10 June 2026

EBA response to the Call for Evidence

Biotech Act II

The European Biogas Association (EBA) welcomes the opportunity to contribute to the public consultation on the Biotech Act II. Biogas production generates two valuable bio-based co-products: **digestate**, which serves as a bio-based fertiliser, and **biogenic CO_2**, which can be utilised across a range of industrial applications.

As highlighted in the recently adopted Fertiliser Action Plan, the EU must accelerate the transition to **bio-based fertilisers** to strengthen its open strategic autonomy and resilience. Bio-based fertilisers were already identified as a lead market in the Bioeconomy Strategy, and the current geopolitical context further underscores the need to address regulatory barriers and establish appropriate incentives to stimulate their uptake. In this context, EBA puts forward recommendations concerning the definition of bio-based fertilisers, existing regulatory barriers and a specific regulatory incentive.

In parallel, EBA would like to use this opportunity to establish the appropriate policy conditions to develop a **circular carbon economy**, primarily based on renewable carbon, namely bioCO_2. BioCO_2 represents a key resource for a sustainable bioeconomy, which has received insufficient attention in the existing legislation. EBA therefore would like to put forward recommendations for the creation of a supporting legislative framework and the emergence of a lead market.

1. Digestate and digestate-derived fertilisers

a) Digestate and digestate-derived fertilisers: the need for clear definitions

If the EU aims to promote bio-based fertilisers over those derived from fossil sources, it must establish clear and consistent definitions. At present, policymakers and stakeholders use terms such as bio-based, organic, circular, and low-fossil fertilisers without a common understanding or precise definitions. In the case of digestate, it is particularly important to clearly distinguish between:

1) **Digestate**: Raw digestate is already one of the main bio-based, organic, circular, and low-carbon fertilisers used in Europe today, alongside livestock manure and compost, and it plays a key role in local circular economy systems. However, its full potential remains insufficiently recognised in both policy frameworks and market structures. Despite its combined function of bio-based fertiliser and soil improver[1], digestate often holds little or no market value, in many countries associated to its legal characterisation as waste under EU rules. While this is positive for farmers, as it provides a low-cost input in a very tight context, the lack of market value also reduces incentives to improve quality beyond regulations and discourages investment in post-processing technologies.
2) **Processed digestate**: Beyond raw digestate, we are also seeing a growing range of (potentially) higher-value digestate-derived fertilisers, such as liquid fractions of digestate,

[1] Additional information is available in EBA white paper 'Digestate in Europe: the state of play in 2026', 19 May 2026.

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mineral concentrates, struvite, ammonium salts, organo-mineral fertilisers, etc[2]. These fertilisers derived from processed digestate come with clear advantages in terms of transport efficiency, nutrient concentration and standardisation. However, their production remains very limited. Production costs remain high, and market uptake is limited, mainly because farmers often cannot or are not willing to pay a premium compared to conventional mineral fertilisers.

Under the **Fertilising Products Regulation** (FPR), liquid fractions of digestate could qualify for certification as "organic fertilisers", subject to the streamlining of certain technical requirements[3], while mineral concentrates, struvite, and ammonium salts derived from digestate are generally classified as "**inorganic fertilisers**". In the latter case, it is regrettable that the **biological origin of their nutrients** is not clearly reflected in the terminology used, which limits the recognition of their bio-based value.

We recommend the following approach:

- The term **"bio-based" should be used as the overarching category for bio-based, organic[4], and circular fertilisers**, and the Fertilising Products Regulation should be revised accordingly to replace "organic" with "bio-based". In addition, the **low-carbon dimension should be an inherent requirement of the "bio-based" definition**, meaning that all bio-based fertilisers promoted under EU policy should be considered with a lower carbon footprint than their fossil-based alternatives.
- Both **raw digestate and processed digestate should be recognised as bio-based fertilisers**. In the broader transition away from mineral fertilisers, both pathways must be expanded in a complementary manner. The use of raw digestate should be encouraged within local circular economy systems as a lower-tech solution, while the processing of digestate should also be incentivised, particularly in regions facing nutrient surpluses where cross-border nutrient transport is needed. Given that the regulatory and market challenges differ between these product types, the introduction of the term "**processed**" for digestate could help ensure clearer differentiation.

b) Regulatory barriers: from the organic raw material to the uptake by farmers

In order to increase the availability and affordability of digestate and digestate-derived fertilisers, EBA recommends the following recommendations:

1) **Valorisation of organic raw materials**: Scaling up bio-based fertiliser production will require directing a greater share of organic feedstocks[5], such as manure, bio-waste, industrial food waste and sludges, agricultural residues, and sequential or intermediate crops, towards anaerobic digestion and post-processing. Currently, less than 10% of manure and only around 14% of biowaste are treated through anaerobic digestion, highlighting significant untapped

[2] In 2024, 20% of digestate underwent post-processing, with at minimum a treatment step consisting of solid–liquid separation.

