August 16, 2021

The Honorable Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Comment on the Economic Classification Policy Committee's Recommendations for the 2022 Revision of the North American Industry Classification System

Dear Director Young,

The American Biogas Council is pleased to offer the following comments to Notice of Solicitation of Comments on the Economic Classification Policy Committee's Recommendations for the 2022 Revision of the North American Industry Classification System. In short, we request the creation of a NAICS code for biogas systems. During a previous NAICS update, our industry was denied its own code as it was deemed as not mature enough in its own right. We strongly believe that to no longer be valid. Our industry has grown significantly over the past six years. We further believe that a sister industry, composting, has been granted a NAICS code, it would be logical to also grant one to biogas systems.

Introduction

This letter outlines the drivers for creating a code and the growth in our industry since 2015. Without a biogas NAICS code many opportunities will be missed for both biogas industry and the Biden Administration whose initiatives to reduce methane emissions are directly supported by a stronger U.S. biogas industry.

The American Biogas Council, (ABC) is the voice of the US biogas industry, 260 member companies and nearly 3,000 professionals strong and growing. We work to create the regulatory, policy and economic conditions that will catalyse development of new biogas systems, creating jobs, cultivating energy independence, and stimulating growth of the bioeconomy in the US.

Biogas systems provide sustainable materials management solutions for organic wastes (e.g., food waste, animal manures, wastewater treatment biosolids, green waste and yard trimmings and food manufacturing residuals). Through the natural process of anaerobic digestion, biogas systems recycle these materials into renewable energy, important agronomic nutrients—nitrogen, phosphorus, potassium, calcium, sulfur, micronutrients, and more—plus a range of high value products that improve soil health, water quality, and air quality.

Fundamentally, biogas systems recycle organic material into renewable energy and soil products using naturally occurring microbes that decompose the organic material. Biogas systems allow for nutrient recycling, something that is relatively unique among other systems that convert recyclable material into energy. Furthermore, energy from biogas systems is base load power which contributes significantly to community resilience. Biogas systems produce biogas 24/7, 365 days a year with a 95% availability rate. This reliable source of biogas can be converted to electricity, heat, and renewable natural gas (RNG) or compressed natural gas (CNG) for vehicle fuel. Furthermore, the electricity made from biogas can also be used to power electric vehicles and is one of the lowest carbon fuels available for this purpose according to the California Air Resource Board.

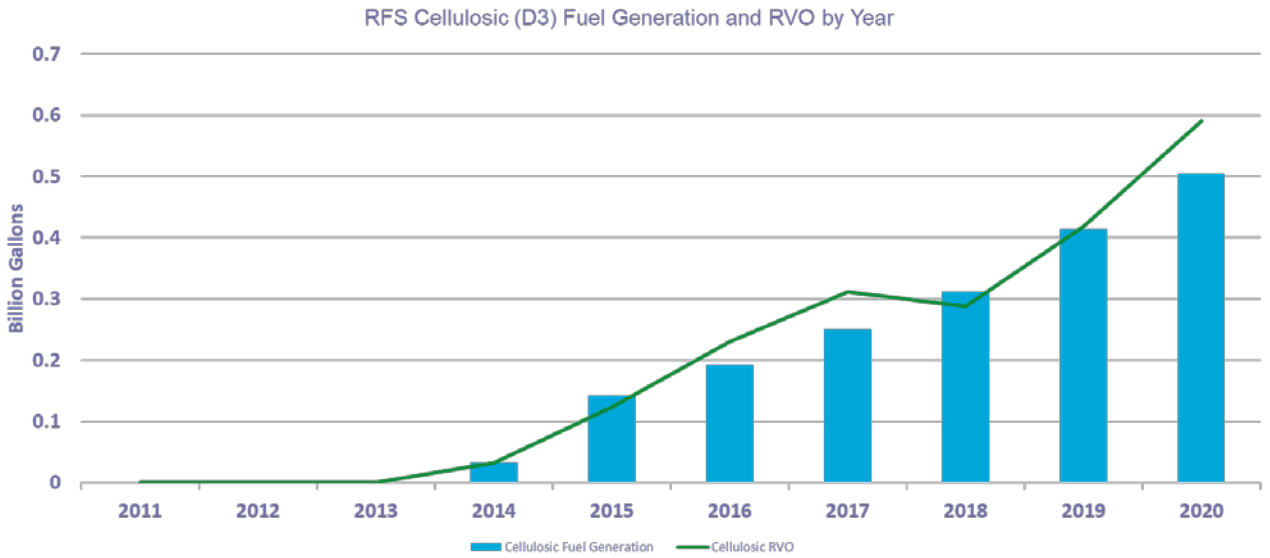
The ECPC says an industry classification is needed to:

- clarify existing industry definitions and content,
- recognize new and emerging industries,
- combine industries, and
- correct errors and omissions.

The first two underscore exactly why the biogas industry needs a NAICS code. Our industry has been trying to fit our businesses into other NAICS codes for too long, which is confusing, and the industry has been growing in leaps and bounds, especially since 2015 when we made our last request.

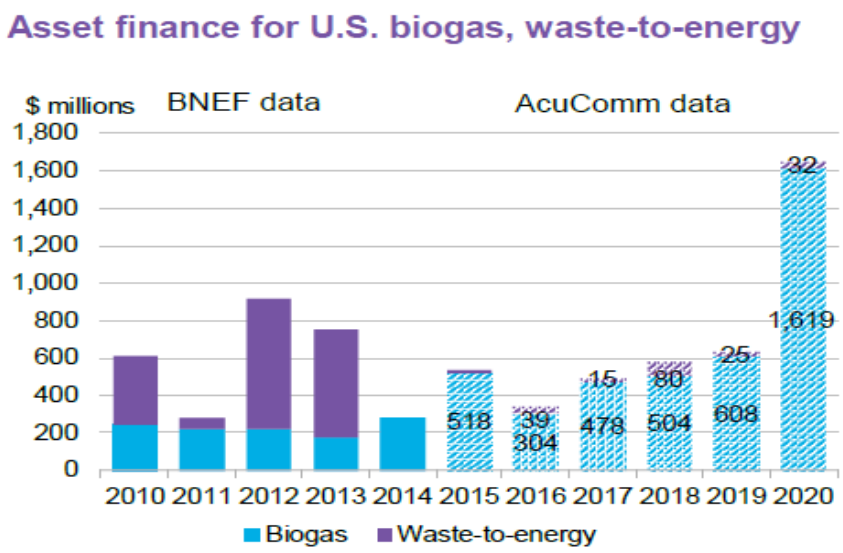
Clarification is needed because biogas systems are not farms or wastewater facilities. They are often located at these facilities because that's where the source feedstock is located, but they create totally separate functions, and especially in the case of farms, separate business entities. The primary function of a biogas system is not to grow livestock or crops and it is not to clean wastewater. Biogas systems transform the waste product from these facilities into valuable products that can be sold, similar to NAICS 562213 - Solid Waste Combustors and Incinerators and the recommended NAICS code for composters.

Since our request to create a biogas NAICS code in 2014, the biogas industry has also grown considerably. The fastest growing segment, biogas projects that produce renewable natural gas, has grown 1400% from 33 million gallon equivalents to over 500 million per year. See the following graphic which shows the D3 cellulosic fuel production under the EPA's Renewable Fuel Standard. Ninety-five percent of all D3 fuel production comes from biogas.



Source 1. American Biogas Council graph using data from EPA, https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard

Additional growth of the biogas industry can be seen in the total U.S. investments committed to building news systems. Total U.S. investment increased from about $250 million in 2014 to more than $1.6 billion in 2020 (550%). It's especially telling in the graphic below to see the relative difference of waste to energy investments (i.e., incineration/solid waste combustion, which has a NAICS code), compared to biogas system investments.



Source 2. Sustainable Energy in America Fact book 2021, BloombergNEF L.P. 2021. Developed in partnership with the Business Council for Sustainable Energy, https://bcse.org/factbook/

In furtherance of our mission and stated goals as well as the ECPC's desire to recognize new and emerging industries, we strongly urge the establishment of a separate NAICS code for biogas systems.

