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ANNEX

**ANNEX**

**to the**

**Commission Directive**

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

## ANNEX

In Annex III to Directive 91/676/EEC, in point 2, second subparagraph, the following point (c) is added:

‘(c) Member States may authorise, above the amount of 170 kg nitrogen per hectare per year as set out in this subparagraph and up to a separate additional limit of 100 kg nitrogen per hectare per year, the use of certain fertilising materials from livestock manure that have undergone processing, provided all the following conditions are met:

(i) the livestock manure component of the fertilising material has undergone a treatment process that increases the concentration of nitrogen in mineral form, urea nitrogen or crystal-bound nitrogen, expressed as a percentage by weight of the total nitrogen compared to the input to the treatment process, resulting in any of the following:

(1) an ammonium salt (scrubbing salt), stemming from a gas purification or emission control process designed to remove ammonia from off-gases;

(2) a mineral concentrate obtained through reverse osmosis;

(3) a nitrogen-rich phosphate salt (struvite), precipitated out of livestock manure;

(ii) the fertilising materials are of consistent quality across batches and have a ratio of mineral nitrogen to total nitrogen of at least 90% or a ratio of organically bound carbon to total nitrogen of no more than 3, in both cases correcting for any nitrogen derived from component materials that do not originate from manure and contain more than 3% of nitrogen on a dry matter basis;

(iii) the fertilising materials do not exceed the following upper limits:

copper (Cu): 300 mg kg<sup>-1</sup> dry matter;

zinc (Zn): 800 mg kg<sup>-1</sup> dry matter.

(iv) pathogens in the fertilising materials do not exceed the following upper limits:

Micro-organisms to be tested	Sampling plans			Limit
	n	c	m	M
Salmonella spp.	5	0	0	Absence in 25 g or 25 ml
Escherichia coli or Enterococcaceae	5	5	0	1 000 in 1 g or 1 ml

Where:

n =number of samples to be tested,

c =number of samples where the number of bacteria expressed in colony forming units (CFU) is between m and M,

m=threshold value for the number of bacteria expressed in CFU that is considered satisfactory,

M=maximum value of the number of bacteria expressed in CFU.

(v) Member States implement strict quality standards to ensure a consistent nutrient content in fertilising materials across production batches in line with the criteria set out in point (ii);

(vi) Member States ensure that the fertilising material is accompanied by documentation containing information on the content of nitrogen (N) and organic carbon (TOC), and of phosphates (P<sub>2</sub>O<sub>5</sub>) and potassium (K<sub>2</sub>O) where the concentration of any of those elements exceeds 1% of dry matter, with a maximum deviation of 25% from the actual value;

(vii) Member States ensure that livestock numbers and manure production do not increase as a result of the application of this point;

(viii) Member States tighten the limitations on land application of fertilisers (fertilisation rates), set out in point 1, paragraph 3 of this Annex, to take into account the increased risks of nitrogen loss in water and air resulting from the use of fertilising materials meeting the conditions set out in points (i) to (iv) of this point, while applying a mineral fertiliser equivalence coefficient of 1 for such materials. Member States ensure as far as possible the maintenance of a living plant cover or equivalent measures on land where fertilising materials meeting the conditions in points (i) to (iv) of this point are applied; Member States ensure that, where relevant to prevent the loss of ammonia from agricultural soils, appropriate precautions are taken during the land application of fertilising materials meeting the conditions in points (i) to (iv) of this point, in particular, through injection, immediate incorporation of surface-applied materials, or equivalent measures;

(ix) Member States take measures to prevent to the extent possible emissions, including emissions to air, resulting from storage of fertilising materials meeting the conditions in points (i) to (iv) by defining appropriate storage conditions and requirements for such materials;

(x) Member States take all necessary measures to ensure that the use of fertilising materials meeting the conditions set out in points (i) to (iv) of this point does not prejudice the attainment of the objectives of this Directive, of Council Directive 92/43/EEC<sup>1</sup> and Directives 2000/60/EC<sup>2</sup>, 2016/2284<sup>3</sup> and 2020/2184<sup>4</sup> of the European Parliament and of the Council in so far as the measures of the action programme are relevant to those Directives. Member States take measures to prevent adverse effects in and around Natura 2000 areas, and in the vicinity of drinking water abstraction points.

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<sup>1</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>2</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>3</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>4</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>).

Where Member States apply this point of the second subparagraph they shall notify the Commission thereof. In addition, they shall, as part of the report referred to in Article 10, report on its application, including annual data on the amount of materials produced meeting the conditions set out in points (i) to (iv) of this point and on livestock density and manure production at national level and at the level of NUTS 2 territorial units as established by Regulation (EC) No 1059/2003 of the European Parliament and of the Council<sup>5</sup>.

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<sup>5</sup> Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1, ELI: <http://data.europa.eu/eli/reg/2003/1059/oj>).