European Sustainable Phosphorus Platform

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ESPP input to Circular Economy Act Impact Assessment

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The invitation to the stakeholder workshop of 30th April (email of 1st April) indicated "online participants can submit written feedback during the session". Unfortunately, this was misleading. The workshop was streamed, with no possibility for online participants to input in writing (no 'chat') nor to exchange and network (only the 'three' online survey question). If this had been made clear, we would have requested to participate in Brussels. We therefore here submit our input structured as per the meeting sessions.

Overall approach

The Impact Assessment and the Workshop seemed to be centred on technical materials such as WEEE and demolition waste. **The Circular Economy Act should also address organic secondary materials, in particular biowastes, digestates:**

- **synergy with the BioEconomy Strategy**. The bio-based economy is innovating and developing rapidly and will generate significant new secondary streams of organic materials, in particular phosphorus (CRM 'Phosphate Rock').
- **synergy with RED through anaerobic digestion**: valorisation of organic wastes, nutrient recycling potential of digestates.
- **synergy with the EU Fertilisers Action Plan** (announced for 19th May), in the current global fertilisers crisis: need for nutrient recycling to reduce import dependency.

The policy directions to facilitate the market for secondary raw materials presented at the workshop are highly relevant for organic and bioeconomy streams and for nutrient recycling, e.g. mutual recognition of End-of-Waste, traceability and producer responsibility (via EU Digital Product Passport), facilitation of cross-border transport, addressing regulatory barriers, public procurement. However, **the Circular Economy Act should take into account the adaptations needed for bio-based materials,** with specific aspects such as health and environmental safety, organic carbon valorisation, organic contaminants, interactions with other regulations.

In particular the Circular Economy Act should anticipate:

- **modernisation of the Animal By-Products Regulation**s to better enable recycling whilst ensuring safety and user confidence (farmers, food consumers, food exports),
- **modification of Annex II of the Animal Feed Regulation 767/2009** to enable use of purified and safe recycled nutrients,
- **implementation of conclusions of the Evaluation Fertilising Products Regulation** which shows that a majority of stakeholders consider that it is currently not enabling innovative nutrient recycling.

Please see also:

- *proposals of the **joint call for nutrients in the EU Circular Economy Act, signed by 40+ industry organisations, companies and stakeholders***
  "Joint call for EU Circular Economy Act (6_11_2025)" at www.phosphorusplatform.eu/regulatory
- ***detailed proposals submitted by ESPP to the public consultation** in November 2025 here*

1) Reducing EU import dependency on critical raw materials

The Circular Economy Act should address food security and the bioeconomy - not only technical materials used in 'Strategic Sectors' (rare earths, metals, and the specific form of phosphorus, elemental P_4 – termed 'Phosphorus' in the CRM Act).

Agri-food is around 6% of EU GDP (link) plus a further 1-2% from other bioeconomy and agri-food resilience is of higher sustainability and social importance than just numbers.

The CRM 'Phosphate Rock' is critical to EU agri-food and bioeconomy sectors. Without phosphate rock inputs, agriculture could probably feed only around 1/5th of the world population (adapted from Dawson et al., Food Policy 2011). Without mineral nitrogen fertilisers (today reliant on natural gas, and today facing a global supply crisis: Ukraine, Hormuz), agriculture could maybe feed half the world population (Smil 2004, Erisman 2008). The EU is today 95% + dependent on imports for these two vital nutrients, and 20% of phosphate fertilisers used in Europe are still today coming from Russia (EU DG AGRI). Nutrient recycling, alongside improving nutrient use efficiency, is thus essential for EU sustainability and sovereignty.

Sustainable development of the bioeconomy will require accelerating nutrient recycling: phosphorus is generally not wanted in the final bio-product, so the bioeconomy is generating new secondary nutrient streams, but at the same time nutrients are needed to grow the crops which feed the bioeconomy.

The core objectives of the Circular Economy Act, as outlined Kerstin Jorna at the 30th April workshop, are to open a single EU market for secondary materials, secondary products and recycling technologies. **These Circular Economy Act objectives are absolutely relevant for phosphorus and other nutrients** and the questions around waste status raised in the workshop for technical CRMs are relevant for secondary nutrients and bioeconomy residue streams.

The Circular Economy Act should take into account how proposed policies and regulatory changes will impact nutrient recycling and the bioeconomy.

