ESPP input to public consultation on the Evaluation of the EU Fertilising Products Regulation 2019/1009 (FPR)

TWO consultations https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14365-Fertilising-Products-Regulation-evaluation_en

Context:
Art. 49 of the FPR states that by 16/7/2026 the Commission shall submit to Parliament and Council a report assessing implementation and impacts of the FPR, together with impacts on SMEs, including
- functioning of the internal market, conformity assessment, market surveillance, optional harmonisation
- review of limit values for cadmium "in phosphate fertilisers"
- "assessment of the application of restrictions on levels of contaminants set out in Annex I", including assessment of uranium contamination.

ESPP (European Sustainable Phosphorus Platform) brings together 50+ members in nutrient recycling and phosphorus management in Europe (companies, R&D, public bodies), is an active participant of the EU Fertilisers Expert Group and works closely with fertiliser, waste and water industry federations.

ESPP welcomes that the consultation documents cite as the aim of the EU Fertilising Products Regulation FPR 2019/1009 to enable large-scale production of circular fertilisers.

However, ESPP is concerned that today the FPR is failing to achieve this objective of roll-out of recycled fertilisers in that few recycled fertilisers are yet CE-Marked.

Enabling innovation, development and industrial and market roll-out of recycled nutrient products, and of nutrient recycling technologies, is the main objective of the FPR. Mineral fertilisers were already covered by the previous legislation 2003/2003 whereas the new FPR 2009/1009 covers composts, digestates, biostimulants, organic and organo-mineral fertilisers and fertilising products recycled from wastes and by-products. Importantly, the FPR gives End-of-Waste status to recycled fertiliser products, providing market clarity across Europe.

This is important not only for fertiliser producers, but is also **strategic for nutrient recycling technology suppliers. A technology generating a product conform to FPR criteria can today be rolled out across Europe**.

Why is the FPR not working?

The FPR is not working and is failing to achieve its prime objective, the widescale roll-out of recycled nutrient fertilisers: there is no public information, but as far as ESPP can identify, probably less than ten recycled fertilising products are today FPR CE-Mark. Furthermore, companies are reluctant to promote the FPR CE-Mark because they consider it inaccessible for their products.

Establishing why, and how to resolve this, should be the priorities of the Evaluation.

Evaluation of impacts of the FPR on the market today (as outlined in the Call document) may thus not be productive. If the evaluators confirm that only a handful of recycled fertilisers are today FPR CE-Mark, then the fertilising products market impact is de facto negligible.

The Evaluation should assess what proportion of National fertilising products, for each PFC and each Member State, have taken up the CE-mark, and why other National fertilising products have not. What are the obstacles: FPR criteria and exclusions? Current exclusion (or only recent inclusion) of ABPs and processed manure? Demands and costs of Certification? Lack of understanding of the FPR by operators or concerns about its complexity? Products sold only to local market not needing CE-Mark? Reluctance to engage a second certification process for products already having a National certification? Other?

If the Evaluation confirms that today few recycled fertilisers are FPR CE-Mark, it should then centre on:

- **Why are so few recycled fertilisers today FPR CE-Mark ? What are the obstacles ?**
- **How could these obstacles be resolved by changes in the FPR ?**
  - Can this be achieved by adjustments within the existing FPR approach and structure (e.g. widening CMC criteria, adjusting Conformity Assessment rules …)?
  - Or are more fundamental changes to the FPR approach needed (e.g. CMCs and CE-Mark based primarily on material and product quality, rather than on origins of inputs ? CE-Mark recognition of National fertilisers subject to quality and safety criteria ? CE-Mark without EU End-of-Waste status, in order to maintain traceability and producer responsibility ?, …)

The Evaluation should also consider, beyond the impact of the FPR on the fertilising products market, impacts for recycling technology suppliers. Has the FPR significantly accelerated roll-out of nutrient recycling technologies by providing a output product criteria recognised across Europe ?

Unfair playing field for Conformity Assessment

ESPP's contacts with operators suggest that **a key obstacle to uptake of the FPR CE-Mark is the cost and complexity of Conformity Assessment**. The current FPR approach leads to an unfair playing field between primary input materials (CMC1 = self-declaration, industry responsibility under REACH) and secondary materials (costly, burdensome and complex third-party audit and certification).

