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**COMMISSION DIRECTIVE (EU) .../...**

**of XXX**

**amending Council Directive 91/676/EEC as regards the use of certain fertilising materials from livestock manure**

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

# COMMISSION DIRECTIVE (EU) .../...

of **XXX**

## amending Council Directive 91/676/EEC as regards the use of certain fertilising materials from livestock manure

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources<sup>1</sup>, and in particular Article 8 thereof,

Whereas:

- (1) Article 5(4), point (a), of Directive 91/676/EEC, sets out the measures to be included in action programmes to be applied in vulnerable zones or throughout the national territory in accordance with Article 3(5) of that Directive. Pursuant to point 2 of Annex III to Directive 91/676/EEC, those measures are to ensure that, for each farm or livestock unit, the amount of livestock manure or processed manure applied to the land each year, including by animals themselves, does not exceed a specified amount per hectare, set at 170 kg nitrogen (N) per year.
- (2) Since the adoption of Directive 91/676/EEC, scientific and technical progress in manure processing techniques has made it possible to manufacture fertilisers (known as ‘RENURE’ fertilisers) that under certain conditions act as ‘chemical fertilisers’ as defined in that Directive.
- (3) The Commission’s Joint Research Centre has assessed that under certain conditions RENURE fertilisers have a similar nitrogen leaching potential and agronomic efficiency to chemical fertilisers. These materials therefore reduce the risks of nitrate losses in water compared to manure and, thanks to this environmental advantage, they could be used above the maximum amount for manure application set out in Directive 91/676/EEC, while ensuring the achievement of the Directive’s objectives and adequate agronomic benefits<sup>2</sup>.
- (4) Broader application of organic fertilisers and nutrients from recycled waste streams could strengthen the Union’s open strategic autonomy and food security while setting out high sustainability standards, in particular in regions with a low uptake of organic fertilisers. The use of manure and processed manure, in compliance with Directive 91/676/EEC, could reduce farmers’ exposure to volatile mineral fertiliser prices and close nutrient cycles. The Communication entitled ‘Ensuring availability and

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<sup>1</sup> OJ L 375, 31.12.1991, p. 1, ELI: <http://data.europa.eu/eli/dir/1991/676/oj>.

<sup>2</sup> Huygens, D, Orveillon G, Lugato E, Tavazzi S, Comero S, Jones A, Gawlik B, Saveyn HGM, Technical proposals for the safe use of processed manure above the threshold established for Nitrate Vulnerable Zones by the Nitrates Directive (91/676/EEC) (2020).

affordability of fertilisers<sup>3</sup> called for the assessment of further regulatory and non-regulatory steps to enable wider use of recovered nutrients from livestock manure.

- (5) In 2023, the Commission launched an evaluation of Directive 91/676/EEC with the aim of assessing, among others, whether that Directive sufficiently promotes the recycling of nutrients from various sources, including processed manure, and technological developments in manure processing technologies resulting in RENURE fertilisers.
- (6) Therefore, until the evaluation of Directive 91/676/EEC is finalised, it is necessary to provide an interim solution for Member States to authorise farmers to use RENURE fertilisers above the amount set out in Annex III, point 2, under certain conditions.
- (7) The use of RENURE fertilisers above the amount of 170 kg N per hectare for livestock manure should be authorised with the appropriate safeguards to improve substitution of chemical fertilisers by organic fertilisers, reduce costs for farmers and enhance the strategic autonomy of the Union's agricultural sector, without jeopardising the attainment of the objectives of Directive 91/676/EEC.
- (8) In addition to the impact on water quality, nitrogen emissions from manure and livestock affect air quality. The use of RENURE fertilisers should go hand in hand with continuous efforts to mitigate the overall environmental impacts. It is therefore necessary to have appropriate safeguards and to set an upper limit for the use of RENURE fertilisers. That limit should reflect the characteristics of RENURE fertilisers from livestock manure, their use and substitution capacity, as well as the experience with the application of Annex III point 2.
- (9) Quality criteria for RENURE fertilisers and conditions for their use should be set out so they can replace 'chemical fertilisers' in accordance with the objectives of Directive 91/676/EEC.
- (10) Only processing methods that reliably yield materials of a consistent quality in accordance with specified criteria should be covered. The Commission's Joint Research Centre has assessed criteria for the concentration of mineral nitrogen and organic carbon in such materials and has tested the reliability of various processes in producing materials compliant with those criteria. The assessment shows that the following processing methods are capable of yielding materials of a consistent quality in accordance with those criteria: stripping and scrubbing of ammonia to produce ammonium salts, application of reverse osmosis to produce mineral concentrates, and nitrogen-rich phosphate salts (struvite) precipitated out of livestock manure. Therefore, the processes required for the production of RENURE fertilisers which meet the necessary quality to ensure reliable replacement of chemical fertilisers, should be established.
- (11) To ensure safe land application of RENURE fertilisers, Member States should be required to apply strict quality standards, including safe limits for relevant contaminants and pathogens in accordance with relevant Union and national legislation. Upper limit values should therefore be set out, in particular as regards the presence of copper, zinc and microorganisms.
- (12) Commission Delegated Regulation (EU) 2023/1605<sup>4</sup> defines end-points in the manufacturing chain for certain organic fertilisers pursuant to Regulation (EC) No

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<sup>3</sup> COM(2022)590 of 9.11.2022

1069/2009 of the European Parliament and of the Council<sup>5</sup>, including processed manure, beyond which processed manure is no longer subject to the requirements of Regulation (EC) No 1069/2009, in order to become or be part of EU fertilising products referred to in Regulation (EU) 2019/1009 of the European Parliament and of the Council<sup>6</sup>. Manure other than that referred to in Delegated Regulation (EU) 2023/1605 is subject to the requirements of Regulation (EC) No 1069/2009.

