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À: info@phosphorusplatform.eu
Cc: SANTE-CONSULT-G2@ec.europa.eu
Objet: [RE] Letter to Cssrs concerning safe recycling of nutrients in Animal By Products (ABPs) and manures-Ares(2022)4033785
Pièces jointes: [Re] Letter to Cssrs concerning safe recycling of nutrients in Animal By-Products (ABPs) and manures.docx.pdf

Dear Mr Hermann,

Please find enclosed the reply of the European Commission to your email.

Best regards.

Simon Carrette
Unit G2 Secretariat



European Commission
Directorate-General for Health and Food Safety (DG SANTE)
Animal Health (Unit G2)

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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

The Director-General

Brussels
SANTE/MK/sc(2022)3918061

Subject: Letter to Csstrs concerning safe recycling of nutrients in Animal By-Products (ABPs) and manures

Dear Mr Hermann,

Thank you for your letter of 25 April 2022 informing about the possible recycling of nutrients in animal by-products (ABPs) and manure, and requesting the Commission to engage in actions enabling the safe recycling of these products.

I am pleased to inform you that my services have already initiated the relevant work to address this issue, of which we are fully conscious. Notably, ash of Category 2 and 3 materials, including ash derived from incineration, co-incineration and combustion of manure as well as several other derived products referred to in Article 32 of Regulation (EU) No 1069/2009, are under discussion with the Member States with a view to determining end points in the manufacturing chain of organic fertilisers and soil improvers. The objective is to open the harmonised market of “CE-marked” fertilisers under the new EU Fertilising Products Regulation 2019/1009.

I would also like to highlight that the use of ash from the combustion and/or incineration of Category 1 meat-and-bone meal in the manufacturing of organic fertilisers and soil improvers is currently not allowed in accordance with Article 32 of Regulation (EU) No 1069/2009. We are aware of the issue and my services are preparing a mandate to the European Food Safety Authority (EFSA) to assess the safety of this material. The Commission would be in a position to consider the use of these ashes only if EFSA evaluated it positively and if the use of this ash was no longer seen as a serious risk. Such change would however require an amendment of Regulation (EU) No 1069/2009 and the process would therefore require some time.

As regards your last question on nitrogen recovery from off-gases from manure treatment, manure storage, or livestock stables I confirm that off-gases from manure are not subject to Regulation (EU) No 1069/2009, since emissions are not within the scope of that Regulation.

Yours sincerely,

[e-signed]

Sandra GALLINA

Mr Ludwig Hermann
President
European Sustainable Phosphorus Platform
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To: **Stella Kyriakides, European Commissioner for Health and Food Safety**
and: **Thierry Breton, European Commissioner for Internal Market**
European Commission, Rue de la Loi 130, 1049 Brussels, Belgium.

Object: Safe recycling of nutrients in Animal By-Products (ABPs) and manures
Brussels 25th April 2022

Dear Ms Kyriakides, dear Mr Breton,

Animal by-products, such as livestock manures, meat and bone meal ash, and other secondary ABPs and derived materials, represent the biggest potential for nutrient recycling (together over 80% of secondary phosphorus in Europeⁱ).

Safe recycling of nutrients from manures and other Animal By-Products is therefore central to the EU's Circular Economy and Green Deal Farm-to-Fork policies.

However, **the war in Europe, and its global consequences on fertiliser production, phosphate rock and potassium supply, and on food security, make this increasingly important and urgent.**

Industry and stakeholders have strongly raised concerns, repeatedly since 2017ⁱⁱ and most recently with the joint letter of 11th March 2022ⁱⁱⁱ), that **all animal by-products and derived products (ABPs) will be effectively excluded from all CE-mark fertilisers under the new EU Fertilising Products Regulation 2019/1009 (FPR)** when it enters into force in July 2022, with exclusion both of their direct use in fertilising products and of their input to CE-mark composts and digestates.

We are aware that discussions are underway concerning materials listed by Parliament and Council in art. 46 of the Fertilising Products Regulation, and we hope that these will now rapidly lead to regulatory proposals.

