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Legal and Regulatory framework

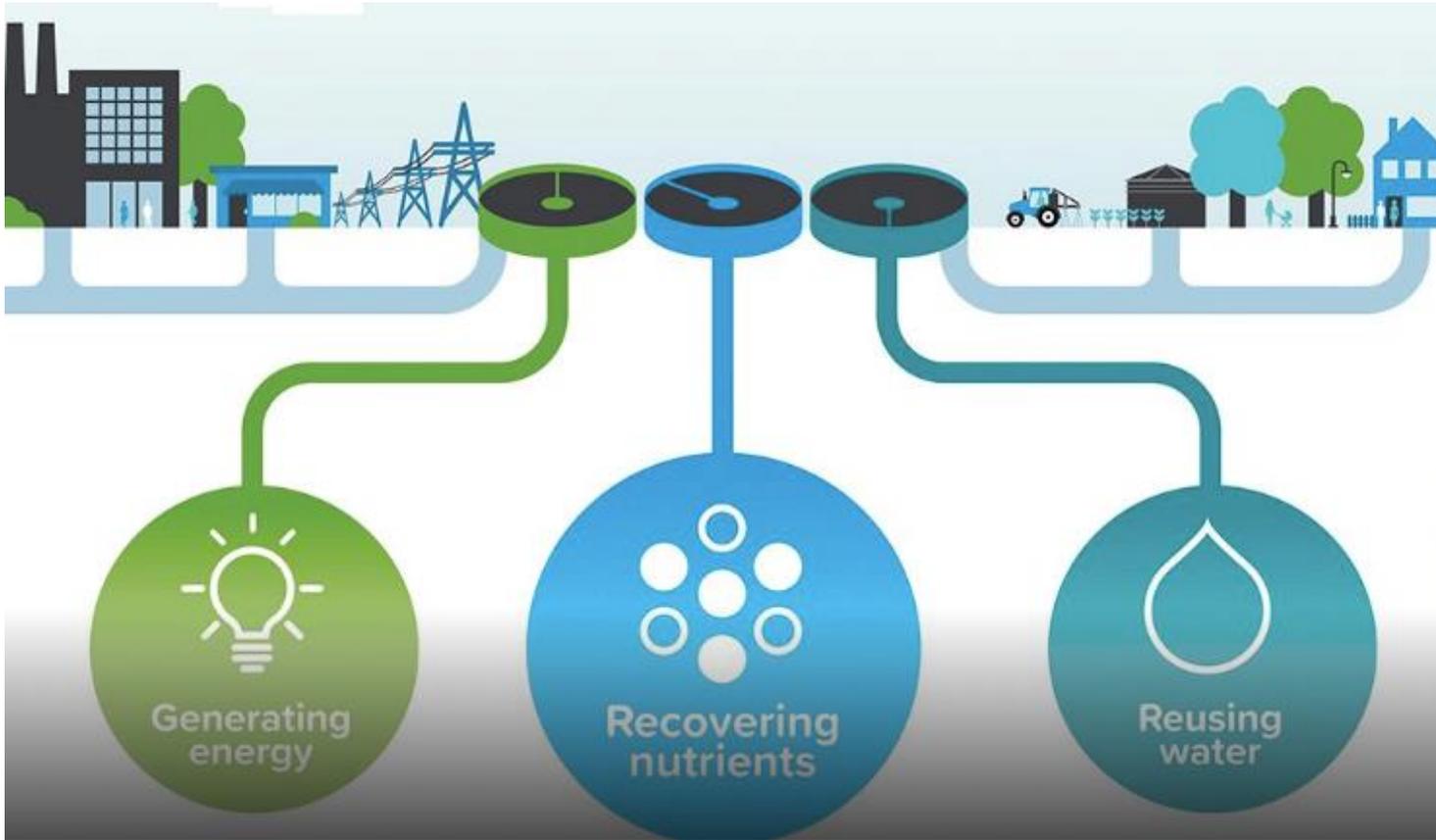
Workshop

2nd December 2019





How can legal provisions boost water reutilization and nutrient recovery in a safe, environmentally sound and social accepted manner?



Legal approach. A mix of solutions

- Fertilizers legislation
- REACH
- Water legislation
- Urban planning and building regulations
- Information, participation rules for social acceptance
- Pricing

Do we need total harmonisation?

The 2019 Regulation on fertilizers goes for optional harmonisation

Circular economy.

