



European Biogas Association | Renewable Energy House, Rue d'Arlon 63-65 | B-1040 Brussels, Belgium

European Commission
Directorate General
Enterprise and Industry
Av. d'Auderghem,
B 1040 Brussels

European Biogas Association
Rue d'Arlon 63-65
1040 Brussels
Phone: +32 2 400 1088
info@european-biogas.eu

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EBA's comments on the presentation given by DG Enterprise on the 15th of October

Dear Mr. Reinhard Buescher,
Dear Mr. Eric Liégeois,
Dear Mr. Vincent Delvaux,

The European Biogas Association (EBA) acknowledges the efforts that you and your colleagues have made to draft a new Fertilisers Regulation. Our association is very supportive of your work and our experts are ready to provide assistance. In this respect, we would like to refer to your latest draft proposal as it was presented in our workshop on the 15th of October, and to give you EBA's comments on it.

We consider that, while dealing with digestate, it is essential to make the distinction between different types of feedstock. Digestate produced from agricultural sources like manure, energy crops and harvesting residues are input materials not coming from waste which can be used directly as farm fertiliser without waste character. In order to avoid additional economic burden for clean digestate, as compared to its equivalent raw feedstock which is already widely used as farm fertiliser, we ask that digestate which is produced from non-waste products and by-products does not need to adhere to the proposed requirements for end-of-waste criteria and ABP regulation.

Substances like digestate should have the possibility of becoming an organic fertiliser or soil improver under the new fertiliser regulation if they can bring nutrients and/or organic matter to plants. The important point is that fertilisers need to have a nutrient and/or soil improving effect on plants and soil. The volume of raw material which has to be applied should not determine whether it becomes a fertiliser or not. Up to June 2014 the working documents showed that the minimum nutrient requirements (N, K₂O, P₂O₅) for becoming an EU fertiliser were based on dry matter. Digestate by its nature contains variable percentages of water; because of this inherent feature, digestate cannot be defined on a fresh matter basis. For this same reason, it is crucial to refer the limit value for heavy metals and other contaminants on dry matter, otherwise dilution could distort the values and may cause soil and water pollution. Therefore, in order to keep a consistent rationale within the regulation, EBA calls for all values related to organic fertilisers (nutrients, C_{org} and contaminants) to be based on dry matter. We



also consider that there is no need to make an arbitrary differentiation between solid and liquid categories within the regulation.

However, EBA understands that labelling requirements may need to be expressed in fresh matter, for example, so that farmers can apply organic fertilisers to the soil with more ease.

EBA is not only concerned about the change to fresh matter. Additionally, the proposed numbers still seem to correspond to the old dry matter values for organic fertilisers and soil improvers, which are disproportionately high and well above those of most digestate. (See annex 1) Therefore, we kindly request that the requirements for nutrients and C_{org} are revised and clearly explained. In addition, it is important that a product has to fulfil the minimum requirement of at least one of the three nutrients (N, P_2O_5 , K_2O) in order to be recognised as an organic fertiliser.

EBA considers that the limits proposed for macroscopic impurities are too high if these are measured in dry matter. This is particularly the case for “Polystyrene and films” but also for “Other plastics”, where many EU countries have significantly lower total values in their standards. This lenient threshold may lead to a race to the bottom where the quality of organic fertilisers across the EU decreases, pollution increases and ultimately farmers become reluctant to use organic fertilisers. Therefore, EBA advises that the criteria are set as follows:

Total not exceeding 0.5% in dry matter for all types of macroscopic impurities > 2 mm (e.g. glass, metal & plastics) and within this, any polystyrene and plastic film > 2 mm must not exceed 0.1% in dry matter.

Different techniques used to quantify the amount of plastics in digestate across the EU (both in dry matter and fresh matter) should be recognised; quantities measured in fresh matter can be converted to dry matter basis by using the sample’s dry matter value in calculation.