Secondary nutrients and bio-derived residues face specific regulatory obstacles which should also be recognised in the Circular Economy Act, in particular:

- the need to modernise the Animal By-Products, Animal Feed regulations and the EU Fertilising Products Regulation, to better enable recycling whilst ensuring safety and user confidence (farmers, food consumers, food exports),
- address difficulties posed for bio-derived materials by accumulation of food, fertiliser, feed, waste, chemicals, site permitting (IED) and other regulations.

See:

- "EU Feed Circularity Catalogue", version 1.0, 23rd May 2025, 8 EU industry federations and stakeholder organisations, initiative led by FEFAC (European Feed Manufacturers' Federation), https://fefac.eu/newsroom/news/eu-feed-circularity-catalogue-outlines-barriers-and-solutions-foradvancing-circular-animal-feed/

- proposals for an EU Circular Economy Act, signed by 40+ industry organisations, companies and stakeholders, "Joint call for EU Circular Economy Act (6_11_2025)" at www.phosphorusplatform.eu/regulatory

In order to reduce EU import dependency on the CRM 'Phosphate Rock', the Circular Economy Act impact assessment should:

- establish EU and national monitoring programmes to estimate phosphorus flows in fertilising products used on fields, reuse-recycling rate (PUE) today and potential for increased reuse-recycling, covering: mineral and organic fertilisers, manure, crop residues, sewage sludge (cf. EU revised Urban Waste Water Treatment Directive 2024/3019 art. 21), other organic residue streams. In particular, improve data for organic-based fertilising products (in coherence with CRM Act art. 26(7)),
- resolve regulatory obstacles to nutrient recycling from aquaculture sludge and from waste-fed algae and biomass: current obstacles include a lack of clear quality and safety criteria and an unclear regulatory status (as regards 'waste', Animal By-Products, Fertilising Products Regulation …),
- address barriers in REACH for recovered nutrient materials:
  - ✓ REACH art. 2(7)(d) should apply to recovered UVCB substances which are a variable combination of more than one already registered substance,
  - ✓ REACH SIP (Substance Identity Profile) should be available on request to recyclers to enable demonstration of 'sameness' as required by art. 2(7)d,
  - ✓ If the first REACH registration (new REACH dossier) is for a recovered substance, then any company placing on the market in the future should be obliged to share dossier, registration and update costs (otherwise no company moves to register a new recovered substance)
- aim to improve rates of separate collection of household organic wastes (biowaste) with nutrient recycling.
- introduce 'read-across' of safety for fertiliser use from higher safety or use hierarchy regulations: where a material has been authorised or certified as safe for use in food or animal feed, then it should be automatically recognised as safe for use in fertilisers, subject to a risk assessment to verify that fertiliser use does not pose specific exposure or environmental risks.

2) Simplifying the regulatory framework and removing barriers to the Single Market

We fully support the proposals outlined by Norion at the workshop to facilitate transport and placing on the EU market of both secondary materials intended for recycling, and of recycled materials, in particular facilitating mutual recognition of national End-of-Waste and the establishment of a transparent EU database of national End-of-Waste criteria and decisions. These proposals are very relevant for recycled nutrients and bioeconomy residues, and the specific questions relevant to these should be taken into consideration in designing regulatory changes.

As indicated by Norion, **this should be based on industry self-declaration. Traceability and producer responsibility, ensured by an EU Digital Product Passport, should ensure safety and confidence in the food chain,** for secondary nutrient flows/uses where EU End-of-Waste status is not today defined (including materials/processes not covered by the EU Fertilising Products Regulation).

We suggest that the Circular Economy Act should:

