

De: GROW-FERTILISING-PRODUCTS@ec.europa.eu
Envoyé: lundi 29 juin 2026 16:42
À: info@phosphorusplatform.eu

Objet: RE: FPR questions
Pièces jointes: Reply_ESPP_Letters of 8 and 19 April.G2.pdf

Dear Robert,

Please find attached the replies to the questions raised in your letters of 8 and 19 April, concerning the use of derived products from animal by-products in EU fertilising products.
We are available in case of further questions.

Best regards,

The GROW Fertilising Products team



European Commission
DG GROW
F.2 Unit – Bioeconomy, chemicals, cosmetics
Building N105
Avenue de Nerviens 105
B - 1049 Brussels

From: info@phosphorusplatform.eu <info@phosphorusplatform.eu>
Sent: Sunday, April 19, 2026 11:31 AM

Subject: FPR questions

Dear Fertilisers Team

Please find attached a second letter (19th April) with various questions, coming up from operators, concerning FPR conditions for recycling certain nutrients.

For memory, and to limit confusion, I also include copy of our first letter (8th April) also with FPR questions.

We hope that you will be able to take these questions into consideration to facilitate moving forward nutrient recycling and look forward to hearing from you

For the ESPP President, Robert van Spingelen

European Sustainable Phosphorus Platform (ESPP)

Letter of 8 April

The EU Fertilising Products Regulation (FPR) CMC12 refers to Cat2-3 Animal By-Products as possible input materials (subject to conditions) and this is clarified for the case of composted manure in the FPR FAQ v2/12/25 in Q8.35 (<https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/148ac2da-00ae-4fa8-8ed0-270bce690efe/download>).

However, unless we are mistaken this example of manure cannot be ‘extrapolated’ to a sterilised Cat2-3 ABP, and specifically not to a sterilised dairy by-product:

- art. 32-1(b) of the ABP Regulation 1609/2009 states that “Organic fertilisers may be placed on the market and used provided ... they have been produced in accordance with the conditions for pressure sterilisation or with other conditions”
- FPR FAQ v2/12/25 in Q8.35 refers (in the manure compost example) to Delegated Regulation 2023/1605, but this Regulation does not include an ABP End Point for sterilised Cat.3 dairy by-products.

ESPP requests that the current situation for such materials be clarified in the FPR FAQ.

In accordance with Article 42(5) of the Fertiliser Regulation and CMC 12, point 6, only animal by-products or derived products for which an end point in the manufacturing chain for use in fertilising products has been determined may be used as input to CMC 12. Compliance with Article 32 of the ABPR is not sufficient. There is currently no end point for dairy by-products. Therefore, this material may currently not be used in EU fertilising products.

If, as we fear, this sterilised dairy stream cannot be used as an input for CMC12, then this seems absurd. The processes set out in the different chapters of 142/2011 are defined to ensure safety for use as animal feed materials: except with specifically justified exceptions, surely this also provides a sufficient level of safety for use in fertilisers ? (subject to the FPR limits on CMC input materials, PFC contaminants, labelling, etc). Indeed, most of the other ABP materials addressed in 142/2011 Annex X are already included in art.4 of 2023/1605.

In this case, we request that a modification of 2023/1605 be considered to add milk, colostrum (etc.) and their derived products, as defined in and processed under the conditions in 142/2011 Annex X.

For the future policy development, we take note. In retrospect, it must be noted however, that the current situation may not be absurd. That is because milk, colostrum and their derived products were not listed among other materials in the legal basis for CDR (EU) 2023/1605, that is Article 5(4) of Regulation (EC) No 1069/2009 as amended by the EU Fertiliser Regulation. Naturally so, as neither the co-legislators, nor the Commission considered that milk, colostrum and their derived products at that time as “are already widely used in the Union as organic fertilisers and soil improvers.”

We believe this is still the same. As far as we are aware, the most common pathway for valorisation for milk or milk products that failed with the hygiene standards in dairy industry is biogas transformation or composting which are both listed treatments referred to in Article 3(b) and 3(c) of Delegated Regulation (EU) 2023/1605, respectively. But, again, we take note of your request.