Beyond the failure of the FPR itself, this is also an obstacle to uptake of recycled fertilisers in certified Organic Farming, because the Organic Farming Regulation now allows (some) recycled nutrient fertilisers on condition that they are FPR CE-Mark.

ESPP supports the need for Conformity Assessment to guarantee safety and quality, so that the FPR CE-Mark can ensure farmer and food-chain confidence, but significant changes are needed to enable FPR uptake by operators.

This is discussed below.

Enabling innovation

ESPPs suggests that the Evaluation should particularly assess how the FPR can be made more open to allow use of 'new' secondary nutrient materials, resulting from innovation in the bio-economy or in other sectors.

Varying and significant nutrient-containing secondary streams will come online in coming years from rapidly innovating and significant tonnage developments in fast-evolving sectors such as:

- Bio-economy: production of biochemicals, biofibres, biofuels, plant-based aquaculture feeds, bio-based pharmaceuticals, algae …
- Battery recycling as per Batteries Regulation 2023/1542 and the Battery Recycling Regulation 2025/606: phosphorus is included in the elements to be accounted in calculating battery recycling rates.

Today, inclusion into the FPR of a new material stream, or of a stream generated by a new industrial process, takes nearly a decade: materials submitted for consideration in the COM survey of 2022 are currently being selected for further evaluation (the selection process is underway, NMI report of 1/9/2025), so that even those accepted for evaluation, then possibly evaluated positively, cannot hope to be included into an FPR amendment (Delegated Regulation) until 2027 at the earliest. COM has not yet launched a process for materials requested after 2022.

ESPP suggests that the Evaluation should consider how CMC criteria can be made more open, with wide definitions of input materials and processes from which input materials can come, with safety ensured by contaminant and quality criteria - rather than by inflexible and narrow definitions material origins.

Specific points for Evaluation

ESPP suggests to specifically evaluate:

Inclusion of Animal By-Products

In particular all ABPs cited in art.46 of the FPR and ABPs today authorised in National fertilisers.

- We hope that, in time for consideration in the Evaluation, a draft delegated regulation will have been published to add to CMC10 all materials covered in the QLab report (except those with risks of chromium).
- Feathers and down should also be included.
- To simplify understanding, we suggest that the same storage conditions be specified for all CMC10 materials, not defined separately for each material (with tighter conditions for specific materials where this is appropriate).
- Coherence of wording should be ensured between FPR and ABPRs (e.g. "Organic fertiliser" means something different in ABPRs). This causes lack of confidence for operators, inhibiting FPR uptake.
- Produce a clear FAQ explaining how ABPs can be included into the FPR, and differences compared to their authorisation and use in National fertilisers, validated by DG GROW and DG SANTE.
- All ABPs which have been 'sanitised' according to ABP Regulation specifications, should be considered to be eligible for inclusion in CMCs (subject to the general CMC requirements) and to have reached an ABP End Point on inclusion into a CE-Mark FPR product. This is currently unclear. See discussion on wording of 2023/1605 below.

Complexity and costs of Conformity Assessment

For products using secondary raw materials: these are often are variable (e.g. seasonal), small quantities from different recycling sites. The costs of FPR Conformity Assessment, and the administrative burden and complexity, for recycled fertilising products is indicated by operators as a key obstacle contradictory to uptake of the FPR CE-Mark, leading to prefer to place products under National fertilisers regulations. Once a company has obtained a National fertiliser authorisation, they are unlikely to then chose to "do it twice" and also register under the FPR.

ESPP suggests that the Evaluation consider the following possible routes to reduce Conformity Assessment cost and complexity for secondary fertilising products, whilst ensuring regulator, farmer and consumer confidence in the safety and quality guarantees of the FPR CE-Mark:

- Transfer as far as possible Conformity Assessment to 'centralising' waste brokers and to the operator finally placing the FPR product on the market. Many such operators take a number of input streams and aggregate into the final product, with the aim of ensuring stable supply and quality. For example, a broker collecting struvites from a number of sewage works, an anaerobic digester taking inputs from farms, food processing companies, biorefineries as a function of seasonal availability … Onsite audit of every supplier renders Conformity Assessment prohibitive and costly, and should not be necessary if the quality and characteristics of the final 'aggregated' product are controlled. This generates excessive supply rigidity for recycled materials which are often produced in small quantities, possibly seasonally, at many different sites.
- Where possible without opening safety risks, replace the current Conformity Assessment regime with an industry-responsibility regime comparable to REACH and to the demonstration of "sameness" for recovered substances under art. 2(7)d of REACH. In any case, REACH registration obligations or exemptions are applicable to recycled fertilisers when placed on the market.
- Specify exemption from FPR Conformity Assessment (or install a simple read-across recognition) for materials/processes which are already controlled under certification schemes 'higher up' the food-feed hierarchy (e.g. GMP+ animal feed certification)
- Annual site audits are prohibitively expensive and time consuming. It should suffice to have an initial audit followed by a self-declaration regime (justifying that conditions are not significantly modified).
- Avoid requirements to monitor things which are not expected to be there (assumption of innocence)
- Resolve the current text requiring (impossible) "batch" visual monitoring of continuous flow inputs and processes
- Review and simplify the Module D1 audit requirements:
  - simplify documentation requirements, in particular as regards aspects not directly relating to the material and process (e.g. staff training),
  - enable 'self-certification' of upstream supply sites providing the same CMC material, wherever these sites are already subject to legal control (IED permit, Urban Waste Water Treatment Directive, ABP Regulations) with onsite audit only of the central site producing the final CMC
- Simplify certification requirements for any material which has low organics content (less than a specified % C-org) and is not expected to pose risks (e.g. not ABP or upstream sanitised, not previous contact with health or environment Classified chemicals …). Such materials, comparable to chemical fertilisers, should have a simpler and less expensive certification regime.

Recognition of National fertilisers

Establish a process or processes for recognition of Member States' National fertilisers under the FPR:

- This poses issues in particular where materials are authorised under National fertilisers regulation but retain "waste" status (so traceability, producer responsibility).
- Establish a 'fast track' for assessment for inclusion into the FPR of materials authorised under National fertilisers regulations (with National End-of-Waste) on request of at least one market operator.
- Establish an FPR 'Light' status for National fertilisers, with EU safety and quality criteria (FPR Annex I – PFCs) but not subject to Annex II criteria (CMC limitations), where the material does NOT thus obtain EU End-of-Waste (retain traceability and producer responsibility).

Widen CMC categories

CMC definitions need to be more open, avoiding limitative 'positive lists' (which can never contemplate everything, and don't think of the secondary streams from tomorrow's new process). This is needed to enable flexibility for innovation, and to reflect the reality of recycling: varying material flows, many different processing routes, local specificities, low quantities, ongoing innovation with the development of new industry and bio-economy sectors and processes. Can input streams be defined more widely subject to quality and contaminant criteria? But not require testing of contaminants which are not expected to be there?

- Throughout the FPR CMCs, review wording to avoid limitative lists of specific materials and enable '**categories**', subject to safety criteria. This is a recurrent problem, and will never be resolved by simply adding to the existing limitative lists, because recycling processes are widely variable, evolving and innovative. We keep finding examples of materials missing in lists. And modifications of the FPR annexes to add one more material require a heavy process (Delegated Regulation, consultations, etc) and take 3-5 years, much too slow to accommodate Circular and Bio-Economy development.

  > **Example**: A recent example brought to our attention is purified magnesium salts recovered from brine from seawater desalination (production of drinking water): CMC15(1) allows "ammonium salts, sulphate salts, phosphate salts, elemental sulphur, calcium carbonate or calcium oxide" … but not magnesium salts (e.g. hydroxides). Could this not be modified to "inorganic salts of any nutrient or micronutrient", defining nutrient/micronutrient as per the PFCs ? Quality and safety criteria are ensured elsewhere in CMC15. The aim here is not to suggest the addition of magnesium salts to CMC15, nor magnesium and potassium salts … but to suggest that the whole of FPR Annex II, all wordings should be examined to see if they cannot be made open rather than limitative, without posing safety risks.

