



ESPP comments on draft FPR Evaluation report (April 2026) – 8/5/26

This input to the draft Evaluation Report is in addition to our detailed input submitted to the public consultation on the Evaluation, 19th September 2025, see www.phosphorusplatform.eu/regulatory

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The FPR is failing to enable nutrient circularity

ESPP notes that this draft report confirms the understanding we have from our 50+ members and wider network of contacts, that the FPR has not to date enabled significant acceleration of nutrient recycling to fertilisers and is blocking innovation.

The draft Evaluation report notes that:

- progress on circularity “modest”, p33
- <50% of stakeholders see progress in circularity, p10
- only 1 – 3 % of relevant products sold in the EU today are FPR CE-Mark (organic and organo-mineral fertilisers, soil improvers, growing media) – nearly all continue to be sold under national fertilisers regulations
- SMEs in particular face obstacles to FPR update, whereas they are highly relevant for nutrient recycling, p23
- This low uptake is significantly due to:
 - relevant input materials are excluded from the FPR, p30 (“incomplete or restrictive MC eligibility), p124-125, p132, p38 (78% of respondents)
 - complexity and compliance costs, p39, p124
 - not flexible to technological progress, more flexible approach needed, p71 (83% of respondents), p118

We note that these issues are leading many operators to use national fertilisers regulations rather than the FPR, despite that ‘optionality’ results in market fragmentation and overall higher costs for the sector (from fertilisers operators through to food consumers), p34.

We underline that since our input to the Evaluation public consultation in 2025 **we are continuing to receive feedback from operators that the FPR is too complex and too restrictive, and that the current list-based limitations on input materials are blocking innovative recycling.**

Take into account the developing bioeconomy

The draft report refers only twice to the bioeconomy, indicating the links between the FPR and EU BioEconomy Strategy, p15, p21, but this is not analysed.

The report should note that nutrient recycling is key to the BioEconomy, both to valorise unwanted nutrients in biorefineries (not wanted in e.g. biofuels, many biochemicals, some biofibres, etc) and also because feeding bioeconomy crops with virgin nutrients is contrary to the bioeconomy aims of sustainability and resilience.

The report should assess whether the FPR is achieving what is expected of it by the EU BioEconomy Strategy. ESPP considers that it is not, given the very low uptake of FPR CE-Mark in relevant PFCs (organic and organo-mineral fertilisers, soil improvers, growing media) – see above.

The report should analyse why the FPR is failing the BioEconomy Strategy expectations: (bioeconomy innovation, variable processes, locally and/or time-variable secondary flows, often small volumes ...) and should assess possible solutions. ESPP proposes to add a “Biorefinery residues” CMC to the FPR to specifically address this question. This could authorise for use in FPR CE-Mark fertilising products, both use as such and use as input to composts, digestates, etc., any residue from bio-economy processes (food and animal feed industry, bio-fuels, bio-fibres, bio-plastics, etc.) where input materials are plant and animal materials plus processing chemicals. Safety concerns and user confidence would be addressed by excluding contact in the biorefinery with chemicals classified for chronic health or ecotoxic endpoints, unless >99% removed or destroyed (e.g., solvent recovery in solvent extraction) and unless confirmed by a risk assessment showing no residual risk for fertiliser use.

The need for a criteria-based approach to respond to innovation in recycling

We welcome that is mentioned p35, p39, p124-126, the proposal to replace closed lists of input materials and processes, which are limitative, incomplete and complex to modify, by a criteria-based approach, to enable flexibility and faster response to innovation in the bioeconomy and in recycling.

ESPP welcomes the European Commission’s suggestion, expressed at the 24 April meeting, that industry propose an outline for how a criteria-based approach could be implemented into the FPR to enable rapid and flexible inclusion of innovative nutrient recycling and bioeconomy residues, whilst ensuring safety, agronomic value and food chain confidence. Industry and stakeholder organisations are already working on this (joint task force of European industries and European organisations), following the joint position of nine organisations “Addressing structural barriers to innovation, circularity, and market access in the EU Fertilising Products Regulation (EU) 2019/1009” 10_2_2026 (here www.phosphorusplatform.eu/regulatory -> EU Fertilising Products Regulation).

This possible development should be indicated in the Evaluation report.

We request that the Evaluation report clarify (page 120) that the intention of this criteria-based pathway for new materials would be the creation of a new criteria-based CMCxx (added as an additional CMC). This new criteria-based CMCxx would aim to accommodate new materials that do not currently fit under the current CMCs. This would help to future-proof the FPR, enable it to meet its objectives and promote innovation and circularity within the sector.

We aim that this new CMCxx will define criteria for allowing a material to be a CMC, and the methodology and documentation for verification of these criteria. Any company could then propose

for CE-Mark Certification a material fulfilling the criteria, on condition of providing data to justify respect of the criteria, to be verified by the CE-Mark Certification process.

The aim is to avoid the delay, bureaucracy, COM and MS cost, etc of amending the FPR annexes for every innovative new recycling or bioeconomy process, and to avoid the problem of limitative 'positive lists' which can never be complete and can only reflect today's technologies.