In this context, and in reference to the FPR FAQ Q8.35, we request that the FAQ clarify understanding of art.1 of 2023/1605. This article states that this Delegated Regulation defines ABP End Points for “organic fertilisers and soil improvers ... provided that they are used as component materials in EU fertilising products”. FAQ 1.1 clarifies that “organic” here means OFSI in the ABP Regulations, not as in the FPR.

Stakeholders have suggested that they understand this art.1 to mean that a material reaching an ABP End-Point (e.g. appropriately composted manure) can only be used directly as a CMC (not as an input for production of a CMC, e.g. input for production of a CMC12 precipitated phosphate). This could be made explicitly answered in Q8.35. To our understanding, the ABP End Point is only obtained when the material is finally incorporated into a CE-Mark fertiliser. In the example, the composted manure has not reached the ABP End-Point: if a phosphate salt is extracted from the manure, the phosphate salt could obtain the ABP End Point if incorporated into a CE-Mark product, whereas if the remaining composted manure is certified as a National Fertiliser it would remain ABP.

FAQ 8.35 states that “Currently, no end point can be reached via precipitation, gasification or pyrolysis processes. However, a derived product which follows the processing required in accordance with Delegated Regulation (EU) 2023/1605 and, in addition, is used as an input material in precipitated phosphate salts (covered by CMC 12) or gasification and pyrolysis materials (covered by CMC 14) may also reach the end point once contained in a compliant EU fertilising product.”

Composting is one of the end point treatments defined in Delegated Regulation (EU) 2023/1605. Hence, an animal by-product or derived product that has been composted in accordance with the requirements set out in Article 3(c) of that Delegated Regulation may be used as input material to CMC 12 and reaches an end point once the CMC 12 material is contained in a compliant EU fertilising product. We will reflect on whether the wording in the FAQ needs further clarification.

Letter of 19 April

Question A:

Point 1(d) of CMC14 specifies that biowaste can be used as an input for CMC14 pyrolysis materials. Point 4 of CMC14 appears to suggest that, where not listed in point 1, ABPs (Cats 2 and 3) can be used for CMC14 if there is a defined ABP End-Point.

→ In that biowaste IS listed in point 1, does this mean that an ABP End-Point is NOT required for biowaste to be used as input to CMC14 (subject to respecting CMC14 conditions)

Point 1(d) of CMC14 clearly excludes animal by-products and derived products. Animal by-products and derived products, whether contained in biowaste or not, can therefore only be used as input to CMC 14 in accordance with point 4, i.e. if an end point for that material has been determined.

Question B:

Point 1 of CMC14 specifies that input materials listed in points 1(a) to 1(e) can be used as inputs after various processing, in particular composting and anaerobic digestion. It is not specified that the composting or AD process must respect the conditions of CMC3 or CMC5. Regulation 2023/1605 defines ABP End-Points for composts and digestates in art. 3 (b) and (c)

→ Does this mean that a compost or digestate, produced from biowaste or other Cat2 or Cat 3 ABPs under the conditions set out in 142/2011, can be used as input to CMC14 ?

- despite that 2023/1605 wording “reached the end point as organic fertilisers and soil improvers” appears to suggest that the End-Point is applicable for direct use in a fertilising product, not for re-processing to manufacture a fertilising product component (e.g. by pyrolysis),
- despite that the wording of 1069/2009 art. 32 “Organic fertilisers and soil improvers may be placed on the market and used provided ...” does not mention reprocessing, only sale and use as such

→ If compost or digestate from biowaste (etc) can thus be used, is this irrespective of whether the composting or digestion process respects the criteria of CMC 3 or 5 ?

Yes, bio-waste excluding animal by-products or derived products may be composted or digested before being used as input to CMC 14 in accordance with point 1, paragraph 2. Compliance with the requirements for composting and digestion in CMC 3 or 5 is not required.