- Allow waste treatment processes for CMC15 materials (for which demanding quality and contaminant criteria are already applicable).
- Allow organic by-products in CMC11 (the current criteria limit to C_{org} < 0.5%) where the organic content comes from plant materials.
- Allow fermentation, pasteurisation, solid-liquid separation, drying, grinding, etc. as pre-treatments for all CMCs. This is a significant problem for various biorefinery sidestreams. The basic raw material would be eligible for inclusion into a CMC (or as an input to CMCs 3 or 5, compost or digestate) but is not eligible because of such processes. See comments on pre- and post-processing below.
- Add dairy and cheese sidestreams to CMC6 (rich in phosphorus, calcium, magnesium …), subject to appropriate safety criteria (e.g. sanitisation …) and possibly to measures to avoid mis-direction to animal feeds (e.g. dissuasive additives).
- Authorise recycled lime from bio-based industries, in particular forestry.

Simplification and coherence of wording

FPR wording should be simplified, rendered coherent with wording used in other relevant regulations, and consolidation should be completed (CMC11) to make the FPR more understandable to operators, reduce interpretation questions for operators, national authorities and certification organisations (NoBos). The Commission (COM) has developed a 68-page FAQ (and growing) to facilitate understanding of the Regulation. This witnesses the strong engagement of COM staff (much appreciated) but shows the problem. Incoherent wording with other EU regulations also poses obstacles. Resolve current wording complexities and ambiguities, which are an obstacle to operator understanding and confidence, and so uptake.

- Ensure coherence of definitions and wording with other EU regulations, including:
  - Waste Framework Directive (definition of bio-waste)
  - Organic Farming
  - Nitrates Directive ("processed manure", "chemical fertilisers")
  - Sewage Sludge Directive and Urban Wastewater Treatment Directive ("municipal" *vs.* "urban" wastewater)
  - REACH ("recovered substance", "substances and mixtures")
  - Taxonomy
  - CEN/ISO definitions of "bio-based" (*vs.* FPR wording "solely of biological origin")

  The same words should have the same meaning across EU laws. Alternative terms could be considered if necessary, but if so it should be considered whether this remains meaningful after translation into different languages. Exceptionally, the same words could have a different meaning, but this should be clarified and justified;

  > **Example**: Correct the current references to "urban" wastewater. CMC12-1a and CMC13-1e refer to "wastewaters and sewage sludge from municipal wastewater treatment plants". As indicated in ESPP's note of 7th April 2025, the interpretation of 'municipal' is here unclear, and there seems to be no justification in the STRUBIAS report for using this word instead of 'urban'. The Urban Waste Water Treatment Directive 2024/3019 defines the terms 'urban wastewater', 'domestic wastewater' and 'sludge' but not 'municipal wastewater" nor "municipal wastewater treatment plant'. Also, the Sludge Directive 86/272 refers to 'urban waste waters' and does not use the term 'municipal'. The Waste Framework Directive 2008/98 does use the term 'municipal', but only for solid waste, not for wastewaters. This text would be legally clear if the word 'urban' were used (in place of 'municipal'), because then definitions can be taken to be those of the Urban Waste Water Treatment Directive 2024/3019. To our understanding, this was the intention of the STRUBIAS proposal, and does not pose any safety concerns, in that nobody really knows what 'municipal wastewater treatment plant' actually means, so impossible to say whether the current wording is narrower or wider or effectively the same … What is certain, is that the wording 'municipal' poses legal uncertainty for operators, NoBos and national regulators.

- Include CMC11 criteria into the consolidated FPR: for legal reasons, CMC11 (By-Products) 2022/973 is not consolidated and has to be read separately (missed by many operators).
- Correct vocabulary for cyanobacteria. As agreed in FPR FAQ 8.20 and FAQ 8.22, modify CMC2 as follows. Also, delete the term "blue-green bacteria" (cyanobacteria are NOT algae). "*For the purpose of this point, plants include mushrooms, algae and microalgae, but exclude ~~blue-green algae~~ (cyanobacteria). The CMC2 material may have waste or byproduct status*."
- Clarification concerning impurities. As explained in the EBIC, ESPP and joint industry position (requesting modification of REACH+ FPR requirements 6_5_2025), it would be beneficial for legal clarity, for both industry and MS authorities, to specify in the header paragraphs of Annex II (CMCs) what is already consensus agreed in FAQ 8.17, that is: "*Substances and mixtures present in the final composition of an EU fertilising product may not be 100% pure. Thus, component materials may contain detectable traces of impurities and unintended substances (including non-isolated substances such as ionic species in solution). Such impurities or unintended substances are not considered as component materials*". This aligns the FPR with REACH, which similarly recognises the reality of unintended impurities in all substances. It would thus clarify interpretation and remove legal uncertainty and operator confusion.