An intermediate approach, between fragmented national regulations and EU EoW ?

ESPP notes that an important innovation challenge is that many secondary nutrient and bioeconomy flows are locally divers, often variable over time and small volumes. Despite this, and even if such residues are often used locally as fertilising products (directly or after e.g. anaerobic digestion), EU recognition is important:

- to enable an EU market for the recycling technology and know-how,
- because processing to recognised, tradeable, products is increasingly important to improve Nutrient Use Efficiency (precision application) and to transfer nutrients from environmental hotspots to regions needing nutrient input,
- to respond to user specifications (purchasing criteria of e.g. supermarkets).

The Evaluation report should look at the wide picture rather than limiting to the current FPR framework of FPR = EU End-of-Waste versus national fertilisers regulation. The draft report shows (see above) that the FPR is currently not adapted to innovative secondary nutrient and bioeconomy flows, that for recycled nutrient products nearly all products today placed on the market go through national fertilisers regulations, and that this results in fragmentation and long-term costs.

The Evaluation should therefore consider whether new approach solutions, based on traceability and producer responsibility, should be legally implemented for some secondary materials, e.g.:

- 'waste for fertiliser use' status (as already for 'National' fertilisers in several Member States), allowing use as a fertiliser (across Europe) while retaining 'waste' status and, so, traceability, producer cradle-to-grave responsibility, a waste application plan, and a declaration through a Digital Product Passport and Extended Producer Responsibility, subject to general minimum safety criteria (including relevant FPR PFC criteria). The EU End-of-Waste status of today's FPR would be retained for products with EU-wide production and proven roll-out.
- 'default' Mutual Recognition of 'National' fertilisers subject to conditions of digital traceability, and 'waste' status producer responsibility, application plan and declaration, subject to certain political/safety limitations, e.g., sewage sludge inputs and non-sterilised ABPs (as per 142/2011 methods).
- obligatory harmonisation of testing and labelling should be harmonised for all national fertilisers, with a Digital Product Passport: this would facilitate Mutual Recognition, by ensuring that information requirements are the same across Europe.

Article 42

The draft Evaluation report refers to art. 42 in page 70, noting that a clear majority do not consider the FPR sufficiently flexible. But the report does not consider whether art. 42 should be modified.

ESPP suggests that the Evaluation report should specifically question whether art. 42 should be adjusted to address the identified problem of insufficient flexibility and to better take into account innovation, nutrient recycling and the bioeconomy.

In particular, given the often 'local' nature of nutrient recycling and the bioeconomy (see above), we note that the current wording of art. 42(1) seems (to our understanding) require that the Commission can only amend the FPR Annexes (in particular, can only add new materials/processes to the CMCs Annex II) if the resulting "EU fertilising products have the potential to be the subject of significant trade on the internal market".

This wording poses problems because:

- it is very unclear what is "significant trade" – does this mean hundreds of tonnes ? a certain % of total EU fertilising product turnover (products with high value/low tonnage are likely to travel further) ? Or could "significant" mean that one or two small producer companies (how many?) export a high % of their production ?
- this "significant trade" requirement appears to prevent the FPR enabling EU roll-out of nutrient recycling processes, if the process generates relatively low value / high bulk materials which are generally used locally (e.g. recovered ammonium sulphate solutions, many composts or digestates unless further processed). This is an obstacle to EU roll-out of nutrient recycling processes: a company cannot sell a process which generates a fertiliser in one Member State, but a 'waste' in another because of different national regulations. Operators hoped that the FPR would address this, but this is hindered by this wording of art. 42(1).
- in this situation, were the FPR to be successful and recognised, and so become a requirement in supermarket or food industry purchasing criteria, then such recycled nutrient materials would be excluded from farm use, because ineligible for the FPR (despite their interest for local recycling).

The Evaluation report should address whether and how the wording of art. 42 could be improved, to enable the FPR to achieve its objectives (circularity, innovation, competitiveness) whilst ensuring health and environmental safety.

The Evaluation report should also assess whether art. 42(1) should be modified to specifically enable a criteria-based CMC (see above).

Aligning maximum cadmium levels

As discussed at the 24 April workshop, we suggest that the evaluation should address the question raised by the March 2026 ANSES France document on fertiliser cadmium and health <https://www.anses.fr/fr/content/cadmium-agir-des-present-la-source-de-la-contamination-des-sols-and-expertise-report> : should the FPR cadmium limits be made an obligatory maximum level across Europe (with MS exceptions for lower limits as at present) ?

Today, the FPR does not enable this, and MS can authorise higher levels of cadmium in national fertilisers. In that cadmium is generally not an issue in secondary phosphates (and can be removed if it is present), and that >95% of inorganic fertilisers placed on the market today are CE-Mark (p15, p21) this would not pose significant costs or issues for industry or farmers, and would resolve ANSES concerns about high-cadmium fertilisers being used in some places.