# EUROFEMA Position on ABP derived products in FPR

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Fertilizers
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## Summary

EUROFEMA asks the Commission to take into consideration the following amendments:

- Allow validated alternative processing parameters for the determination of end points for compost, biogas digestion residues and processed manure and processed frass;
- Waive the limit for ABP derived products of 50% in volume for the production of 'certain OF and SI';
- Waive the ban on mixing 'any material of non-animal origin which is not listed in the catalogue of feed materials set out in the Annex to Regulation (EU) No 68/2013' with ABP derived products;
- Align risk mitigation measurements to prevent the fraudulent use for animal feeding purpose with current obligations for the production of 'certain OF and SI' in accordance with Regulation 142/2011 - Annex XI - CHAPTER II - Section 1.
    - Limit risk mitigation measurements to certain OF and SI containing processed animal protein or Category 2 meat-and-bone meal;
    - Oblige a minimum of 10% in weight of a mixing component for certain OF and SI;
    - Allow ash, compost, biogas digestion residues, processed manure, or other substances, such as lime or mineral fertilisers, which are not used in animal feed, as a mixing component;
    - Exempt certain OF and SI containing processed animal protein of Category 2 meat-and-bone meal from the mixing obligation, if they are in packages of not more than 50 kg or big bags of not more than 1000 kg in weight, and labelled as OF/SI.

## Introduction

The Fertilising Products Regulation (FPR) has created the option to determine end points for derived products from animal by-products (ABP). The proposed derived products from animal by-products, as listed in article 46 of 1009/2019, are currently already widely used in the EU as organic fertilisers and soil improvers (OF and SI). Derived products from ABP have large share in the components used for the production of OF and SI. However, the proposed Draft Delegated Regulation[1] for the determination of end points in the manufacturing chain of certain organic fertilisers and soil improvers, will drastically empeed the potential use of fertilisers containing ABP. This will not only cause harm to the circular economy but will lead to a shortage of OF and SI. This will have a negative impact on the development of certified organic farming systems. But also for conventional farmers the access to OF and SI is vital to fulfil the need for nutrients and organic matter necessary for crop growth (food production) and soil health. The current geo-political situation does not allow further disturbance of the fertiliser and food production chain. In this position paper EUROFEMA will identify these problems and make proposals for risk mitigation measurements for further improvement of the Regulation.

## Organic fertiliser market perspective

The Draft Delegated Regulation does not reflect today's reality of the fertilisation market, especially for OF and SI, and may eradicate the re-use of ABP derived products in European agriculture. ABP derived products are the most concentrated sources of organic nitrogen and phosphorus available for

[1] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13478-Fertilisers-list-of-animal-by-products-to-be-used-without-further-official-controls-update-_en

agricultural (certified organic) production. Limiting their use in fertilisation to 50% ultimately eradicates a significant part of the possible recycling of nutrients in agriculture.

The effect of proposed risk mitigation measurements is that producers cannot mix vegetal by-products with animal by-products. The principle of OF and SI has always been to mix vegetal by-products like fruit pulp, plant composts or plant cakes with animal by-products. It is imperative to keep this concept of OF and SI. Not being able to mix vegetal and animal by-products contradicts Annex II of the EU Regulation 1165/2021 which confirms that ABP derived products together with vegetal by-products are a source of fertiliser for certified organic production systems. Limiting the incorporation of ABP derived products to 50% in a formula will lead to the disappearance of high nutrient formulas needed for the fertilisation of an increasing amount of certified organic crops, which is essential for the European Farm to Fork strategy.

The majority of OF and SI products is sold in big bags of not more than 1000 kg, which are perfectly identified/labelled as organic fertilisers. Practical for on-farm storage and use by arable farmers. But very un-practical for any animal husbandry with intentions for fraudulent use as animal feed in regular automated feeding equipment. Obligation to use only small packages of not more than 50 kg will kill the market for organic fertilisers. It will generate more costs, waste and carbon footprint both in the production of the packaging and in the proper use of the OF and SI in good agricultural practices.

The proposed end points are limited to the use of standard processing parameters for compost, biogas digestion residues and processed manure. This will exclude all organic fertiliser production plants which use validated alternative parameters, from producing CE marked fertilisers. These alternative processing methods are perfectly validated and monitored by the competent authorities of the Member States.