- Organic carbon in PFCs: clarify requirements for organic carbon content and non-biological origin / fossilised / geological origin carbon exclusion in PFCs. Clarify also for other minerals (e.g. calcium carbonate in shellfish shells).
- Clarify the legal wording of 2023/1605. 2023/1605 states (bold added by ESPP):

  Art.1: "*This Regulation determines end points in the manufacturing chain for organic fertilisers and soil improvers … **provided that they are used as component materials** in EU fertilising products in accordance with Regulation EC 2019/1009*".

  Art. 3: "*The following derived products … **where they are manufactured in a fertiliser plant** approved in accordance with Article 24(1), point (f), of Regulation (EC) No 1069/2009, shall be considered as having reached the end point as organic fertilisers and soil improvers*".

  These two articles of 2023/1605, seem to indicate that the ABP End Point is defined only if the ABP processing as per 142/2011 specified in the relevant point of 2023/1605 generates directly a CMC used in an EU fertilising product. This would seem to mean that 2026/1605 does NOT concern the manufacturing of materials used as inputs to production of CE fertilising products, where these materials are not used directly as such in the fertilising product, that is they are not used as such as a CMC but are used as an input to production of a CMC (e.g. input to composting or digestion, use in production of a "derivate", precipitated phosphates from ABP-sterilised manure …).

  For example, these wordings seem to exclude the following:

  a) Manure digested in a biogas plant conform to ABP requirements (2023/1605 art. 3 point (b) -> 142/2011 relevant chapters/points) which is then composted in an FPR conform composted (CMC3) or which is used as input for precipitated phosphates recovery (CMC12)
  → The digested manure is not an FPR fertilising product, and is not used as an FPR CMC – therefore it appears to be excluded by the wording of 2023/1605 Art.1 – so does not have a defined End Point under 2023/1605.
  → the biogas plant site is not a fertiliser plant (the biogas is not used in a fertilising product – it goes to a composting plant or to a struvite precipitation plant – it is this plant which is the fertiliser plant) so it appears to be excluded by the wording of Art.3.

  b) Ashes from waste-to-energy plants incinerating (e.g. chicken litter – 2023/1605 art. 3 point (a) →142/2011 Annex III), where the ashes are transported to a mineral fertiliser factory, and there processed together with mineral inputs, by chemical acidification, to produce a P-K mineral fertiliser (CMC13 "and derivates").
  → Similarly to the example above, the chicken litter combustion plant is not producing a fertiliser, and is not producing an FPR CMC.

  For the second example, it is difficult to conceive how a chicken litter incinerator (from which the ash is not used as a fertiliser, but is chemically reprocessed in a fertiliser plant) can be considered to be a "*fertiliser plant*". And it is difficult to conceive how this ash, which is not used as a CMC (does not respect the wording of 2023/1605 art.1) can somehow have an ABP End Point. For the ash-derivates to obtain an ABP End-Point under 2023/1605 it would seem necessary to interpret that the chicken litter combustion plant and the chemical fertiliser plant are in fact the same "*fertiliser plant*". For two plants on different sites, owned by different companies, this seems legally improbable.

  Consequently, it is unclear to operators whether or not an ABP Cat2-3 used as input to an FPR compost or digester (CMC 3 or 5) must be pasteurised/sterilised (reach its ABP End-Point) BEFORE it goes into the composter/digester, or whether the End-Point (sterilisation/pasteurisation) can be ensured WITHIN the composting/digestion process (operation according to 142/2011 specified time-temperature-conditions).

  We note that the current FPR FAQ document Q8.31 tries to addresses this but that operators do not seem to find it makes things clearer, and that operators have signalled to NoBos refusal to Certify a digestate where pre-pasteurised Cat3 ABP inputs are included, on the basis that the wording of 2023/1605, if taken as written, seems to not provide an ABP End-Point for input into a digester (the End-Point in 2023/1605 is for use "as component materials").

