

ECN's position on Simplification package on environmental legislation

The European Compost Network (ECN), the European umbrella organisation representing the bio-waste recycling sector, welcomes the Commission's initiative to amend environmental legislation with a view to reduce administrative burden and streamline administrative requirements related to the environment in the areas of circular economy, industrial emissions and waste management. Indeed, ECN finds it highly important to reduce the legal complexities that can impede bio-waste recycling, without compromising the environmental objectives of the legislations. Therefore, ECN would like to highlight some inconsistent measures and bottlenecks related to two pieces of legislation of key importance for the bio-waste recycling sector:

- The EU Fertilising Products Regulation 2019/1009 regarding organic fertilisers and soil improvers.
- The Commission's draft delegated regulation implementing the Renewable Energy Directive (EU) 2018/2001 and extending the scope of the data to be included in the Union Database for Biofuels.

Tackling the inconsistencies in the EU Fertilising Products Regulation related to organic fertilising products

Inconsistency between the EU Fertilising Products Regulation and the Animal By-Product Regulation

The 2019 revision of the EU Fertilising Product Regulation (EU FPR) integrated organic fertilisers and soil improvers in the scope of the Regulation alongside mineral fertilisers and introduced for the first time an End-of-Waste for compost- and digestate-derived fertilising products. This was an important step forward as it enabled recycled fertilising products to obtain the CE label and to be placed on the single market, opening more market opportunities for these products.

However, to reach the end point, the product needs to fulfil the End-of-Waste criteria and when it comes to bio-waste, the EU FPR refers to the Animal By-Product Regulation (ABPR) as bio-waste contains animal by-product (e.g., in kitchen waste). Under the ABPR, the end point in the manufacturing chain of fertilising products derived from animal by-product materials can only be reached if the composting and anaerobic digestion processes fulfil strict transformation requirements (70°C, 1h, 12mm) which are unsuitable in particular for

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composting. To place animal by-product-derived compost and digestate on the market, Member States have recognised validated processes or laid down alternative transformation parameters in their national regulations. The inconsistency lies in the fact that the ABPR allows alternative transformation parameters to be validated by Member States while the EU FPR only recognises the strict transformation requirements stated above. Therefore, the ECN believes it is necessary to revise the standard transformation parameters under the ABPR, to add alternative transformations parameters and to recognise the national validated processes and the derogations granted to Member States. Indeed, decades of compost and digestate application have proved that compost and digestate do not pose a risk to human and animal health once the animal by-product materials have been pasteurised and/or treated by comparable alternative treatment processes with similar conditions to prevent risks to public and animal health, and comply with the according limit values for pathogens. Such alternative transformation parameters were submitted by ECN to the European Food Safety Authority (EFSA) in 2019 and 2023 for the composting of bio-waste containing animal by-products. These parameters were positively evaluated by EFSA¹ in March 2024, yet no delegated act amending the ABPR has been adopted to date. The process of submitting alternative transformation parameters to EFSA, their evaluation, and the legislative process to regulate these parameters in delegated acts amending the ABPR are indeed overly long.

Unnecessary accreditation requirements for the conformity assessment procedure under Module D1

Although the ECN welcomes that the ECN's Quality Assurance Scheme (ECN-QAS) and the national quality assurance organisations for compost and digestate have been taken into account to achieve the End-of-Waste status by the conformity assessment procedure described in Module D1, the EU FPR still requires the intervention of a notified body accredited by a national accreditation body to carry out third party tasks. This additional requirement creates unnecessary burden, as the composting and anaerobic digestion plants are already quality assured by well-established quality assurance organisations at national level and benchmarked by the ECN-QAS², and it will add extra costs for the manufacturers of compost and digestate. Therefore, the ECN, together with the Coordination group of notified bodies developed a proposal to simplify the conformity assessment procedure³. This

¹ EFSA 2024: Evaluation of alternative methods of tunnel composting (submitted by the European Composting Network) II, Scientific Opinion of the European Food Safety Authority (EFSA), 26 April 2024, <https://efsa.onlinelibrary.wiley.com/doi/full/10.2903/j.efsa.2024.8745>.

² Siebert, S. and Vanden Auweele, W., 2018: ECN-QAS – European Quality Assurance Scheme for Compost and Digestate. Quality Manual, <https://www.compostnetwork.info/download/ecn-qas-manual/>.