Promoting recycled nutrients is part of the CE package

REGULATION (EU) 2019/1009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 June 2019 laying down rules on the making available on the market of EU

- (1) There is also a need to make use of recycled or organic materials for fertilising purposes. Harmonised conditions for making fertilisers made from such recycled or organic materials available on the entire internal market should be established in order to provide an important incentive for their further use. Promoting increased use of recycled nutrients would further aid the development of the circular economy and allow a more resource-efficient general use of nutrients, while reducing Union dependency on nutrients from third countries. The scope of the harmonisation should therefore be extended in order to include recycled and organic materials.
- (19) **End of waste condition as an EU issue:** Therefore, as of the moment of compliance with all the requirements of this Regulation, such products should cease to be regarded as waste within the meaning of Directive 2008/98/EC, and it should, therefore, be possible for fertilising products containing or consisting of such recovered waste materials to access the internal market. To ensure legal certainty, take advantage of technical developments, and further stimulate the incentive among producers to make more use of valuable waste streams, the scientific analyses and the setting of recovery requirements at Union level for such products should start immediately after the entry into force of this Regulation.
 - *Article 19.* End-of-waste status. This Regulation lays down criteria in accordance with which material that constitutes waste, as defined in Directive 2008/ 98/EC, can cease to be waste



Is **conformity assessment** clear, transparent and sound? Should it be centralized or decentralized?

- Are conformity bodies performing well?
- Are their procedures transparent?
- Do they subcontract their functions and are subcontractors also fulfilling the same requirements?

Non-conformity obligations and guarantees (art.6, 32, 33, 38 Reg.UE).

- Obligation of the manufacturer to immediately inform the competent national authorities of any non-compliance and of any corrective measures taken.
- Obligation of manufacturers to respond to a reasoned request from a competent national authority and provide it with all the information and documentation necessary to demonstrate the conformity of the EU fertilising product with this Regulation, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request.
- Obligations of notified bodies : carry out conformity assessments in accordance with the conformity assessment procedures provided for in Annex IV, in a proportionate manner, avoiding unnecessary burdens for economic operators. Notified bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process. In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the EU fertilising product with this Regulation.
- If the requirements have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue a certificate or approval decision.
- Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates or approval decisions, as appropriate.
- Member States shall ensure that an appeal procedure against decisions of the notified bodies is available.
- Where the market surveillance authorities of one Member State have sufficient reason to believe that an EU fertilising product presents a risk to human, animal or plant health, to safety or to the environment, they shall carry out an evaluation in relation to the EU fertilising product concerned covering all relevant requirements laid down in this Regulation.
- The relevant economic operators shall cooperate as necessary with the market surveillance authorities for that purpose. Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the EU fertilising product concerned, and, in the event of disagreement with the adopted national measure, of their objections.

Are permit procedures tuned with regulatory fitness provisions?

- Simplification
- Non-duplication of requirements
- Mutual recognition between EU members
- Regulation UE 2009/2019: (14) An EU fertilising product complying with the requirements of this Regulation should be allowed to move freely on the internal market. Where one or more of the component materials is a derived product within the meaning of Regulation (EC) No 1069/2009 of the European Parliament and of the Council (6), but **has reached a point in the manufacturing chain beyond which it no longer poses any significant risk to human, animal or plant health, to safety or to the environment (the 'end point in the manufacturing chain')**, to continue subjecting the product to the provisions of that Regulation would represent an unnecessary administrative burden. Such fertilising products should therefore be excluded from the requirements of that Regulation. Regulation (EC) No 1069/2009 should therefore be amended accordingly.

Water legislation

Limits, level of treatment, so that the treated effluent meets the requirements for safe disposal or reuse.

How to carry out inspections and how to regulate responsibility issues as decentralized treatment might be a challenge if a large number of systems must be controlled and inspected.

Provisions in case of irregular removal of the sludge or hydraulic overloading due to increased number of population served or increased water consumption.

Are urban
planning or
building
regulation
changes
needed?



Decentralized water treatment is feasible with existing planning regulations?



Do buildings need construction law changes to separate black and grey water?



How are risks or environmental problems (smells, flooding, disposal/reuse of faecal sludge) tackled in proximity infrastructures?

Social acceptance

- **Information and participation** tend to reduce social concern and opposition
- **Labelling and certificates** when they are clear, well-known and have public support are good tools to reduce concern
 - Sweden vs. British Columbia
 - Regulation 2009/2019: Labelling: “Such information shall be in a language easily understood by end-users and market surveillance authorities and shall be clear, understandable and legible”.
 - Rules for use of CE marking
- Legal provisions to ensure **public participation in permitting procedures** (especially in urban planning or building authorisation).
- Should pricing (ex. water taxation) mechanisms be redesigned to promote water reuse and nutrient recuperation?