We suggest to modify 2023/1605 as follows:

2023/1605 Art.1: "*This Regulation determines end points in the manufacturing chain for organic fertilisers and soil improvers … provided that they are used ~~as component materials~~* ***in the production of*** *EU fertilising products in accordance with Regulation EC 2019/1009*".

2023/1605 Art. 3: "*The following derived products … where they are ~~manufactured in a fertiliser plant~~* ***processed in plants*** *approved in accordance with Article 24 ~~(1), point (f),~~ of Regulation (EC) No 1069/2009, shall be considered as having reached the end point as organic fertilisers and soil improvers,* ***when they are used as component materials in the production of EU fertilising products in accordance with Regulation EC 2019/1009***".

This would ensure that derived products used as inputs to production of CMC materials, which are processed to ABP Regulation requirements (effectively "sanitised") are clearly covered, whilst ensuring that all plants processing the materials are subject to 142/2011 requirements (inspection, traceability …) as the ABP End Point would only be achieved when the material is finally incorporated into an EU fertilising product.

It is also at present unclear whether it is authorised to use a sterilised ABP (treated according to standard processing specifications defined in 142/2011) can be used as input influent for CMC12 Precipitated Phosphates. Logically yes: the material has been treated to eliminate ABP risks, CMC12 point 6 admits Cat.2-3 ABPs which have reached an And-Point and art. 32 of the ABP Regulation 1069/2009 specifies that Cat.2-3 ABPs can be used in fertilisers if sterilised.

Pre- and post-processing

Define clearly and generalise what pre- and post- processing is allowed of a fertiliser product or of a CMC without it "turning into something else" (excluding it from a CMC, turning it into a new CMC).

- Include in the header of Annex II, a general list of authorised pre- and post-processing applicable to all CMCs (fermentation, sanitisation, granulation, filtration, drying, solid-liquid separation …) unless specified by exception (where justified for certain CMCs or certain materials).
- Ensure coherence between different lists of authorised post-processing for different CMCs.
- Develop communications to improve operator and stakeholder understanding of the distinctions between mixing two CMCs together, reacting two ingredients (producing a new CMC material), blends, "co-formulations" (Organo-Mineral Fertilisers).

Facilitate the regulatory regime for CMCs

- **Establish a simplified regulatory regime for CMCs,** between production site (e.g. different sewage works for struvites) and final FPR fertilising product producing site (use of the CMCs to produce a fertilising product, packaging, labelling certification). The CMC remains waste, but there is a need to facilitate transport authorisations (for trans-border transport on the internal market), site permitting (waste input authorisation for the fertiliser production site). This simplified status could be backed up by existing quality control systems in place at the production site and coherent with simplification of the Conformity Assessment obligations for multiple upstream supply sites. This is important to enable recycling, as fertilising products using secondary material inputs or anaerobic digesters or composters will often take inputs from a number of suppliers, often in small quantities, suppliers not accustomed to dealing with waste transport administration, sometimes seasonal suppliers or changes in suppliers depending on e.g. crops, climate, …
- **Enable Certification of CMCs as 'FPR eligible',** accepted as adequate evidence to support CE-Mark Certification of the final FPR product (subject to PFC, labelling, etc validation). This would open a market for CMC materials as FPR inputs, enable a CMC material to be used (once Certified) by different FPR-product manufacturers, etc.

Organic Farming:

Coherence of FPR and Organic certifications: there is a need to streamline the conformity assessment process between the FPR and Organic Farming. Where the Organic Farming Regulation 2021/1165 specifies that a material can be used as a fertiliser in Organic Farming subject to meeting the FPR requirements, then the FPR Certification, adapted to also verify Organic Farming Regulation conformity, should enable placing on the market across Europe for Organic Farming (automatic recognition by Organic Farming certification bodies, in all Member States, of such specifically completed FPR Certification).