- (13) Member States should set requirements for installations producing RENURE fertilisers to ensure a consistent nutrient content in accordance with the criteria set out in Directive 91/676/EEC. To facilitate their land application in line with crop requirements, RENURE fertilisers should be accompanied by appropriate information on their nutrient content.
- (14) The Commission's Joint Research Centre assessed the environmental and health impacts and proposed criteria for the use of RENURE fertilisers under the condition and assumption that the total amount of manure produced within the Union, the number of livestock units and the livestock density would not increase.
- (15) Member States should therefore closely monitor the effect of the authorisation for the use of RENURE fertilisers above the amount of 170 kg nitrogen per hectare on overall livestock numbers and manure production and prevent any increase thereof from the time of the authorisation in order to ensure that it does not result in further unintended negative environmental effects.
- (16) Land application of RENURE fertilisers remains subject to the requirements for the application of all fertilisers (balanced fertilisation) set out Annex III, point 1(3), to Directive 91/676/EEC. Possible additional environmental pressures resulting from the application of RENURE fertilisers, in particular following their autumn application on arable crops, need to be taken into account and appropriate measures taken in the respective action programmes, in particular with regard to the limitation of land application of fertilisers. Good agri-environmental practices should therefore be observed, such as living vegetation covers or equivalent measures, to prevent losses of nitrogen to the environment. These requirements should therefore be set out.
- (17) The use of RENURE fertilisers may also be associated with a risk of emissions of nitrogen through volatilisation from soils, especially in the case of fertilisers containing more than 60% of nitrogen in forms other than nitrates and a pH higher than 5.5. Therefore, to avoid negative effects on the environment, appropriate fertiliser land application techniques should be observed such as injection, immediate incorporation of surface-applied materials, or equivalent measures.
- (18) When authorising the use of RENURE fertilisers from processed manure, Member States should also take into account their possible effects on the attainment of the

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<sup>4</sup> Commission Delegated Regulation (EU) 2023/1605 of 22 May 2023 supplementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council as regards the determination of end points in the manufacturing chain of certain organic fertilisers and soil improvers (OJ L 198, 8.8.2023, p. 1, ELI: [http://data.europa.eu/eli/reg\\_del/2023/1605/oj](http://data.europa.eu/eli/reg_del/2023/1605/oj)).

<sup>5</sup> Regulation (EC) No 1069/2009 of 21 October 2009 of the European Parliament and of the laying down health rules as regards animal by-products and derived products not intended for human consumption (OJ L 300, 14.11.2009, p. 1, ELI: <http://data.europa.eu/eli/reg/2009/1069/oj>).

<sup>6</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 (OJ L 170, 25.6.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1009/oj>).

objectives of Council Directive 92/43/EEC<sup>7</sup>, and of Directives 2000/60/EC<sup>8</sup>, 2016/2284<sup>9</sup> and 2020/2184<sup>10</sup> of the European Parliament and of the Council. The use of RENURE fertilisers should not affect or hamper the implementation of those directives. In view of the precautionary principle set out in Article 191(2) of the Treaty on the Functioning of the European Union, Member States should take particular precautions in and around Natura 2000 areas and in the vicinity of drinking water abstraction points.

- (19) In order to enable the Commission to fulfil its role pursuant to Directive 91/676/EEC, Member States should notify the Commission of their decision to authorise the use of RENURE fertilisers from processed manure, and should report to the Commission, as part of the 4-yearly report pursuant to Article 10 of Directive 91/676/EEC, on the application of that authorisation, including annual data on the production of RENURE fertilisers, on livestock numbers and on manure production.
- (20) It is therefore necessary to amend Directive 91/676/EEC accordingly.
- (21) The measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

Annex III to Directive 91/676/EEC is amended in accordance with the Annex to this Directive.

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP please insert date = 2 years after date of entry into force of the Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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<sup>7</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.07.1992, p.7, ELI: <http://data.europa.eu/eli/dir/1992/43/oj>).

<sup>8</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1, ELI: <http://data.europa.eu/eli/dir/2000/60/oj>).

<sup>9</sup> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1, ELI: <http://data.europa.eu/eli/dir/2016/2284/oj>).

<sup>10</sup> Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1, ELI: <http://data.europa.eu/eli/dir/2020/2184/oj>).

*Article 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the Commission*

*The President*

*[...]*

*[Choose between the two options, depending on the person who signs.]*

*On behalf of the President*

*[...]*

*[Position]*