- EUROFEMA states that the proposed Draft Delegated Regulation and its impact are in total contradiction with the current general movement on the circular economy, farm to fork strategy, non-waste approach, and the reduction of our footprint on our environment.

## Certified organic farming depends on ABP

Farmers that produce in a certified organic production system (848/2018 and 1165/2021) may only use a limited number of fertilisers. The basis fertilising of certified organic production is carried out using manure from certified organic kept animals, compost or cropped green fertilisers. In addition to this, certified organic farmers are allowed to use so called input fertilisers (in conformity with 1165/2021 Annex II). These are fertilisers composed of conventional (not certified organic) source, but allowed for fertilising organic certified crops. Certified organic farmers in Europe heavily depend on the use of these input fertilisers. Especially in areas where an increasing number conventional farms is being transformed to certified organic farms the need for input fertilisers is necessary to provide in sufficient nutrients for cropping. For the production of input fertilisers mainly ABP derived products and by-products of plant origin are used. Approximately 80% of the OF and SI for use in certified organic farming, contains derived products from ABP. The composition of animal and plant based by-products will not meet the mixing requirements as proposed in de Draft Delegated Regulation. As a result the majority of the current OF and SI used as input fertiliser cannot be made available as CE marked fertiliser for certified organic farmers.

- EUROFEMA states that the proposed mixing requirements will drastically empeed the use of OF and SI by both conventional and certified organic farmers.

## Risk identification

The Commission has identified two types of risks related to the determination of end points:

- Microbiological risks
- Risk on fraudulent use for animal feeding purpose.

## Microbiological risks

The EFSA Scientific Opinion[2] clearly distinguishes earlier assessed safe ABP and derived products, low, medium and high risk ABP and derived products (see overview in table 1). All derived products that are produced in conformity with processing methods specified in 1069/2009 and 142/2011 (ABPR) can be considered safe, low or medium risk from microbiological point of view. This includes derived products (biogas digestion residues, compost, processed manure and processed frass) produced using other validated standardised process parameters, authorised by the competent authority of the Member States.

Both standard and validated alternative processing methods guarantee that ABP derived products are free from pathogens. The system of validation, control and assurance is in place. This system is under the control of competent authorities of the Member States. This system will remain in full force for the processing of ABP, the supply of ABP derived products to fertilising products production plants and also for the fertiliser production process. The end point will only come into effect after the production of a fertiliser with a distinguished PFC has taken place.

- EUROFEMA asks the Commission to expand article 3, with derived products processed using validated alternative parameters. Allow validated alternative processing parameters for the determination of end points for compost, biogas digestion residues and processed manure and processed frass;

## Risk mitigation fraudulent use for animal feeding purpose

The risk of fraudulent use of OF and SI produced from ABP derived products for animal feeding purpose is recognised and addressed risk mitigation measurements in 142/2011. Regulation 142/2011 - Annex XI - CHAPTER II - Section 1, already provides risks mitigation measurements specifically for certain OF and SI based on processed animal protein of Category 2 meat-and-bone meal. For the industry it will be a non-workable solution to have different definitions of ‘certain Of and SI’ and mixing requirements in the FPR and ABPR.

- EUROFEMA asks the Commission to amend article 3 and 4, to align the definition of ‘certain OF and SI’ and the risk mitigation measurements in the Draft Delegated Regulation with the definition and risk mitigation measurements provided in Regulation 142/2011.
- Waive the limit for ABP derived products of 50% in volume for the production of ‘certain OF and SI’;
- Waive the ban on mixing ‘any material of non-animal origin which is not listed in the catalogue of feed materials set out in the Annex to Regulation (EU) No 68/2013’ with ABP derived products;
- Align risk mitigation measurements to prevent the fraudulent use for animal feeding purpose with current obligations for the production of ‘certain OF and SI’ in accordance with Regulation 142/2011 - Annex XI - CHAPTER II - Section 1.
    - Limit risk mitigation measurements to certain OF and SI containing processed animal protein or Category 2 meat-and-bone meal;
    - Oblige a minimum of 10% in weight of a mixing component for certain OF and SI;
    - Allow ash, compost, biogas digestion residues, processed manure, or other substances, such as lime or mineral fertilisers, which are not used in animal feed, as a mixing component;
    - Exempt certain OF and SI containing processed animal protein of Category 2 meat-and-bone meal from the mixing obligation, if they are in packages of not more than 50 kg or big bags of not more than 1000 kg in weight, and labelled as OF/SI.

