

Regulation of the Minister of Agriculture, Fisheries, Food Security and Nature of , No WJZ/99373921, amending the Fertilisers Act Implementation Regulation in connection with the amendment and addition of several residues in Annex Aa

[ChainID W GK028005]

The Minister of Agriculture, Fisheries, Food Security and Nature,

Having regard to Article 5(2) of the Decree implementing the Fertilisers Act;

Hereby decrees:

Article I

Annex Aa of the Fertilisers Act Implementing Regulation is amended as follows:

1. Two residues are added to Section I, reading:

39. Residue released from sheep farming and that consists of raw, untreated Dutch sheep wool, pulverised and pressed into wool pellets (wool pellets).
40. Residue released from the local grinding and subsequent digestion of food waste from hospitality establishments and consisting of hygienised digestate of food waste (hygienised digestate of food waste).

2. A residue is added to Section II, reading:

4. Residue released from the chemical cleaning of process air from a dairy factory by washing with a diluted nitric acid solution and consisting of an acid solution of ammonium nitrate in water (ammonium nitrate solution from chemical air scrubbers in dairy factories).

3. A residue is added to Section III, reading:

9. Residue released from the factory production of alcohol by the fermentation of molasses released from the factory processing of sugar beet and consisting of a dark brown viscous liquid (vinassekali) or consisting of a thickened dark brown viscous liquid (thickened vinassekali).

4. Section IV, Category 1, under C1 is amended as follows:

a. Residues with numbers 9, 11 and 27 to 29 inclusive are removed.

b. After renumbering residue with number 10 as 9, residues with numbers 12 to 26 inclusive as 10 to 24 inclusive and residues with numbers 30 to 43 inclusive as 25 to 38 inclusive, seven residues are added, reading:

39. Residue released during the processing of potatoes, vegetables and/or fruit, obtained by purely mechanical processing steps and/or heat treatment using just water as an additive, and that consists of (residues of) potatoes, vegetables and/or fruit and that is free of packaging material (residues of potatoes, vegetables and/or fruit).

40. Residue from the grain processing industries, obtained by purely mechanical processing steps, using just water as an additive, and that consists of dry grain residues (dry grain residues).
41. Residue from the cereal processing industries, obtained by the malting and/or fermentation of cereals (and wheat germ), consisting of malted and/or fermented cereal particles (malted and/or fermented cereal particles).
42. Residue released during the production of sugar from plant-based raw materials, consisting of liquid sugars, molasses and/or glucose (sugar or molasses).
43. Residue released from the processing of soya beans, consisting primarily of sugar or molasses (soy sugar or molasses).
44. Residue released from the production of cocoa butter, consisting of a cocoa fat emulsion in water (cocoa fat emulsion in water).
45. Residue released as a mixture from factory unpackaging by a specialised company of exclusively-packaged plant-based foods originating from retail, wholesale or producers and that have solely become unfit for human consumption because the expiry date has passed or due to packaging errors or improper storage. The mixture consists of unpackaged foods of plant origin that were originally intended for human consumption and are free of packaging material and cleaning water (unpackaged plant-based foods for human consumption).

5. In Section IV, Category 1, under C2, the term 'cheese factory' is 'replaced by 'dairy factory' in the definition of residue number 10.

6. In Section IV, Category 1, under E, a residue is added, reading:

3. Residue released during the production of mycelium, consisting of a substrate of straw, flour, water and citric acid in which lignivorous fungi have grown (mycelium substrate).

7. Section IV, Category 1, under G1 is amended as follows:

- a. Residues with numbers 1, 2, 9, 10 to 19 inclusive, 21, 25 to 28 inclusive, 41 to 46 inclusive, 53, 54 and 64 are removed.
- b. Residues with numbers 3 to 8 inclusive are renumbered as 1 to 6 inclusive, the residue with number 20 is renumbered as 7, residues with numbers 22 to 24 inclusive are renumbered as 8 to 10, residues with numbers 29 to 40 inclusive are renumbered as 11 to 22 inclusive, residues with numbers 47 to 52 inclusive are renumbered as 23 to 28 inclusive, residues with numbers 55 to 63 inclusive are renumbered as 29 to 37 inclusive and the residue with number 65 is renumbered as 38.