As mentioned above, animal by-products or derived products may only be used in EU fertilising products if they are treated to reach an end point. Commission Delegated Regulation (EU) 2023/1605 determined end points for compost and digestate. That means that an animal by-product or derived product, if composted or digested in accordance with the end point requirements, may be used as input to CMC 14 and will reach an end point once incorporated in a compliant EU fertilising product. Compliance with the requirements for composting and digestion in CMC 3 or 5 is not required.

Article 32 of Regulation (EC) No 1069/2009 provides for general requirements to be complied with for placing on the market materials that have not reached an end point, but that does not prevent any reprocessing.

Question C:

If various biological wastes including Cat 2-3 ABPs (e.g. biowaste) are pyrolysed, and then the resulting biochar is used as input to a CMC3 compost, where the composting process both respects the CMC3 criteria and the relevant 142/2011 processing conditions:

- ➔ Can this compost be CE-Mark (if respecting CMC3 and relevant PFC, labelling and certification criteria), on the basis that the pyrolysed mixture including ABPs is a “derived product” as per CMC3 point 1-b (ABP derived products referred to in 1069/2009 art. 32) ?
- despite the wording of 1069/2009 art. 32 which appears to cover direct use as such, not reprocessing

While it is true that a pyrolyzed animal by-product would meet the definition of a derived product in Article 3(2) of the Animal By-Products Regulation, it becomes clear from CMC 3, point 1(e), that such prior treatment is not permitted under CMC 3. CMC 3, point 1(e), stipulates that certain input materials to CMC 3 may be previously composted or digested. It does not allow prior pyrolysis.

As a possible avenue for further EU-level ABP policy development, and as a technical assistance to ESPP, the Commission takes the liberty to invite ESPP (or any associated stakeholder or operator) to consider the most commonly used nationally approved composting processes with the view to prepare comprehensive documentation together with the relevant national competent ABP authorities, for a possible EFSA risk assessment in accordance with Article 20 of Regulation (EC) No 1069/2009. Favourable EFSA assessment(s) would enable the Commission to amend Delegated Regulation (EC) 2023/1605 with new opportunities for valorisation of animal by-products within Regulation (EU) 2019/1009.

To the European Commission - DG GROW, Fertilisers Unit

Brussels, 19th April 2026

Object: FAQ clarification processed biowastes in CMC14 (pyrolysis materials).

Dear Fertilisers Team

Following questions from operators wishing to place recycled nutrient materials on the market, we request that clarification be included into the FPR FAQ concerning the following:

Assuming that

- *biowaste is classified as ABP Cat3*
- *there is to date no ABP End-Point defined for pyrolysis processes.*

Question A:

Point 1(d) of CMC14 specifies that biowaste can be used as an input for CMC14 pyrolysis materials. Point 4 of CMC14 appears to suggest that, where not listed in point 1, ABPs (Cats 2 and 3) can be used for CMC14 if there is a defined ABP End-Point.

- In that biowaste IS listed in point 1, does this mean that an ABP End-Point is NOT required for biowaste to be used as input to CMC14 (subject to respecting CMC14 conditions) ?

Question B:

Point 1 of CMC14 specifies that input materials listed in points 1(a) to 1(e) can be used as inputs after various processing, in particular composting and anaerobic digestion. It is not specified that the composting or AD process must respect the conditions of CMC3 or CMC5. Regulation 2023/1605 defines ABP End-Points for composts and digestates in art. 3 (b) and (c)

- Does this mean that a compost or digestate, produced from biowaste or other Cat2 or Cat 3 ABPs under the conditions set out in 142/2011, can be used as input to CMC14 ?
 - despite that 2023/1605 wording “*reached the end point as organic fertilisers and soil improvers*” appears to suggest that the End-Point is applicable for direct use in a fertilising product, not for re-processing to manufacture a fertilising product component (e.g. by pyrolysis),
 - despite that the wording of 1069/2009 art. 32 “*Organic fertilisers and soil improvers may be placed on the market and used provided ...*” does not mention reprocessing, only sale and use as such.
- If compost or digestate from biowaste (etc) can thus be used, is this irrespective of whether the composting or digestion process respects the criteria of CMC 3 or 5 ?