[3] See section 1 b) on regulatory barriers.

[4] Or inorganic fertilisers with nutrients of biological origin.

[5] As highlighted in the recently adopted EU Bioeconomy Strategy, it is important to recall that additional factors such as feedstock type, environmental impacts, circularity and local context are crucial for prioritising biomass use efficiently. Most feedstocks used for biogases production do not compete with other sectors and are unsuitable for food, feed, or material applications. Additionally, biogases plants, unlike other renewable energy sectors, deliver more than renewable energy alone, they also produce digestate and biogenic CO_2.

potential. This gap should be addressed by introducing nutrient recycling targets for bio-waste and manure under the **Waste Framework Directive**.

2) **(Post-)processing capacity**: Streamlining, accelerating, and digitalising permitting procedures for biogas and biomethane facilities is essential, as proposed in the **Permitting Directive proposal**[6]. Project developers currently face fragmented approval processes, administrative duplication, and long lead times due to the cross-sectoral nature of biogas, which spans renewable energy, waste management, industrial emissions, animal by-products, agriculture, fertilising products, water protection, and construction permitting. Furthermore, investment support under the **Common Agricultural Policy** (CAP) should be strengthened to enable farmers to invest in anaerobic digesters and digestate post-processing equipment (e.g. screw presses, centrifuge decanters, belt filters, membranes, and stripping systems[7]), thereby increasing production capacity and market availability. Farmers could also be rewarded for sending agricultural waste, including livestock manure, to anaerobic digesters. The upcoming **Livestock Strategy**[8] and **Circular Economy Act**[9] should jointly support regional circular economy approaches to scale up anaerobic digestion of manure and bio-waste, along with other organic feedstocks. This should include improved waste management planning and targeted incentives for recycling, alongside measures to anticipate digestate valorisation needs, such as nutrient management and transport logistics, investment in nutrient recovery technologies where local land application is not feasible, the promotion of best agronomic practices, skills development, and biorefinery solutions.

3) **Placing on the EU market**: Currently, national rules for the placing on the market of digestate and digestate-derived fertilisers in Europe are highly fragmented, often associated with significant administrative burdens and limited flexibility. Digestate is still often classified as waste, which undermines its value. While the **Fertilising Products Regulation** (FPR) is originally designed to facilitate cross-border trade, it could also simplify the local use of digestate by granting it end-of-waste status in a harmonised and rationalised way. Achieving this will require revising certain overly stringent requirements, including impractical minimum nutrient content thresholds for liquid and solid organic fertilisers[10], as well as reducing certification costs.

4) **Adoption by end-users**: Farmers are the primary end-users of digestate and digestate-derived products. They should be incentivised to use bio-based fertilisers instead of low-fossil alternatives, particularly higher-value processed products that are often more costly, through

[6] Proposal for a Directive amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures (Grids Package).
[7] Additional information is available in EBA white paper 'Digestate in Europe: the state of play in 2026', 19 May 2026.
[8] Additional information is available in EBA position paper 'Biogases: a tool for a future-proof EU livestock sector', April 2026.
[9] Additional information is available in EBA position paper 'Biogases systems as circular bioeconomy hubs – Four key pathways', June 2025.
[10] A more appropriate approach would be to express these thresholds on a dry matter basis, not a fresh matter basis, which would better align with the actual nutrient profiles of digestate-derived fertilisers and enable their fair inclusion in the EU fertiliser market. For more details on the specific barriers within the Fertilising Products Regulation, see EBA response to the Call for Evidence 'Fertilising Products Regulation – evaluation', 19 September 2025.

eco-schemes and agri-environment-climate measures under the **CAP**. Furthermore, the **Nitrates Directive** should be revised to allow the substitution of mineral fertilisers with liquid digestates beyond the current 170 kg N/ha/year threshold, up to the crop's actual nitrogen requirements. In parallel, **CAP** investment support for adequate storage and low-emission application equipment is essential to reduce handling costs and ensure compliance with environmental requirements.

c) Regulatory incentive: a bio-based content requirement in fertilisers

A key gap in the current legislative framework is the lack of a clear incentive for fertiliser value chain actors to transition towards advanced bio-based fertilisers. To address this, we propose introducing a simple regulatory requirement for distributors to ensure a minimum share of bio-based fertilisers, or fertilisers containing blended recycled nutrients, in the products they place on the EU market. For instance, by 2030, at least 10% of fertilisers sold in the EU could be required to be bio-based. This requirement could be designed as an incremental approach, progressively increasing over time to support a gradual transition towards a higher share of bio-based fertilisers on the market.

