (E01320) according to the rules of the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>4</sup>.

Details of these consultations can be found in the minutes of the meetings held on 4-5 April and 14-15 July 2022, as well as in the various position papers of interested stakeholders publicly available on the CIRCABC page of the group, at the following link:

<https://circabc.europa.eu/ui/group/36ec94c7-575b-44dc-a6e9-4ace02907f2f/library/b8e01334-4d39-445d-bf4e-589356d55b1f>

Member States and interested stakeholders were largely supportive of the adoption of this delegated Regulation.

The draft delegated Regulation has been published for feedback on the Better Regulation portal and one contribution has been received. An EU citizen expressed the view that the decision on the minimum content of calcium in fertilisers should be taken at national level, so that it could be adapted to the specificities of the soil. However, this Delegated Regulation builds upon the EU harmonisation rules laid down in Regulation (EU) 2019/1009. The EU rules provide the conditions for the free movement on the single market of safe and agronomically efficient EU fertilising products, to the benefit of farmers and other users, who have a richer and more competitive offer. Member States may decide to lay down conditions on the use of such products, adapted to their specific soil conditions, and in accordance with Articles 34-36 of the Treaty on the Functioning of the EU on the free movement of goods.

The draft delegated Regulation has also been notified based on Article 2(9)(2) of the Agreement on Technical Barriers to Trade and no comments have been received.

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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.

<sup>2</sup> Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers, OJ L 304, 21.11.2003, p. 1.

<sup>3</sup> OJ L 377, 11.11.2020, p. 3.

<sup>4</sup> OJ L 123, 12.5.2016, p. 1.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The delegated act amends a technical provision in Annex I to Regulation (EU) 2019/1009. The legal basis of this delegated act is Article 42(1) of Regulation (EU) 2019/1009. The Commission is empowered to adapt to technical progress Annex I, with the exception of cadmium limit values and the definitions, or other elements relating to the scope, of product function categories. The technical provision amended concerns the minimum content of nutrients in a product function category (straight solid inorganic macronutrient fertilisers), and thus, its adaptation to technical progress is covered by the empowerment.

# COMMISSION DELEGATED REGULATION (EU) .../...

of 18.11.2022

## amending Regulation (EU) 2019/1009 of the European Parliament and of the Council as regards the minimum content of calcium oxide in straight solid inorganic macronutrient fertilisers

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>5</sup>, and in particular Article 42(1) thereof,

Whereas:

- (1) Regulation (EU) 2019/1009 lays down rules on the making available on the market of EU fertilising products, and repeals Regulation (EC) No 2003/2003 of the European Parliament and of the Council<sup>6</sup> as of 16 July 2022.
- (2) In accordance with Annex I to Regulation (EU) 2019/1009, a straight solid inorganic macronutrient fertiliser with only calcium as a declared macronutrient is to contain at least 12 % by mass calcium expressed as calcium oxide.
- (3) Commission Regulation (EU) 2020/1666 amended Regulation (EC) No 2003/2003 by introducing calcium chelate of iminodisuccinic acid (Ca-IDHA) as a new type of EC fertiliser. The minimum content of nutrients in that fertiliser is 9 % calcium oxide.
- (4) Ca-IDHA is a fertiliser providing plants with the macronutrient calcium. When assessing the conditions for its inclusion in Regulation (EC) No 2003/2003, this type of EC fertilisers has been found to be agronomically efficient. Regulation (EU) 2019/1009 should be amended to take into account the technical development occurring after its adoption and thus the minimum content of calcium oxide in straight solid inorganic macronutrient fertilisers should be lowered from 12 % to 9 %. Lowering the minimum content of calcium oxide would introduce this type of fertiliser in the scope of the harmonisation rules and thus facilitate its free movement in the single market. This adaptation is linked to the agronomic efficiency criteria of the fertilisers, and is not lowering the high standards of protection of human health and of the environment laid down in Regulation (EU) 2019/1009.
- (5) Regulation (EU) 2019/1009 should therefore be amended accordingly,

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<sup>5</sup> OJ L 170, 25.6.2019, p. 1.

<sup>6</sup>

HAS ADOPTED THIS REGULATION:

*Article 1*

In Part II, in PFC 1(C)(I)(a)(i), point 2, of Annex I to Regulation (EU) 2019/1009, point (e) is replaced by the following:

‘(e) 9 % by mass of total calcium oxide (CaO),’.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18.11.2022

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*