



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
The Director

Brussels
BD/nb(2019)8736016

Dear [REDACTED],

Thank you for your letter of 25 October 2019 (Ares(2019)7281574) concerning plant protection products and post-harvest treatments in organic production.

You write that you have always understood that the substances in Annex II are used exclusively to combat pests and diseases of crops and not as post-harvest products, in accordance with Article 5 (1) of Regulation (EC) No 889/2008¹, to which a reference is made in the title of Annex II as follows “Pesticides-Products referred to in Article 5(1)”. Based on this understanding you rejected an imported organic rice treated with CO₂ and Kieselgur for the removal of insects (rice weevil — *Sitophilus oryzae*). You mention that according to the operator, CO₂ and Kieselgur can be legally used for treatment, listed in Annex II, based on a positive assessment by the Expert Group for Technical advice on Organic Production (EGTOP) for this use. You want clarification because you are not sure whether post-harvest treatments may be considered as plant protection products or as cleaning or disinfectants and thus belong to Annex VII to Regulation (EC) No 889/2008. You cite the EGTOP report on plant protection products of 2014² in which these two substances were evaluated and received a positive advice from EGTOP.

The horizontal legislation on plant protection products (Regulation (EC) No 1107/2009³ and on biocidal products (Regulation (EU) No 528/2012⁴) provide for extensive definitions on what should be considered as a plant protection product or a biocidal product, which have different functions. It is worth recalling that the same “active substance”, which is indeed the key component of such products, could be included in a plant protection product as well as in a biocide.

In the case you describe, an insecticide treatment applied on unpackaged stored or transported cereals is a post-harvest treatment with a plant protection product.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R0889-20181112&qid=1579170817182&from=EN>

² https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/farming/documents/egtop-final-report-plant-protection-products-ii_en_1.pdf

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009R1107>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R0528>

[REDACTED]

As you probably know, Regulation (EC) No 1107/2009 and its Implementing Regulation (EU) No 540/2011 set out the list of approved active substances for use in plant protection products in general agriculture.

Once active substances are approved under Regulation (EC) No 1107/2009, they can be assessed to see whether they are in line with the organic objectives and principles; if that is the case, they are authorised for use in organic production and listed in Annex II to Regulation (EC) No 889/2008, with in some cases specific conditions of use. Finally, the use of plant protection products is authorised at national level.

CO₂ and Kieselgur are active substances authorised in general agriculture under Regulation (EU) No 540/2011 with specific conditions allowing for post-harvest use. In addition, these active substances are listed without any limitation in Annex II to Regulation (EC) No 889/2008. Therefore, it is possible to use both substances as post-harvest treatment against rice weevil on organic rice.

The present opinion is provided on the basis of the facts as set out in your letter and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