- establish a new, intermediate status 'waste for recycling', to facilitate transport (green listing) and enable safe and responsible use of secondary nutrient materials, without the cumbersome EU End-of-Waste process. For fertiliser use, this could function, as already for 'National' fertilisers in several Member States, by allowing use as a fertiliser (across Europe) while retaining 'waste' status and thus traceability, producer cradle-to-grave responsibility, a waste application plan, and declaration (possibly through an EU Digital Product Passport and with Extended Producer Responsibility). This would be appropriate for market access for innovative new recycling processes and material streams, in particular for bio-based secondary materials, which are often locally specific. The EU End-of-Waste status of the FPR should be retained for products with EU-wide production and proven roll-out. This could be subject to specified general EU safety criteria conditions, including relevant FPR PFC criteria.
- introduce 'default' Mutual Recognition of 'National' End-of-Waste subject to conditions of digital traceability, and 'waste'-type producer responsibility, including for fertilisers a field/time application plan with declaration to authorities. Traceability is today readily accessible to producers, logistics, and end users (farmers) via a QR code and a smartphone. In the food chain, traceability is already widely operational, for quality control, commercial label and operational reasons. Valorisation with traceability, under 'Waste' status, is today operational under Member States' fertiliser regulations for some secondary nutrient materials, as well as for most nutrient valorisation routes for Animal By-Products. But export to other Member States is then impossible (in practice), and there is consequently no EU market for the recycling process (technology, know-how). This could be subject to certain political/safety limitations, e.g., sewage sludge inputs and non-sterilised ABPs (as per 142/2011 methods).
- 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.
- enact legal recognition of "secondary nutrients for recycling", retaining traceability, producer responsibility, etc. The same secondary nutrient stream can be classified as 'waste' in one Member State and 'by-product' in another. There is no status recognition, so transport and site intake permitting are subject to the complexity of waste regulations. We propose to 'Green List', for transport on the EU market, nutrient materials intended for recycling (secondary nutrient raw materials for processing) or for re-use (without processing), in particular:
  - ✓ (intended) EU Fertilising Product Component Materials (conform to CMC criteria),
  - ✓ materials authorised for use as 'National' fertilisers in the recipient Member State,
  - ✓ biorefinery residues and similar: from processing of plant materials; from production of human foods or animal feeds, biofuels, biomaterials (biochemicals, biofibres).

See ESPP's proposals submitted to the EU consultation on Green Listing in October 2025 (contribution code 362625f7-b5f7-4d41-9af3-7676cf90a244 document here www.phosphorusplatform.eu/regulatory *-> ESPP input green-listing wastes 30_10_25).*

- address IED permitting obstacles to the intake of secondary raw materials into production sites. Changing site intake from virgin chemicals to secondary materials often requires modification of the IED operating permit. Companies have reported that this can be a major obstacle, with MS authorities requiring the complete updating of the operating permit dossier or the completion of complex studies, resulting in dissuasive delays and costs. Since Phosphate Rock is an EU Critical Raw Material, this could be facilitated under Articles 9 and 18 of the CRM Act.
- facilitate the administration of wastes for R&D and testing of recycling processes and routes. The recently increased 250 kg limit for waste transport for R&D is insufficient for pilot plant testing, posing an obstacle to scale-up from research to implementation. For industrial pilot testing and pre-market trials, for both transport and for recycling plant intake, a 1000 t/year x 2 years limit should be authorised, under appropriate conditions.

3) Strengthening secondary raw material markets and improving access to feedstock

We support the Norion outlined proposal that **access to the EU market for secondary materials should be based on verified quality**, not on origin of input materials. This is the only way to move towards a level playing field with virgin materials.

ESPP suggests that concerns about origin of input material should be addressed by traceability and producer responsibility, see above.

We support the Norion outlined proposal to reinforce public procurement of secondary materials. For recycled nutrients

- the European Commission should engage dialogue with the food industry and supermarkets on including recycled nutrients in crop purchasing criteria
- CAP support for farmers for nutrient recycling and for the use of recycled fertilisers should be reinforced (see discussion in SCOPE Newsletter n°154).

Concerning possible bio-based content obligations for products (quotas), we refer to the 2026 **Eunomia study commissioned by ESPP which identifies over 40 questions which policymakers should take into account if considering possible quotas for recycled phosphorus in fertilisers** (minimum recycled content) – see ESPP eNews n°104.

Concerning economic and financial instruments to close the price gap between secondary nutrients and imported virgin fertilisers, the Norion study should consider: a price equalisation mechanism (similar to RED III's sustainability premium or CBAM's carbon price), direct support under CAP eco-schemes for farmers purchasing recycled fertilisers.

ESPP also suggests that the Circular Economy Act should:

- ❖ resolve VAT disadvantages for secondary materials. Some Member States apply a reduced VAT rate to virgin mineral fertilisers but not to recycled nutrient products, possibly because of different classifications ("fertiliser" = reduced VAT, waste or recycling = standard VAT). We request a Commission recommendation to apply the same reduced VAT rate to recycled products in the EU VAT Directive Annex III.
- ❖ consider carbon credits for organic carbon and nutrient recycling in secondary fertilisers. Enable Member States to issue carbon credits or carbon farming credits for the use of recycled fertilisers under the Carbon Removal Certification Framework.