³ Coordination Group of Notified Bodies, 2024: Note of the Coordination group of Notified Bodies

proposal foresees a differentiation in the conformity assessment procedure between ‘Product Function Category’ (PFC) and ‘Component Material Category’ (CMC). Indeed, the difficulty to carry out the conformity assessment currently is due to the fact that in most cases, compost and digestate producers (CMC producers) are not located on the same site as the manufacturer of the fertilising products (PFC manufacturers). Therefore, a certificate on CMC level could solve this problem.

Exclusion of relevant waste streams

The EU PFR excludes ‘industrial sludges’ as input materials for compost (CMC 3) and digestate other than fresh crop digestate (CMC 5). According to the Frequently Asked Questions document (FAQs 8.34), sludges from the food, feed and bio-based industries are seen as ‘industrial sludges’ and are therefore excluded as input materials for composting and anaerobic digestion. Yet, they are common waste streams used in composting and anaerobic digestion and contain valuable nutrients and organic matter that can be recycled. These liquid waste materials are collected separately from the food production plants and never come into contact with wastewater. Moreover, composting and anaerobic digestion are considered the most effective techniques for processing this waste into valuable organic fertilising products and soil improvers. The different interpretation of the definition of bio-waste and comparable waste from the food processing industry might be easily solved by adding a positive list of input materials based on material specifications and classification with European waste codes, as it is the case in the ECN-QAS.

Introduce a mandatory EU-wide End-of-Waste criteria

The harmonised End-of-Waste criteria under the EU FPR remains optional, meaning waste operators and manufacturers of fertilising products must comply with these End-of-Waste criteria only if they want to introduce their product on the single market. This renders End-of-Waste criteria ineffective since products traded nationally only have to comply with national rules and it creates fragmentation within the single market. To harmonise the market, an End-of-Waste criteria for compost and digestate should therefore be defined under Article 6 of the Waste Framework Directive 2008/98/EC.

Proposal for the conformity assessment according to module D1 for fertilising products containing CMC3 and CMC5. Presented at the Commission expert group on fertilising products, Meeting of 15-16 April 2024, Item 4.6 on the agenda/29.03.2024.

Reducing administrative burden and streamlining reporting obligations for registration under the Union Database for Biofuels

ECN would like to highlight measures to be streamlined in the Commission's draft delegated regulation extending the scope of the Union Database for Biofuels (UDB).

First, if adopted, the Commission's draft proposal would introduce an additional administrative burden on bio-waste traders as it would require an increased number of actors to enter the data. We believe the responsibility to enter the data should not be placed on the first collection/gathering points as proposed (Article 3). Instead, we believe the data could be obtained directly from the scheme or from a certification body. Moreover, identifying each point of origin creates a disproportionate burden with no added value (Article 3(4)). Therefore, we believe using the first gathering point as the point of origin would ensure traceability while reducing unnecessary administrative costs.

Furthermore, the existing national databases should be taken into account in order to avoid the refusal by actors in the value chain to enter the same data twice, which would prevent biowaste material from being certified and hence from being used in anaerobic digestion plants (Article 3, 4 and 5).

In addition, we believe more flexibility could be given in terms of timeframe. Therefore, the timeframe for entering the transaction data (Article 5(1)) and the working days for the buyer to accept or reject the transaction (Article 5(3)) should be extended to 30 days, providing more time for biowaste traders to comply. Although more flexibility seems to have been added by the Commission by broadening the acceptable documents and giving more flexibility to accommodate logistical realities, the deadlines still remain an important burden. In addition, ECN strongly believe the mandatory use of the UDB should be postponed until the 1st of January 2026 at the earliest.

Finally, ECN suggests to introduce a more business-friendly option regarding the suspension of the active status of the economic operator who has missed any data or has not updated the relevant certification data on time. Despite this point has been only partially addressed, we welcome the new safeguard in Article 5(11) that relieves economic operators of their responsibility to provide data on time if justified technical issues occur.

About the ECN

The ECN is the leading European membership organisation promoting sustainable recycling practices by composting and anaerobic digestion of organic resources and guarding over the quality and safe use of the recovered organic fertilisers and soil improvers. With 67 members from 27 European countries, ECN represents more than 4,500 experts and plant operators with more than 45 million tonnes of biological waste treatment capacity.