We see safety criteria for fertilisers as a positive measure that guarantees consumers that our products are safe. Nevertheless, these criteria should correspond to the attributes of our products. Since our products do not contain Chromium (VI), we ask to replace the limit value of “Chromium (VI)” by “Total Chromium” with a limit value of 100 mg/kg dry matter instead. This change would be much more effective in guaranteeing the safety of our products to consumers.

We request a clear (‘positive’) list of allowed input materials under product manufacturing requirements, as this would give more certainty to producers and confidence to consumers. This list would certainly exclude potentially polluted feedstock such as municipal solid waste and particularly sewage sludge, which show high PAH levels. Since only suitable quality material should be in the positive list, this would limit to a minimum the contamination by organic

pollutants. In addition, the cost of PAH₁₆ tests that would be imposed upon producers would be disproportionate when compared to the very low PAH levels that were found in digestate (as shown in the JRC-IPTS report). Therefore there is no need to analyse PAHs in digestate from feedstock that is in the positive list.

EBA requests to remove “Guaranteed amount of organic nitrogen” from the list of “characteristics for declaration”. In digestate, organic nitrogen is the difference between total nitrogen and ammonium nitrogen content and therefore it is very easy to calculate. While it is important to label ammonium nitrogen so that its rapid nutrient availability can be used adequately by farmers, organic nitrogen does not express a quality that should be differentiated from Total Nitrogen.

For similar reasons, EBA asks also to remove “C/N ratio” from the “characteristics of declaration”. Extensive scientific research has shown that the C/N ratio of digestate after anaerobic digestion is stable at C/N ratio from 10/1 to 15/1.

EBA also requests to make “granulometry” declaration voluntary in the case of digestate. This requirement makes no sense for the vast majority of our products, as it is impossible to measure the “granulometry” of liquid digestate because it is a suspension in water and even of solid digestate which usually has the consistency of solid manure. Only for granulated or pelletised digestate a declaration of “granulometry” makes sense, and should be declared on a voluntary basis.

EBA also sees great potential in other products derived from digestate which do not fit the proposed categories but that still offer valuable qualities. This is particularly the case of manufactured topsoil, a product that has a proven agronomical value and which is marketed under detailed quality standards in several member states. EBA would welcome the inclusion of manufactured topsoil under the Fertilisers Regulation.

We remain available to explain any point that may need further clarifying.

Kind regards
Dr. Jan Stambasky



President
European Biogas Association

Annex

The following tables show analysing results of more than 1500 samples (of whole digestate and separated liquid digestate) from several member states. The upper table gives an overview of the main physical parameters of digestate based on dry matter. The lower table converts the same figures from Organic Matter into C_{org} (both dry matter and fresh matter) as well as to Nutrients based on fresh matter.

Investigation results of digestate (EBA)	unit	n	10 % quantil	arithmetic average	90 % quantil	Max
DM content	[%]	2.034	2,7	5,5	9,0	97,7
organic matter in % of DM	[%]	1.832	55,4	69,2	82,3	96,0
N total	[% of DM]	1.768	4,9	10,5	17,9	42,4
NH4-N	[% of DM]	1.972	1,6	6,4	13,2	32,4
K2O	[% of DM]	1.444	2,0	5,1	8,4	32,9
P2O5	[% of DM]	1.442	1,7	3,6	5,4	11,9

conversions into reference basis as proposed by EC DG enter during fertilizer WS on 2014 10 15						
Change from org matter to Corg.						
Corg.	[% refered to dm]		22,2	27,7	32,9	38,4
Corg.	[% refered to fresh mass]		0,61	1,54	2,96	37,52
Minimum nutrient content: change from dm as reference to FM as reference						
N total	[% refered to fresh mass]		0,13	0,29	0,49	1,16
NH4-N	[% refered to fresh mass]		0,04	0,18	0,36	0,89
K2O	[% refered to fresh mass]		0,06	0,14	0,23	0,90
P2O5	[% refered to fresh mass]		0,05	0,10	0,15	0,33