

## **PROPOSAL FOR A FERTILISING PRODUCT REGULATION**

### **ECN Position Paper on the Proposal for a Fertilising Product Regulation (short version)**

The European Compost Network ECN welcomes the proposal of the ‘Fertilising Products Regulation’ (FPR) as part of the Circular Economy Package, released by the EU Commission on 17 March 2016, by including recycled biowaste and other secondary raw materials in the scope of the Regulation and laying down rules for making them available as CE fertilising products on the harmonised EU market.

Those harmonised measures and rules will boost recycling of nutrients and organic matter with the beneficial effect on the replacement of primary raw materials and peat used in agriculture, horticulture or landscaping. The standards also guarantee a high level of quality and safety, and hereby, when CE marked as a fertilising product, these secondary fertilising products will find more easily access to the internal EU market.

Additionally the conversion of organic waste materials into valued fertilising CE products contributes to a better implementation of the waste hierarchy within the meaning of the Directive 2008/98/EC, by improved biowaste recycling. As a consequence, compliant products from biowaste sources, that fulfil all requirements of the Fertilisers Regulation, cease being waste in the meaning of the Directive 2008/98/EC. This means simplification on legislative level.

ECN additionally supports the “Optional Harmonisation”, which may allow Member States to keep existing national fertilisers regulations in place. In this way unnecessary market disruptions are avoided, and other fertilising products without CE marking can remain available on national and local markets.

ECN generally agrees with the goals and scope set out in the proposal for a Fertilising Products Regulation. In particular, we welcome that many process and product requirements set in the JRC Report “End-of-waste criteria for biodegradable waste subjected to biological treatment (compost & digestate): Technical proposals.”<sup>1</sup> were picked up. Some aspects are missing or haven’t been considered in an appropriate way, in so far further improvements are necessary. Some specific aspects we would like to suggest here.

More clarification is needed with regards to input materials used for producing compost / digestate materials falling within the scope of the end-of-waste criteria as well as the CE marked fertilising products.

The quality assurance procedure (quality management) as an integral part of the end-of-waste criteria, has been built into the conformity assessment procedure (Module D1) for compost and digestate for most of the technical part. This is good because from a quality and safety point of view, quality assurance of the entire production process is indeed the most designated procedure. Nevertheless, the Fertilising Products Regulation demands the intervention of a notifying authority or a national accreditation body referring to (EC) No 765/2008 to carry out third-party tasks under this Regulation. This is a crucial issue.

The European Compost Network Quality Assurance Scheme (ECN-QAS)<sup>2</sup> as a standardised quality management system for compost and digestate products is widely supported besides the national

<sup>1</sup> Saveyn, Hans, and Peter Eder. JRC Report. “End-of-waste criteria for biodegradable waste subjected to biological treatment (compost & digestate): Technical proposals.” (2014).

<sup>2</sup> European Compost Network. “Quality Manual – ECN-QAS: European Quality Assurance Scheme for Compost and Digestate.” (2014).

standards. National Quality Assurance Organisations can benchmark their system with the ECN-QAS after proving conformity, and hereby grant ECN-QAS certificates for compost and digestate to individual production plants. This harmonisation initiative (ECN-QAS Manual) was launched already back in 2009 for compost and in 2014 for digestate. In the new setup for the harmonised Fertilising Products Regulation, these recognised quality assurance systems (QAS) don't structurally fit with the proposed conformity assessment procedures. Accreditation of third party certification bodies is required, whereas the working structure of some National Quality Assurance Organisations is not adopted for working in this manner. Moreover, accreditation means extra costs that will have to be carried by the production plants, in surplus of their already existing certification costs. The certification of compost and digestate products under CE mark may be less suitable for primary producers, but all the more for the commercial fertilising companies that already produce CE fertilisers with mineral and in the future recycled organic materials as a component. This change in setup will affect most of the well-established QA systems for compost and digestate in the EU Member States. For structural, economic and administrative reason the existing national QAS will not be subjected to the required accreditation system, certainly not in countries where the production is only meant for local markets. We believe that there is a well-grounded need for further discussion to figure out whether the existing national QA systems could remain in place and whether the ECN-QAS could work as an umbrella organisation with/without accreditation but based on acknowledged bodies.

In former statements of ECN we repeatedly called for similar requirements on heavy metal thresholds for all "Product Function Categories" in the proposal of the Fertilising Products Regulation. Despite we see a difference between organic fertiliser, organic soil improver and growing media, apparently due to possible higher concentrations of Cd in native, unprocessed bark materials.

About the criteria "minimum nutrient content" for classification of product function categories, only the values expressed on dry matter basis are relevant, not the proposed values expressed on fresh matter of the fertilising products. However, the declaration of the nutrient content could be made on fresh matter basis, as proposed. Furthermore, ECN proposes that the criterion "Organic Carbon" should be replaced by "Organic Matter", as it is derived as such in the recognised analysis methods. The tolerance rules for labelling PFC 3 (Organic Soil improvers) have to be questioned critically.

The criteria "Escherichia coli / Enterococcaeae" should be deleted as limit value for the product function categories "Organic fertiliser", "Organic soil improver" and "Growing media".

A main issue concerns the reference to the (EC) No 1069/2009: fertilising products should be allowed to reach the endpoint in the manufacturing chain beyond which they are no longer subject to the requirements of the Animal By-Product Regulation (ABPR). ECN welcomes the initiative from DG GROW discussing this most relevant issue for an approval of the conditions (temperature-time profiles etc.) set in the proposal of the Fertilising Products Regulation with DG SANTE. Questions arise, if either ABP treatment parameters are predominant over the proposed time-temperature profiles proposed in the new Fertilising Product Regulation or not? Is the possibility for validation of other temperature-time profiles that have shown equal effect than 1h / 70°C still in place? How should commercial catering be treated in a harmonized system: still according to the standards set in the ABP Regulation normally? Legal certainty is required otherwise most compost and digestate products produced from treated source separated biowaste from households, which are regulated by national exemption from ABP, would never reach a fertilising product status in the future!