If ECPC is Granting a NAICS Code to Composting, it Should Be Granting a NAICS Code to Biogas

According to EPA data from 2017, organic material (i.e., food waste and yard trimmings) makes up about one-fifth of the typical American's garbage. Traditional recyclable material, like glass, metal, paper and plastic, contributes about 50%. Therefore, even if the U.S. was one hundred percent successful at recycling glass, metal, paper and plastic, the highest recycling rate we can achieve is only 50%. In reality, since its near to impossible to recycle 100% of our waste, it's actually much less. The next largest component of MSW is organic material which comprises 20% of the overall volume. In order for the U.S. to advance a fully integrated recycling industry, organic recycling infrastructure must be included.

Only two technologies exist that can recycle organic waste: biogas systems and compost systems. Fortunately, both are commercially available and ready for increased deployment. *Compost is already recognized in NAICS with a code specific to its industry*. Biogas systems and compost systems are sister industries. They work in a complementary manner. Digested material from a biogas system can be used as a feedstock to make compost. Additionally, biogas systems can take organic material that most open, windrow compost operations will not accept due to odor and vector issues, such as paunch, slaughterhouse blood and other odorous materials. While some compost systems are covered and quasi contained, most are, in fact, open as these systems need a ready supply of oxygen. In contrast, all biogas systems are well contained, sealed systems that can handle large volumes of the most putrid organic material. Biogas systems also deploy biofilters and interior receiving areas to keep odors from leaving plant gates.

The complementary nature of biogas and compost systems extends to economics. In general, compost systems are sized to economically process small volumes of organic material (i.e., less than 10,000 tons per year). In contrast, biogas systems generally scale up well to process large volumes of organic material (i.e., greater than 50,000 tons per year). Both can work for medium volumes of organic material (i.e., 10,000-50,000 tons per year). Depending on the amount of organic material one has, one might use a biogas system, compost system or both. A strong example of a waste facility that uses both a biogas and compost system is the biogas system at the University of Wisconsin-Oshkosh, which takes 10,000 tons per year of food scraps from the dining halls and yard trimmings from campus and recycles it into renewable electricity, renewable heat and a compost the university sells as "Titan Gold Certified Organic Compost."

Biogas markets have grown but have enormous potential for additional growth – especially if they are able to access the types of financing that a NAICS code would enable. Market growth opportunities equates to new investments, economic benefits, greater environmental protection and, in the case of biogas systems, substantial new renewable energy generation and renewable nutrient potential. The recycling potential is significant as the US produces 66.5 million tons of food waste each year, 31 billion gallons of wastewater every day, and must manage the manure and waste from 8 billion cows, chicken, turkey and pigs. All of this is recyclable material which can be readily processed through organics recycling systems (i.e., biogas system).

ABC Request

Due to the maturity of the industry and a NAICS code being granted to sister industry, the ABC urges the creation of a NAICS code for biogas. To avoid the concern about double counting and create clear communication for users, we ask that the descriptions for the following NAICS codes be modified to include "except for biogas system" or similar language. In addition, adding the new biogas NAICS code to the cross reference will aide communication.

Existing NAICS codes for which we suggest their descriptions be modified to exclude biogas systems:

- 112120 Dairy Cattle and Milk Production
- 112210 Hog and Pig Farming
- 112320 Broilers and Other Meat Type Chicken Production
- 112330 Turkey Production
- 221320 Sewage Treatment Facilities
- 562212 Solid Waste Landfill
- 221117 Biomass Electric Power Generation

Precedent

1. The methodology for segregating related industries is widely used. In the 2012 NAICS code descriptions, there are 1,315 uses of the word “except.” Reviewing these results indicates there are at least several dozen, if not several hundred instances—a strong precedent for segregating a related or sub industry.