Considerations for specific CMCs

- **REACH+**, esp. for additives: addressed by chemicals simplification omnibus proposal (if adopted by Parliament & Council).
- **Microbial biostimulants**: cf. omnibus proposal.
- **Include sewage inputs** (including urban wastewaters, sewage sludge, separately collected human urine or faeces) to composts, digestates, biochars, subject to appropriate quality and safety criteria:
  - Coherence with contaminant limits in Annex I (for Organic Fertilisers and Organo-Mineral Fertilisers),
  - Specific contaminant and pathogen limits for substances of potential risk or public concern in FPR products derived from these sources: pharmaceuticals, microplastics, PFAS, other industrial chemicals.
  - Develop a specific CMC for materials derived from these sources (that is, direct use as CMC not input to compost / digestate / biochar) with again specific contaminant and pathogen limits.
- **Authorise use of Cat1 ABP incineration ash**, which is currently excluded from FPR.
  - Incineration of Cat.1 ABPs is legally required to ensure safety – so presumably the ash is safe. The ash is currently treated as non-hazardous,
  - Recycling potential of c. 30 000 t-P/y of phosphorus (EU),
  - 70 000 t-ash/y of Cat.1 ash has been and continues to be used as fertiliser in the UK for over a decade, with farmer satisfaction and with no safety concerns,
  - The recent EFSA Opinion (EFSA Journal 2025;23, e9435, DOI) concludes that safety is not today proven by scientific evidence on prions, but does not suggest that there is any evidence of risks.

Anticipate the Bio-Economy

Widen and clarify inclusion of secondary organic streams, both as inputs to composts/digestates (this is the priority), and as inputs for other relevant CMCs (CMC14 pyrolysis, CMC13 ashes, CMC12 phosphate precipitation, CMC15 purified minerals) and also for used directly as CMCs. This concerns a wide range of biorefinery and wastes/by-products (from processing of plant materials to produce food and feed, cosmetics, chemicals, biofuels, biofibres, bioplastics …), sludges, algae grown in wastes, biowastes, plant wastes and by-products …

> ***Example***: Biowastes and similar secondary flows. The EU Fertilisers Expert Group has repeatedly discussed and failed to agree concerning the proposed FAQ answer on the interpretation of the wordings in CMCs 3 and 5 "*bio-waste within the meaning of Directive 2008/98/EC resulting from separate biowaste collection at source*". It is our understanding that the disagreement is not about safety, but results from the contradiction between the current Annex II wording (above) and the fact that secondary materials from food, feed and similar industries are very widely used as input materials to compost/digestate, are considered as "comparable" to biowastes by many regulators, and are generally less contaminated and more reliable than separately collected household biowaste.

Also, the current FPR Annex II wordings are incoherent between CMCs 3, 5, 12, 14 and 15.

The discussion becomes further muddied when the word “sludge” is used, because this has many different meanings, both linguistically (a viscous mixture, a brown colour, sewage sludge, dredging sludge, battery cathode sludge … and others) and between different national and EU regulations.

The current limitative list of materials allowed as inputs to digestates and composts (CMCs 3 and 5) excludes a wide range of plant-derived materials from biorefineries, biofuels, human, animal or pet food production. One approach could be to collate the lists authorised today in digestates in different Member States. However, ESPP suggests to not list each such material one-by-one, because materials are often specific to a local situation/process and new materials will appear as new bio-based industries and processes develop (e.g. production of bio-based plastics, fibres …). Also such lists always lead to ambiguities in interpretation (what is a “sludge”? is a site producing food grade and industrial alcohol “food production” ? Is the tobacco industry “food” and if not, why exclude it ?). Examples include lecithins and glycerines from biofuels, corn steep liquors, brewers grains, oils- sludges- and filter cakes from food, biofuels, fibre and other industries, non-conform ingredients and outputs from food, beverage or feed production sites ....

ESPP therefore suggests to modify to the following wording for CMCs 3, 5, 12, 14 and 15 (that is inputs for digestates and composts, but also inputs for phosphate precipitation, ashes, pyrolysis, pure recovered materials):

- *bio-waste within the meaning of Directive 2008/98/EC resulting from separate biowaste collection at source*
- *any waste, by-product, sludge, wastewater or material stream from plants processing or producing human foods, animal feed, pet foods:*
- *unless processing steps involved contact with urban wastewaters (as defined in the UWWTD 2024/3019 art. 2), with a (non physico-chemical*) biocide or with a substance classified as hazardous, except if the substance is only classified for the following hazards [list as per REACH+ proposal above - * = added to avoid exclusion of e.g. lime]*
- *which does not contain ABPs, or if the stream contains ABPs then an ABP End-Point is achieved [… appropriate ABP legal wording].*

Alternatively, point (ii) could refer to the list of industries in the Urban Waste Water Treatment Directive 2024/3019 Annex IV, but we suggest that this list has different objectives and that including industries included in the UWWTD would cause confusion as regards the exclusion of urban wastewater in this point.