Article II

This regulation shall enter into force on the day following the date of its publication in the Government Gazette.

This regulation and the explanatory memorandum shall be published in the Government Gazette.

The Hague,

Ministry of Agriculture, Fisheries, Food Security and Nature.

EXPLANATORY STATEMENT

1 Purpose and contents

This regulation amends Annex Aa of the Fertilisers Act Implementing Regulation (Urm). A number of substances are added to Annex Aa so that they can be used as fertilisers or co-fermentation materials. Multiple existing definitions are also combined to simplify the annex. The amendments are explained in more detail below.

2 Amendment and addition of residues in Annex Aa

Annex Aa contains a list of residues that can be used as fertilisers or co-fermentation materials. The Decree implementing the Fertilisers Act [Uitvoeringsbesluit Mestoffenwet] sets out general frameworks that these substances must meet for inclusion on this list. The Fertiliser Act Expert Commission [CDM] makes an assessment based on a file submitted by the applicant. This amending regulation supplements Annex Aa with various substances and also combines various residues.

Wool pellets and hygienised digestate from food waste have been added to Section I of Annex Aa. The CDM evaluated these substances in accordance with the Protocol evaluation of materials to be used as fertiliser, version 3.2, and has arrived at a positive advice. These substances can be used directly as fertilisers.

Ammonium nitrate solution from chemical air scrubbers in dairy factories has been added to Section II. This substance is released during the chemical cleaning of process air from a dairy factory when washing with a diluted solution of nitric acid. The CDM evaluated this substance in accordance with the Protocol evaluation of materials to be used as fertiliser, version 3.2, and has reached a positive advice on adding this residue to Section 1. Contrary to the advice of the CDM, the residue will not be added to Section I because Section II already contains other waste waters from air scrubbers that are more in keeping with this substance. This substance can be used directly as a fertiliser.

Thickened vinassekali has been added to Section III. The CDM has not further evaluated this substance because it had already been added to Section I of Annex Aa under number 8 after a positive advice and may, therefore, already be used as a fertiliser. By adding this substance to III as well, it may be used in the production of fertilisers.

Cocoa fat emulsion in water (number 44) and unpackaged plant-based foods for human consumption (number 45) have been added to Section IV, Category 1, under C1. These substances may be used as co-fermentation materials. The addition of a separate definition for unpackaged plant foods for human consumption is a clarification of the existing definition in Section IV, Category 1, under C2, number 3 (unpackaged foods for human consumption), as it excludes animal products. One substance from the production of fungi for human consumption has been added too: mycelium substrate. The CDM evaluated this substance in accordance with the Protocol evaluation of materials to be used as fertiliser, version 3.2, and issued a positive advice.

Amendments have also been made to Section IV, Category 1, under C1, due to the combination of definitions of multiple residues from Subsections C1 and G1 of Section IV with a view to improving consistency in the annex. On the advice of the

CDM, existing definitions have been combined into new, broader definitions. As existing definitions are removed as a result of the combination of definitions above, the numbering of substances under C1 and G1 has been changed. These are:

- the combination of six existing definitions (former numbers 9 and 11 under C1 and 1, 2, 53 and 54 under G1) into one new definition for residues of potatoes, vegetables and/or fruit under C1, number 39 (new);
- the combination of 23 existing definitions (former numbers 27 to 29 inclusive under C1 and numbers 9 to 21 inclusive, 25 to 28 inclusive, 41, 42 and 64 under G1) into two new definitions for mechanically-treated cereal residues and malted and/or fermented cereal residues under C1, numbers 40 and 41 (new). The existing definition for wheat protein (former number 20 under G1) is retained here (under number 7);
- the combination of four existing definitions (former numbers 43 to 46 under G1) into two new definitions for sugar or molasses and soya sugar or molasses under C1, numbers 42 and 43 (new).