With the present letter, **we request that you ask your services to also engage actions on the following important potential sources of secondary nutrients, in order to provide a regulatory framework for safe recycling:**

Ashes from ABP and manure combustion.

A core principle of the ABP Regulation is that incineration of ABPs under Industrial Emission Directive conditions (850°C, 2 seconds, etc), and subject to avoidance of cross-contamination, ensures safe disposal of ABPs, for Cat2-3 and for Cat1 materials. The EFSA Opinion of 20/10/2021 concluded 99-100% certainty^{iv} for Cat2 and Cat3 ashes. Manure (Cat2) ash represents a significant potential for nutrient recycling, in particular poultry manure which is already largely incinerated for energy recovery, resulting in an ash which is a valuable fertiliser.

EFSA has not, to date, assessed Cat1 ash.

Meat and bone meal ash represents a circular nutrient potential of nearly 10% of mineral fertiliser phosphorus use in Europe (ref. as (i) above) and for operational reasons Cats 1 – 3 meat and bone meal are not generally incinerated separately, so the ash is all Cat1. Cat1 ash thus represents a significant potential source of secondary phosphorus in Europe, with a high level of quality (high phosphorus content, low contaminant levels). It has been and still is used directly as a fertiliser in the UK with no safety concerns, has been also used in other Member States (e.g. disposal of Fipronil eggs in the Netherlands) and is subject to obligatory phosphorus recovery in Switzerland^v.

We therefore request that:

- **Cat2 and Cat3 ash, under CMC13, should be “fast tracked” for authorisation in CE-mark fertilisers**, by rapidly defining as an **ABP End-Point** for incineration of these materials, corresponding to the IED conditions (850°C), subject to avoidance of cross-contamination.
- **the European Commission should mandate EFSA for an Opinion on the safety of Cat1 ash**. We suggest that this mandate cover both direct use of Cat1 ash as a fertilising product and also use of Cat1, Cat2 and Cat3 ash to produce “commodity chemicals” (phosphoric acid, phosphate salts) which might then be used directly, or after chemical processing, for production of feed or food minerals (phosphates, potassium salts).

Nitrogen recovery from off-gases from manure treatment or storage, livestock stables

- It has been indicated (draft FPR FAQ) that off-gases are not ABPs by art. 2 of 1069/2009. This is not obvious to non-experts: in order to provide legal certainty for operators, please can you **specify the legal text, guidance document or jurisprudence which confirms that off-gases are not ABPs?**
- Beyond the legal aspect, it is essential to ensure safety and to support consumer and farmer confidence in the safety of recycled nutrients: **please can you therefore clarify what evidence is available to the Commission proving the safety of minerals recovered from such off-gases (CMC15)?**
- To ensure safety and confidence, we also propose that the **Commission mandate an Opinion from EFSA on minerals recovered from ABP off-gases**, in which case we ask that stakeholders and industry be consulted in the definition of this mandate (process parameters). We again request that this mandate covers not only the possible use of recovered mineral salts in fertilising products, but also (directly or after chemical processing) use in animal feeds, commodity chemicals.

We look forward to your response to these propositions, which aim to respond to the need to facilitate the nutrient Circular Economy in Europe whilst guaranteeing safety and supporting consumer and farmer confidence.

Yours sincerely



Ludwig Hermann, President

ⁱ Based on: Van Dijk, Lesschen & Oenema "Phosphorus flows and balances of the European Union Member States." *Sci Tot Env* 2016 <https://doi.org/10.1016/j.scitotenv.2015.08.048>

ⁱⁱ Industry joint letter of 20/11/2017 here www.phosphorusplatform.eu/regulatory

ⁱⁱⁱ Joint letter signed by 11 industry federations to Mr Reviriego Gordejo, Head of Unit G2 at DG SANTE, available here www.phosphorusplatform.eu/regulatory

^{iv} degree of scientific certainty that the specified process will achieve the required reduction of levels of the most resistant of the specified pathogens.

^v Swiss ordinance on limitation and elimination of waste 4th December 2015 in French (OLED) www.admin.ch/opc/fr/official-compilation/2015/5699.pdf and in German (Abfallverordnung, VVEA) www.admin.ch/opc/de/official-compilation/2015/5699.pdf