- ESPP also suggests that these secondary streams from biorefineries and bio-based industries should be authorised for use directly as CMCs (not only as inputs to compost and digestate), by establishing a new CMC “Biorefinery and bio-based industry streams”. In this case, criteria could include (as above) exclusion of contact with chemicals Classified for chronic health or environmental effects, and also the contaminant and pathogen limits of CMC15 (PAH, dioxins, chromium, [thallium: not relevant?], salmonella, E. coli).
- Authorise plants as inputs for “production processes” for recovery of CMC15 materials. There is no justification for this exclusion, in that CMC15 materials are limited to <0.5% organic carbon.
- Add “fermentation” to the list of processes for plant materials in CMC2.

Labelling of “recycled” and “bio-based” fertilisers

Enable and standardise labelling of “recycled” and “bio-based” nutrients / fertilisers, including as part of the FPR CE-Mark Certification (FPR Annex IV) with accompanying new CEN standards:

- Define criteria for labelling of “Recycled” and “Bio-Based” fertilisers and nutrients in FPR Annex II.
- Mandate development of CEN standards to accompany these definitions (carbon dating as in CEN/TR 16721 is not applicable).
- Ensure coherence and user clarification for the definition of carbon and nutrients of “solely biological origin” in PFCs 1(A), 1(B) and 3(A).

Information and communication

Explanation and communication to operators and stakeholders.

- Put in place National Helpdesks, similar to the REACH National Helpdesks https://comments.echa.europa.eu/comments_cms/Contact_REACH.aspx. These could provide initial support to operators in understanding the regulation, and also deliver official 'COM' answers to legitimate specific questions (if appropriate after referring to COM legal services, Fertilisers Expert Group, NoBos Coordination body, other COM services …). These Helpdesks could initially address the FPR (including ABP-related aspects of the FPR) and could possibly be extended to become 'Circular Economy Helpdesks' covering waste, animal feed and other relevant regulations (under the future Circular Economy Act?).
- Detail the existing online list of Notified Bodies (NoBos) to specify which Annex IV modules / PFCs / CMCs they cover and link to this list on the GROW FPR web page.
- Develop and online catalogue of laboratories registered to carry out analysis according to harmonised standards defined to support the FPR.
- Other useful information for operators could also be provided on the same website on regulatory documents (consolidated FPR Regulation, FAQ, Guidance documents …), list of Notified Bodies, …
- Establish a table summarising the conformity assessment requirements of Annex IV for different PFCs and CMCs. This would make things much clearer for operators.

Register of CE-Mark fertilising products

Establish a public catalogue of all FPR CE-Mark products for transparency and to promote the FPR.

- Establish an obligatory central register, with non-confidential information, publicly available online, of all certified CE-Mark fertilising products (that is, all products which are FPR certified by a NoBo). The register could possibly also include self-certified (Module A) CE-Mark FPR products. This would contribute to promote CE-Mark certification to fertiliser operators, and enable fertiliser users to search for CE-Mark products.
- Reliable collection of the relevant information is feasible as it is in any case held by the NoBos.
- Such a catalogue was established several decades ago and continues to be maintained by the European Commission for the EU Ecolabel here.

Also, prevent Member States from requiring any form of 'Registration' or 'Declaration' of CE-Mark fertilising products (e.g. national register of organic and organo-mineral fertilisers placed on the market in a country). CE-Mark should suffice to avoid any other national declaration or registration obligations (avoid double costs, double administrative burden).

International recognition of the FPR CE-Mark

Include recognition of CE-Mark fertilising products in trade agreements and cooperation agreements with countries outside the EU. This would enable the FPR to be too to facilitate fertilising product exports from Europe and contribute to international recognition of EU fertilising product innovation.