

ECN feedback on draft delegated regulation on end points in the manufacturing chain of certain organic fertilisers and soil improvers

ECN welcomes the draft 'Commission delegated regulation 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', in order to make them available on the market of EU fertiliser products as referred to in Article 42(5) of Regulation (EU) 2019/1009 of the European Parliament and of the Council.

ECN generally agrees that the end point in the manufacturing chain is reached at the end of the composting and anaerobic digestion process on an approved plant in accordance with Article 24 (1) of the Regulation (EC) 1069/2009 after the necessary sanitation has been proved and where the compost and digestate are placed on the market as organic fertiliser or soil improver. The end point is always reached after compost and digestate have been tested for pathogens and when the test results comply with the limit values outlined in the ABP Regulations. As compost and digestate as component materials are produced in approved plants in accordance with Article 24 (1), point (g) of the Regulation (EC) 1069/2009, we ask to include this in Article 5 of the draft delegated regulation as well.

But with regard to Annex V of Regulation (EU) 142/2011 (required transformation parameters) we see an inconsistency between the possibility to place compost or digestate on the market according to the Fertilising Products Regulation (EU) 2019/1009 and the Animal by-products Regulation (EC) 1069/2009.

According to Annex V of Regulation (EU) 142/2011 Section 2, point 4, 'Operators may place on the market digestion residues and compost, which have been produced according to parameters which have been authorised by the competent authority:

(a) in accordance with point 1;

(b) in accordance with points 2 and 3, only within the Member State where those parameters have been authorised.

That means in case (a), which refers to point 1 of Section 2 where alternative transformation parameters for biogas and composting plants can be validated according to the harmonised model and authorised by the competent authority, the trade of compost/digestate is not limited to the Member State itself, which signifies that the same level of safety is acquired than the standard transformation parameters. The inconsistency lies within the fact that

(treated) animal by-products within the scope of ABPR are allowed as fertilising products on the entire European market in terms of safety, but they are ruled out by the EU FPR because the possible treatment parameters are narrowed down.

Therefore, we call the Commission to allow alternative treatment processes with comparable conditions than the standard treatment parameters to prevent risks to public and animal health which are validated and allowed by the competent authority by adding Section 2, point 1 of Chapter III of Annex V of Regulation (EU) No 142/2011 to Article 3 (b) and (c) of this delegated regulation.

Suggestions for amendments on the delegated Regulation on supplementing Regulation (EC) No 1069/2009 as regards the determination of end points in the manufacturing chain of certain organic fertilisers and soil improvers

Suggested Amendments on Article 3 <i>End point for certain organic fertilisers and soil improvers</i>	Amendments marked in red
<p>Article 3 <i>End point for certain organic fertilisers and soil improvers</i></p> <p>The following derived products, other than those imported into the Union, shall be considered as having reached an end point as organic fertilisers and soil improvers:</p> <p>(a) ash obtained from Category 2 and 3 materials which fulfils the general and specific requirements set out in Annex III to Regulation (EU) No 142/2011;</p> <p>(b) biogas digestion residues which fulfil the requirements set out in Section 1 of Chapter I, Chapter II, and Section 1, point 1, and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;</p> <p>(c) compost, which fulfils the requirements, set out in Section 2 of Chapter I, Chapter II, and Section 1(2) and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;</p> <p>(d) processed manure and processed frass which fulfil the requirements set out in Section 2, points (a), (b) and (d) of Chapter 1, of Annex XI to Regulation (EU) No 142/2011.</p>	<p>Article 3 <i>End point for certain organic fertilisers and soil improvers</i></p> <p>The following derived products, other than those imported into the Union, shall be considered as having reached an end point as organic fertilisers and soil improvers:</p> <p>(a) ash obtained from Category 2 and 3 materials which fulfils the general and specific requirements set out in Annex III to Regulation (EU) No 142/2011;</p> <p>(b) biogas digestion residues which fulfil the requirements set out in Section 1 of Chapter I, Chapter II, and Section 1, point 1, and Section 2, point 1, and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;</p> <p>(c) compost, which fulfils the requirements, set out in Section 2 of Chapter I, Chapter II, and Section 1(2), point 2, and Section 2, point 1 and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;</p> <p>(d) processed manure and processed frass which fulfil the requirements set out in Section 2, points (a), (b) and (d) of Chapter 1, of Annex XI to Regulation (EU) No 142/2011.</p>
<p>Article 5 <i>Manufacturing plant</i></p> <p>The derived products considered having reached the end point shall be manufactured in a fertiliser plant approved in accordance with Article 24(19, point (f), of Regulation (EC) No 1069/2009.</p>	<p>Article 5 Manufacturing plant</p> <p>The derived products considered having reached the end point shall be manufactured in a fertiliser-plant approved in accordance with Article 24(19, point (f) and (g), of Regulation (EC) No 1069/2009.</p>