[2] EFSA Journal, Scientific Opinion: Inactivation of indicator microorganisms and biological hazards by standard and/or alternative processing methods in Category 2 and 3 animal by-products and derived products to be used as organic fertilisers and/or soil improvers, 21 October 2021.

## Text proposal

EUROFEMA proposes to amend the Draft Delegated Regulation as follows:

(proposed amendments are underlined or ~~crossed out~~)

Article 3

(b) biogas digestion residues which fulfil the requirements set out in Section 1 of Chapter I, Chapter II, and Section 1(1) or Section 2 and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;

(c) compost, which fulfils the requirements, set out in Section 2 of Chapter I, Chapter II, and Section 1(2) or Section 2, and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011;

(d) processed manure and processed frass which fulfil the requirements set out in Section 2, points (a), (b) or (c), and (d) of Chapter 1, of Annex XI to Regulation (EU) No 142/2011.

(e) glycerine of Category 2 and 3 materials, and other Category 2 material resulting from biodiesel process and the production of renewable fuels which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011;

(f) Category 3 materials other than glycerine, which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011;

(g) blood products of Category 3 materials which fulfil the specific requirements for blood products set out in Section 2 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(h) hydrolysed protein which fulfils the specific requirements for hydrolysed protein set out in Section 5, point D, of Chapter II of Annex X to Regulation (EU) No 142/2011, including hydrolysed protein derived from residues coming from the leather industry;

(i) dicalcium phosphate and tricalcium phosphate which fulfil the specific requirements set out in Section 6 or 7 of Chapter II of Annex X to Regulation (EU) No 142/2011, respectively;

(j) feathers and down, which fulfil the specific requirements set out in Chapter VII, point C, of Annex XIII to Regulation (EU) No 142/2011;

(k) horns, horn products, hooves and hoof products which fulfil the specific requirements set out in Chapter XII of Annex XIII to Regulation (EU) No 142/2011.

Article 4(1)

~~(a) glycerine of Category 2 and 3 materials, and other Category 2 material resulting from biodiesel process and the production of renewable fuels which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011;~~

~~(b) Category 3 materials other than glycerine, which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011;~~

(~~c~~a) processed animal protein of Category 3 materials which fulfils the specific requirements for processed animal protein set out in Section 1 of Chapter II of Annex X to Regulation (EU) No 142/2011;

(~~d~~b) meat-and-bone meal of Category 2 materials processed with standard processing method 1 set out in Chapter III, point A, of Annex IV and marked with glyceroltriheptanoate (GTH) as set out in Chapter V of Annex VIII to Regulation (EU) No 142/2011;

~~(e) blood products of Category 3 materials which fulfil the specific requirements for blood products set out in Section 2 of Chapter II of Annex X to Regulation (EU) No 142/2011;~~

~~(f) hydrolysed protein which fulfils the specific requirements for hydrolysed protein set out in Section 5, point D, of Chapter II of Annex X to Regulation (EU) No 142/2011, including hydrolysed protein derived from residues coming from the leather industry;~~

~~(g) dicalcium phosphate and tricalcium phosphate which fulfil the specific requirements set out in Section 6 or 7 of Chapter II of Annex X to Regulation (EU) No 142/2011, respectively;~~

~~(h) feathers and down, which fulfil the specific requirements set out in Chapter VII, point C, of Annex XIII to Regulation (EU) No 142/2011;~~

~~(i) horns, horn products, hooves and hoof products which fulfil the specific requirements set out in Chapter XII of Annex XIII to Regulation (EU) No 142/2011.~~

Article 4(
~~(2) The derived products referred to in paragraph 1 of this Article, may be mixed with the derived products listed in Article 3 of this Regulation, or any material of non-animal origin which is not listed in the catalogue of feed materials set out in the Annex to Regulation (EU) No 68/2013.~~

(2) The derived products referred to in paragraph 1, shall be mixed, with a minimum of 10% in weight, of a component, in order to exclude the subsequent use of the mixture for feeding purposes.