Key design elements would need careful consideration, including:

- **Nutrient scope:** which nutrients are covered (N, P, K);
- **Product eligibility:** which products qualify as bio-based (e.g. bio-based inorganic fertilisers such as mineral concentrates, struvite or ammonium salts, and organo-mineral blends including digestate);
- **Obligated actors:** distributors;
- **Target level:** what is realistic and proportionate;
- **System impacts:** implications for value chains and farmers, ensuring the measure supports transition without adding burdens to end-users.

This incentive could help increase the availability of processed digestate-derived fertilisers on the market at competitive costs. To achieve this, the conventional fertiliser industry should progressively integrate digestate-based inputs into its product portfolios (e.g. through RENURE technologies or organo-mineral fertilisers), rather than primarily focusing on sourcing renewable energy to sustain conventional mineral fertiliser production under existing models.

2. Biogenic CO2

Biogenic carbon is a key resource with the potential to replace fossil CO_2 across existing market applications (e.g. the chemical, food and beverage, fuels and construction sectors) while also enabling carbon removals to achieve carbon neutrality. However, the EU lacks a comprehensive and supportive regulatory framework with clear ambition levels for carbon capture and removals based on bioCO2, which hinders the efficient development and scaling of this market.

EBA therefore recommends to:

- **Introduce a dedicated target for biogenic carbon capture**. This is especially important given that bioCCUS represents one of the best available solutions for carbon capture. Scientific studies consistently recognise that the bioenergy sector will provide the majority of future carbon capture and removal capacity. Today, the biogas and biomethane sector represent

one of the most cost-effective, safe and scalable technologies for capturing CO_2. Moreover, the sector promotes a *sustainable* industrial carbon management, as it deals with biogenic carbon – a renewable form of carbon. To ensure predictability and confidence among all economic actors, while helping to overcome the barriers and uncertainties of this emerging market, policymakers should send a clear political signal to the industry.

- **Create and sustain the growth of a Single Market for biogenic carbon across the EU** – To develop a Single Market for captured carbon, demand support measures are essential, as the market value for this resource is currently too low. All sectors using CO_2 as a feedstock should be incentivised to transition toward renewable sources (biogenic and atmospheric CO_2) over fossil-based alternative. A single market for captured carbon also requires the development of CO_2 transport infrastructure and dedicated hubs to aggregate supply from decentralised production sites. In this context, a mass-balancing system and an EU-wide database enabling the traceability of CO_2 from different sources within the same network should be implemented.

- **Establish common criteria for biogenic carbon certification** – To ensure market reliability and transparency, common criteria for the certification of biogenic carbon should be established. The sustainability requirements set by the RED (Art. 29 §1-7, including the legal exemption for smaller plants) regarding biomass origin and emissions accounting – currently used to certify sustainable biogas and biomethane – should be adopted as standard for biogenic carbon certification. This would allow biogenic carbon produced from biogas and biomethane to be directly certified under the existing framework, minimising administrative burden and maximising the sustainability safeguards already in place for the biogas sector. Furthermore, the **EU legislation should explicitly provide a legal basis for the development of a certification scheme by voluntary schemes, as well as a registry ensuring traceability of bioCO_2 streams** in the case of shared infrastructure. Finally, it is essential to ensure that all international emissions accounting standards, including the GHG Protocol, clearly acknowledge the GHG emissions savings value of certified biogenic carbon.

- **Set targets for minimum biogenic carbon content –** To create and sustain a demand for low-carbon products, minimum biogenic carbon content targets should be mandated for sustainable products, for example under the Ecodesign for Sustainable Product Regulation (ESPR) and the Construction Products Regulation (CPR). To this end, GHG emissions savings from the use of bio-CO_2 must be clearly accounted for in product footprint calculations, ensuring coherence with RED emissions calculation methodology, and reflected in Environmental Product Declarations.

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About the European Biogas Association (EBA)

EBA fully believes in the future potential of renewable gas in Europe. Founded in 2009, the association is committed to the deployment of sustainable biogas and biomethane production and use throughout the continent. EBA counts today on a well-established network of over 300 national associations and other organisations covering the whole biogas and biomethane value chain across Europe and beyond.