Question C:

If various biological wastes including Cat 2-3 ABPs (e.g. biowaste) are pyrolysed, and then the resulting biochar is used as input to a CMC3 compost, where the composting process both respects the CMC3 criteria and the relevant 142/2011 processing conditions:

- Can this compost be CE-Mark (if respecting CMC3 and relevant PFC, labelling and certification criteria), on the basis that the pyrolysed mixture including ABPs is a “derived product” as per CMC3 point 1-b (ABP derived products referred to in 1069/2009 art. 32) ?
 - despite the wording of 1069/2009 art. 32 which appears to cover direct use as such, not reprocessing

We hope that it will be possible to clarify these points in the FAQ and we remain at your disposition for any further information on these questions.

Yours sincerely

Robert Van Spingelen, President of ESPP



To the European Commission,
- DG GROW, Fertilisers Unit
- DG SANTE, Animal By-Products

Brussels, 8th April 2026

Dear Madams, dear Sirs

We have been contacted by a company wishing to recycle phosphorus from a sterilised dairy industry residue stream (a Cat.3 Animal By Product) by recovery of a precipitated phosphate salt. The residue stream is from food quality milk and is double processed (as specified in annex X, chapter II, section 4 of 142/2011) and then additionally undergoes microfiltration.

The EU Fertilising Products Regulation (FPR) CMC12 refers to Cat2-3 Animal By-Products as possible input materials (subject to conditions) and this is clarified for the case of composted manure in the FPR FAQ v2/12/25 in Q8.35 (<https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/148ac2da-00ae-4fa8-8ed0-270bce690efe/download>).

However, unless we are mistaken this example of manure cannot be 'extrapolated' to a sterilised Cat2-3 ABP, and specifically not to a sterilised dairy by-product:

- art. 32-1(b) of the ABP Regulation 1609/2009 states that "Organic fertilisers may be placed on the market and used provided ... they have been produced in accordance with the conditions for pressure sterilisation or with other conditions"
- FPR FAQ v2/12/25 in Q8.35 refers (in the manure compost example) to Delegated Regulation 2023/1605, but this Regulation does not include an ABP End Point for sterilised Cat.3 dairy by-products.

ESPP requests that the current situation for such materials be clarified in the FPR FAQ.

If, as we fear, this sterilised dairy stream cannot be used as an input for CMC12, then this seems absurd. The processes set out in the different chapters of 142/2011 are defined to ensure safety for use as animal feed materials: except with specifically justified exceptions, surely this also provides a sufficient level of safety for use in fertilisers ? (subject to the FPR limits on CMC input materials, PFC contaminants, labelling, etc). Indeed, most of the other ABP materials addressed in 142/2011 Annex X are already included in art.4 of 2023/1605.

In this case, we request that a modification of 2023/1605 be considered to add milk, colostrum (etc.) and their derived products, as defined in and processed under the conditions in 142/2011 Annex X.

In this context, and in reference to the FPR FAQ Q8.35, we request that the FAQ clarify understanding of art.1 of 2023/1605. This article states that this Delegated Regulation defines ABP End Points for "*organic fertilisers and soil improvers ... provided that they are used as component materials in EU fertilising products*". FAQ 1.1 clarifies that "*organic*" here means OFSI in the ABP Regulations, not as in the FPR. Stakeholders have suggested that they understand this art.1 to mean that a material reaching an ABP End-Point (e.g. appropriately composted manure) can only be used directly as a CMC (not as an input for production of a CMC, e.g. input for production of a CMC12 precipitated phosphate). This could be made explicitly answered in Q8.35. To our understanding, the ABP End Point is only obtained when the material is finally incorporated into a CE-Mark fertiliser. In the example, the composted manure has not reached the ABP End-Point: if a phosphate salt is extracted from the manure, the phosphate salt could obtain the ABP End Point if incorporated into a CE-Mark product, whereas if the remaining composted manure is certified as a National Fertiliser it would remain ABP.

We remain at your disposition for any further information on these questions.

Yours sincerely

Robert Van Spingelen, President of ESPP