~~(3)The derived products referred to in paragraph 1 shall be packaged in ready-to-sell packages of not more than 50 kg in weight for use by the final consumer with a content of derived products of not more than 50 % in volume.~~

(3)The component referred to in point 2 shall adhere to the following:
(a) the component shall consist of the derived products listed in Article 3(a), 3(b), 3(c) of 3(d), or other substances, such as lime or mineral fertilisers, which are not used in animal feed and which exclude the subsequent use of the mixture for feeding purposes according to good agricultural practice;
(b) the component shall be determined based on an assessment of the climatic and soil conditions for the use of the mixture as a fertiliser, on indications that the component renders the mixture unpalatable to animals or it is otherwise effective in preventing misuse of the mixture for feeding purposes and in accordance with the requirements laid down in Union legislation or, where applicable, national legislation, for the protection of the environment regarding the protection of soil and groundwater.

(4). However, the requirements referred to in point 2 shall not apply:
(a) to organic fertilisers and soil improvers which are in ready-to-sell packages of not more than 50 kg in weight for use by the final consumer; or
(b) to organic fertilisers and soil improvers in big bags of not more than 1 000 kg in weight, on the packages of which it is indicated that the organic fertilisers are not destined to land to which farmed animals have access.

## Table 1: Overview risk assessment ABP derived products

| Draft Delegated Regulation | EFSA microbiological risk assessment | 142/2011-Annex XI - Chapter II - Requirements for certain OF and SI |
|---|---|---|
| 3(a) ash obtained from Category 2 and 3 materials which fulfils the general and specific requirements set out in Annex III to Regulation (EU) No 142/2011; | Low risk | |
| 3(b) biogas digestion residues which fulfil the requirements set out in Section 1 of Chapter I, Chapter II, and Section 1, point 1, and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011; | Safe | |
| 3(c) compost, which fulfils the requirements, set out in Section 2 of Chapter I, Chapter II, and Section 1(2) and Section 3 of Chapter III of Annex V to Regulation (EU) No 142/2011; | Safe | |
| 3(d) processed manure and processed frass which fulfil the requirements set out in Section 2, points (a), (b) and (d) of Chapter 1, of Annex XI to Regulation (EU) No 142/2011. | Safe | |
| 4(1)(a) glycerine of Category 2 and 3 materials, and other Category 2 material resulting from biodiesel process and the production of renewable fuels which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011; | Low risk | |
| 4(1)(b) Category 3 materials other than glycerine, which fulfil the requirements set out in Section 3, point 2(b), (c) and (f), of Chapter IV of Annex IV to Regulation (EU) No 142/2011; | Low risk | |
| 4(1)(c) processed animal protein of Category 3 materials which fulfils the specific requirements for processed animal protein set out in Section 1 of Chapter II of Annex X to Regulation (EU) No 142/2011; | Safe | Mixing component, or packed ≤50kg or bigbag ≤1000kg with label text |
| 4(1)(d) meat-and-bone meal of Category 2 materials processed with standard processing method 1 set out in Chapter III, point A, of Annex IV and marked with glyceroltriheptanoate (GTH) as set out in Chapter V of Annex VIII to Regulation (EU) No 142/2011; | Safe | Mixing component, or packed ≤50kg or bigbag ≤1000kg with label text |
| 4(1)(e) blood products of Category 3 materials which fulfil the specific requirements for blood products set out in Section 2 of Chapter II of Annex X to Regulation (EU) No 142/2011; | Low risk | |
| 4(1)(f) hydrolysed protein which fulfils the specific requirements for hydrolysed protein set out in Section 5, point D, of Chapter II of Annex X to Regulation (EU) No 142/2011, including hydrolysed protein derived from residues coming from the leather industry; | Safe | |
| 4(1)(g) dicalcium phosphate and tricalcium phosphate which fulfil the specific requirements set out in Section 6 or 7 of Chapter II of Annex X to Regulation (EU) No 142/2011, respectively; | Safe | |
| 4(1)(h) feathers and down, which fulfil the specific requirements set out in Chapter VII, point C, of Annex XIII to Regulation (EU) No 142/2011; | Medium risk | |
| 4(1)(i) horns, horn products, hooves and hoof products which fulfil the specific requirements set out in Chapter XII of Annex XIII to Regulation (EU) No 142/2011. | Medium risk | |