For example:

- 11112 Oilseed (except Soybean) Farming
- 111150 Corn Farming
  - This industry comprises establishments primarily engaged in growing corn (except sweet corn) and/or producing corn seeds.
- 111160 Rice Farming
  - This industry comprises establishments primarily engaged in growing rice (except wild rice)
- 212 Mining (except Oil and Gas)
  - Industries in the Mining (except Oil and Gas) subsector primarily engage in mining, mine site development, and beneficiating (i.e., preparing) metallic minerals and nonmetallic minerals, including coal.
- 2123 Nonmetallic Mineral Mining and Quarrying
  - This industry group comprises establishments primarily engaged in developing mine sites, or in mining or quarrying nonmetallic minerals (except fuels).
- 221118 Other Electric Power Generation
  - This U.S. industry comprises establishments primarily engaged in operating electric power generation facilities (except hydroelectric, fossil fuel, nuclear, solar, wind, geothermal, and biomass)

And in the very codes whose descriptions and/or cross-reference lists we would like modified, precedent already exists to steer users to other codes that are related but not included in a different code. See the underlined examples below:

- 221117 Biomass Electric Power Generation
  - This U.S. industry comprises establishments primarily engaged in operating biomass electric power generation facilities. These facilities use biomass (e.g., wood, waste, alcohol fuels) to produce electric energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems.
  - Cross-References: Establishments primarily engaged in operating trash disposal incinerators that also generate electricity are classified in U.S. Industry 562213, Solid Waste Combustors and Incinerators.
- 562212 Solid Waste Landfill
  - This U.S. industry comprises establishments primarily engaged in (1) operating landfills for the disposal of nonhazardous solid waste or (2) the combined activity of collecting and/or hauling nonhazardous waste materials within a local area and operating landfills for the disposal of nonhazardous solid waste. These establishments may produce byproducts, such as methane. [This last sentence should be modified to except the biogas generating system.]

Cross-References. Establishments primarily engaged in

  - Operating treatment and/or disposal facilities for hazardous waste-- are classified in U.S. Industry 562211, Hazardous Waste Treatment and Disposal;
  - Operating combustors and incinerators for the disposal of nonhazardous solid waste--are classified in U.S. Industry 562213, Solid Waste Combustors and Incinerators;
  - Collecting, treating, and disposing waste through sewer systems or sewage treatment facilities--are classified in Industry 221320, Sewage Treatment Facilities;
  - Operating nonhazardous waste treatment and disposal facilities (except landfills, combustors, incinerators, and sewer systems or sewage treatment facilities)--are classified in U.S. Industry 562219, Other Nonhazardous Waste Treatment and Disposal; and
  - Manufacturing compost--are classified in U.S. Industry 325314, Fertilizer (Mixing Only) Manufacturing.

- 221320 Sewage Treatment Facilities
  - This industry comprises establishments primarily engaged in operating sewer systems or sewage treatment facilities that collect, treat, and dispose of waste.

Cross-References. Establishments primarily engaged in—

- Operating waste treatment or disposal facilities (except sewer systems or sewage treatment facilities)--are classified in Industry 56221, Waste Treatment and Disposal;
- Pumping (i.e., cleaning) septic tanks and cesspools--are classified in U.S. Industry 562991, Septic Tank and Related Services; and
- Cleaning and rodding sewers and catch basins--are classified in U.S. Industry 562998, All Other Miscellaneous Waste Management Services.

2. Having two NAICS codes on one physical property is not unique. Take, for example, dairy processing. In a number of facilities in the US, fluid milk and ice cream are produced in the same location. The fluid milk production is captured by NAICS 311511 and ice cream production is captured by NAICS 311520. If the Bureau can make the system work for milk and ice cream production, we have to believe dairy farming (NAICS 112120) can coexist with a new NAICS code as well that covers digester activity.

In closing, granting the biogas industry its own NAICS code and by treating personnel and operations as being separate, even when they might be physically located on a site that serves another purpose, will generate important data that can be used to remove a key barrier to growing this important industry. We urge the ECPC to adopt a NAICS code for biogas in order to more fully develop financing capabilities. Thank you for the opportunity to share our comments and we look forward to continuing to work with you as you finalize revisions to the NAICS. Please feel free to contact me directly should you have any questions about these comments. I can be reached at 202.640.6595 x366 or pserfass@ttcorp.com.

Sincerely,

Patrick Serfass
Executive Director
American Biogas Council