Finally, 'cheese factory' has been replaced by 'dairy factory' in the definition of sewage sludge (Section IV, Category 1, under C2, number 10). The advice of the CDM in respect of sewage sludge from a dairy factory was to assess the substance separately because the composition of the sludge and the associated risks may vary depending on whether sewage sludge is from a cheese factory or a dairy factory. However, it has been decided to deviate from this advice because the difference between a cheese factory and a dairy factory cannot be made by enforcement in this context. As a result of this amendment, sewage sludge from dairy factories that do not make cheese fall under this definition too.

3 Impact on businesses and government

3.1 Regulatory burden

The amendments to this amending regulation pertain to the addition of residues and the combination of residues already included in the list. Several existing definitions in Annex Aa are amended as well. This changes the numbering of the definitions in the annex and temporarily cause additional administration work in the sector. This will also result in one-off costs of € 3,552 for the sector (farmers, intermediaries and advisors). However, the amendments will structurally reduce the regulatory burden for the sector.

A draft of the amending regulation was submitted to the Advisory Board on Regulatory Burden [ATR]. The regulatory burden has been sufficiently identified, ATR did not select the file for formal advice because it does not foresee any significant impact on regulatory burden.

3.2 Implementation and enforcement

The impact on implementation and enforcement is limited. Where these are at issue, they contribute positively to practicability and enforceability. NVWA and RVO do not consider an implementation and enforcement test necessary.

4 Consultation

The draft regulation was offered for internet consultation in the period from 14 July 2025 to 28 August 2025. Six consultation responses were received. The consultation did not lead to an amendment of the draft regulation

Two responses raised questions about the safety of the use of hygienic digestate from food residues (Section I, number 40) in connection with the contamination of this flow with plastic and glass. It is noted in this respect that the CDM evaluated the substance in accordance with the Protocol evaluation of materials to be used as fertiliser, version 3.2. Its evaluation included the risk of contaminants that could be harmful to human, animal and environmental health. As the substance has received a positive advice, the conclusion of the evaluation - based on the analyses carried out - was that the substance is not contaminated. Questions were also raised about the evaluation of the process requirements for the hygienised digestate. The hygiene step was found to be sufficient to reduce the risk of contamination with pathogens due to compliance with national rules on hygienisation.

In the responses about the 'unpackaged plant-based foods for human consumption' substance (Section IV, Category 1, under C1, number 45) concerns were also expressed about possible contamination of the flow with animal products and it is proposed that this substance only be permitted for companies that only process plant material. It is noted in this respect that the addition of this separate definition clarifies the existing definition for unpackaged food for human consumption (Section IV, Category 1, under C2, number 3), as plant and animal flows are kept separate and, by doing this, the risk of contamination with animal material is avoided. Where packaged plant-based foods are concerned, the protocol also evaluates compliance with EU and national rules on the remediation of substances, given the nature and origin of the co-fermentation materials to be evaluated. Based on the positive advice of the CDM, the conclusion of evaluation is that this compliance is achieved.

Questions about the application of the usage standards were also raised in relation to both the substances above. Because the substances in question are 'other organic fertilisers', they count towards the achievement of nitrogen and phosphate usage standards as set out in the Fertilisers Act.

The other responses relate to the use of manure fermentation in general and do not pertain to the proposed addition of new substances or the amendment of the definitions of existing substances. Manure fermentation is one way to convert methane emissions from manure into biogas. Green gas can be made from biogas, which can be used to replace gas from fossil sources. In the Netherlands, it has been decided to encourage manure fermentation and manure co-fermentation in order to contribute to the national challenge to achieve green gas production.

5 Notification

The amendments to Annex Aa constitute technical requirements within the meaning of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services (OJ 2015 L 241). Notification has been made under number TBC. Pursuant to Article 5(1) of Directive (EU) 2015/1535, the draft regulation was submitted to the European Commission on TBC. PM responses have been received to the draft regulation. [TBC]

6 Entry into force

This regulation shall enter into force on the day following the date of its publication in the Government Gazette. This deviates from government policy on fixed dates for amendments and a minimum implementation period. This deviation is justified

in this case because the sector will benefit from the rapid entry into force of the regulation.

Ministry of Agriculture, Fisheries, Food Security and Nature.