



To the European Commission, DG Environment & DG Enterprise

Object: exemption of digestates from REACH

Brussels 31st January 2014

Dear Madam, dear Sir,

Questions and doubts concerning the implementation of the EU chemical regulation REACH (1907/2006) pose obstacles to the development of phosphate recycling (and more generally nutrient and carbon) recycling from biosolids, because operators and investors are unwilling to engage in routes where the regulatory context is unclear.

Stakeholders gathered at the Manuresource Conference, 5-6 December 2013, Bruges, concluded the importance of clarification and harmonisation of REACH implementation between Member States concerning "recovered" products and manure-based products, emphasising that REACH is not an appropriate tool for addressing questions such as possible contaminants in manure based products and that Art 2(7)d of REACH aims to facilitate recovery and recycling. This document can be downloaded at www.phosphorusplatform.eu under Downloads.

This question was also discussed at length at a stakeholder meeting organised by the European Sustainable Phosphorus Platform in London in September 2013, where several participants indicated the opinion that digestates could be considered as exempt from REACH because of the parallel to compost which is specifically excluded under Annex V §12.

"ECHA Guidance for Annex V" states (p19, v 1.1, Nov. 2012) that certain biosolids which "have undergone digestion or decomposition resulting in waste" are exempted under Annex V, but this poses the question of whether REACH registration is needed if the digestate then achieves "End-of-Waste" status and is used as e.g. a fertiliser or soil amendment. Certain member states explicitly consider digestates to be exempted under Annex V, see e.g. UK Competent Authority leaflet 14, Nov. 2012 <http://www.hse.gov.uk/reach/resources/waste.pdf> This question has been put in writing to the European Commission by Andrea Zanoni, European Parliamentary question E-010830-13 on 24th September 2013.

We would suggest that REACH is intended to assess chemicals, and not products resulting from biological processes such as biosolids, compost or digestates. Clarification is important for the development of nutrient recycling in Europe, we therefore support the request (<http://european-biogas.eu/wp-content/uploads/files/2013/11/2013-11-28-Position-paper-digestate-and-REACH-EN-final.pdf>) made by the European Biogas Association and Fachverband Biogas that the European Commission confirm that digestate from anaerobic digestion of biosolids is exempt from REACH.

However, comparable to the example of yeast extract in the "ECHA Guidance for Annex V", certain purified or processed digestates (processes other than simple water extraction or solid/liquid separation) may potentially be subject to REACH, but as "recovered substances" under Art. 2(7)d. This could also be clarified to ensure operators a clear vision of the regulatory context for nutrient recycling.

We very much hope that you will be able to clarify these questions, and remain at your disposition to meet and discuss them or to provide any further information

Yours sincerely, Arnoud Passenier, European Sustainable Phosphorus Platform

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