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Your ref:

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Dear Hans

UK Comments on Third Working Document on End of Waste criteria for biodegradable waste subject to biological treatment

Thank you for your email dated 10th August asking for comments on the third working document on End of Waste criteria for biodegradable waste subject to biological treatment.

We wish to express our concerns about the third working document. As far as we know from our correspondence with representatives from Belgium, Denmark, Italy, Germany, the Netherlands and Spain they also share these concerns and collectively we do not support the current document.

We were surprised and disappointed to see such fundamental changes to the latest draft, most notably, the inclusion of mixed municipal waste and sewage sludge as permitted inputs and new requirements for testing of organic pollutants. It is also unsatisfactory that members of the technical working are restricted to providing only technical corrections to the document within a very short timescale, despite the significant changes to the document. We would like therefore to make the following points:-

Market impacts

We cannot accept the inclusion of mixed municipal waste or municipal sewage sludge in the positive input list of waste streams for the production of EoW digestate or compost. The inclusion of such materials would severely undermine market confidence in high quality waste-derived compost and digestate across the EU. In some countries the inclusion of such wastes will be entirely unacceptable to the market.

Our view, which had very wide support at the last Technical Working Group meeting in Seville, is that the EoW system should be based only on source separated biodegradable input materials.

Results from sampling campaign



We do not agree that the results of the sampling campaign justify the inclusion of sewage sludge or mixed municipal waste on the positive list. It is important to note the data limitations of the sampling campaign. There were very few samples of certain technologies and the samples only provide a snapshot. They take no account of the fact that a plant's compost or digestate may vary over the year. MBT materials and sewage sludge are inherently more variable in their content. The nature of waste inputs to an MBT plant, in particular, will inevitably result in greater potential for unexpected increases in contamination or seasonal variation in the quality of outputs. Equally there is a high level of variability between different MBT plants depending on the technology used or how the plant is operated. Such variability cannot guarantee a high quality product.

Analysis costs

The working document includes new requirements for testing organic pollutants. This will result in a substantial increase in costs both for carrying out the tests and for accrediting laboratories to undertake the analyses. Such costs will inevitably be passed back to operators and represent an unnecessary additional cost burden that could be avoided by restricting inputs to source separated inputs.

End of Waste principles

Fundamentally, we question whether the inclusion of mixed municipal waste and sewage sludge as permitted inputs meets any of the four key principles of End of Waste, notably in respect of whether the product will be commonly used; whether a market exists for the product; whether it fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and whether its use will not lead to overall adverse environmental or human health impacts.

Equally, the inclusion of such materials would appear to contradict the guidelines of the Waste Framework Directive to "encourage the separate collection of biowaste" (Article 22a), and previous European Commission communications which support source separated inputs in order to generate high quality recycled compost and digestate (COM(2010)235).

Other UK concerns

As we have said previously, we support the principles of end of waste criteria, and the role they play in creating legal certainty and market confidence for the sector. However, while such criteria can work well on a national basis, it does not always follow that such criteria must be harmonised across the EU, particularly as neither compost or digestate are widely traded across borders. The working document proposes end of waste criteria which we believe would have costs that significantly outweigh the benefits. Even if MBT and sewage sludge were removed from the positive list, therefore, we would not be able to support the proposals on cost/benefit grounds for the following reasons:-

- As well as sewage sludge and mixed municipal waste, there are a number of other input materials on the positive list that bring risks of increased contamination. These include materials such as wastes from the manufacture, formulation, supply and use of basic organic chemicals (out of biodiesel production). These substances should be deleted from the positive list.

In other cases, wastes descriptions included on the positive list need to be better defined so that it is much clearer what may be composted or digested. For example micelles from antibiotics production, (not containing antibiotics) may be suitable in some cases but suitability would need to be assessed on a case by case basis. In these cases it would be prudent not to list these waste types at this stage but allow their addition subsequently when there is sufficient evidence to support their specific use.

- As we have stated previously, one of our main concerns is that the working document specifies methods for analysis that are not yet accredited and in some cases may be difficult to accredit. This reflects the current state of test development but makes it challenging to develop meaningful EU end of waste standards.

- Tests such as those proposed for monitoring organic pollutants, those for pathogenic organisms and those for detecting physical contamination are largely different from those used in the UK, not accredited to a recognised standard in the UK and, in some cases, generally not accreditable in Europe.

We have previously provided detail on this topic and have not repeated this again at this iteration of the report. However, it is essential that the impact is fully recognised. The lack of accreditation for some methods across Europe will mean that uniform measurement and reporting of the parameters in the EoW criteria will not happen. Furthermore, introducing new methods into an established end of waste system such as that in the UK carries a significant economic cost. We estimate that the proposals for organic pollutant testing alone would double or triple the costs of sample analysis in the UK.

- We welcome the proposal to remove the proposed organic acid test for the stability of digestate. However, it is vital to have some test of the stability of digestate and compost to safeguard against 'sham recovery' and partial recovery and thus ensure that the biodegradable input materials are indeed fully treated. We accept that there is currently no stability test that could be adopted across the EU. We would, therefore, recommend that the requirement for a test is part of any proposals for end of waste criteria but that the precise test is left to each Member State.

- The proposals for sampling that are described in the third draft document are not clear and it is very difficult to see how such a critical element of an end of waste criteria would be implemented consistently across Europe. The sampling regime needs to be clearly set out and not left to the discretion of individual certification bodies and needs to be rigorous but not overly burdensome.

- Some elements that caused us concern in the previous working document remain in the new one and therefore our concerns also remain. These include the limits on copper and lead. We believe that the limits in the sludge regulations should be used unless there is strong evidence on environmental impact that justify changes to the limits.

- Two important elements to ensure the delivery of a quality product in the UK specification for compost are the plant response test and the limit for physical

contaminants. In both cases the UK specification is tighter than that proposed. Furthermore the proposed limit of two weed seeds per litre is too high to ensure that waste materials have been fully treated and thus to maintain confidence in waste-derived composts and digestates.

We were interested to see the comments from the European Composting Network on revision of the EU Fertiliser Regulation. We think that the ECN raise some important questions about the relationship between end of waste and the proposed Fertiliser Regulation. We feel there needs to be a clear understanding of the interaction and timescale between these two processes, and would welcome an update.

Finally, the inclusion of sewage sludge as an allowable input raises the question of how the proposed end of waste criteria will interface with the Sewage Sludge Directive.

In the UK, the use of MBT residues in the UK is restricted to one-off applications for restoring brownfield sites and landfills. This use is controlled through waste permits. Widespread use on agricultural land or in any other applications is not allowed. Recently the Environment Agency has issued guidance for operators who wish to run trials on the use of MBT residues on land. The guidance is extensive and reflects the need for us to know more about the nature of MBT derived materials and their potential effects on soils (<http://publications.environment-agency.gov.uk/PDF/GEHO0512BWLS-E-E.pdf>).

In conclusion, the UK's view is that we do not believe that the third working document justifies the inclusion of sewage sludge or mixed municipal waste on the positive list. Furthermore, we are not convinced that the proposals as a whole provide a basis for uniform standards across the EU for compost and digestate, given the numerous issues listed above and we could not support them in this form.

I attach detailed comments on the third working document, which includes some information on analysis costs from our impact assessment of the draft proposals. I am copying our response to colleagues in other Member States and at the European Commission.

Yours sincerely

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