



Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2010/0298(COD) Procedure completed
Detergents: use of phosphates and other phosphorous compounds Amending Regulation (EC) No 648/2004	2002/0216(COD)
Subject 3.40.01 Chemical industry, fertilizers, plastics 3.70.04 Water control and management, pollution of waterways, water pollution 3.70.12 Waste management, domestic waste, packaging, light industrial waste 4.60.02 Consumer information, advertising, labelling	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ENVI Environment, Public Health and Food Safety		19/01/2011
		ALDE NEWTON DUNN Bill	
		Shadow rapporteur PPE KLASS Christa PPE ROSSI Oreste S&D WESTLUND Åsa Verts/ALE EICKHOUT Bas Verts/ALE SCHLYTER Carl ECR GIRLING Julie	
	Committee for opinion	Rapporteur for opinion	Appointed
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
	IMCO Internal Market and Consumer Protection		11/02/2011
		S&D TARABELLA Marc	
Council of the European Union	Council configuration	Meeting	Date
	Education, Youth, Culture and Sport	3144	10/02/2012
European Commission	Commission DG	Commissioner	
	Internal Market, Industry, Entrepreneurship and SMEs	TAJANI Antonio	

Key events			
04/11/2010	Legislative proposal published	COM(2010)0597	Summary
10/11/2010	Committee referral announced in		

	Parliament, 1st reading		
15/06/2011	Vote in committee, 1st reading		Summary
24/06/2011	Committee report tabled for plenary, 1st reading	A7-0246/2011	Summary
13/12/2011	Debate in Parliament		
14/12/2011	Results of vote in Parliament		
14/12/2011	Decision by Parliament, 1st reading	T7-0568/2011	Summary
10/02/2012	Act adopted by Council after Parliament's 1st reading		
14/03/2012	Final act signed		
14/03/2012	End of procedure in Parliament		
30/03/2012	Final act published in Official Journal		

Technical information

Procedure reference	2010/0298(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 648/2004 2002/0216(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114-p1
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/04441

Documentation gateway

Legislative proposal		COM(2010)0597	04/11/2010	EC	Summary
Document attached to the procedure		SEC(2010)1277	04/11/2010	EC	
Document attached to the procedure		SEC(2010)1278	04/11/2010	EC	
Economic and Social Committee: opinion, report		CES0532/2011	15/03/2011	ESC	
Committee draft report		PE458.795	30/03/2011	EP	
Committee opinion	IMCO	PE458.832	14/04/2011	EP	
Amendments tabled in committee		PE464.931	19/05/2011	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0246/2011	24/06/2011	EP	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0568/2011	14/12/2011	EP	Summary
Commission response to text adopted in plenary		SP(2012)90	01/02/2012	EC	
Draft final act		00067/2011/LEX	14/03/2012	CSL	

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex
Final act	
Regulation 2012/259 OJ L 094 30.03.2012, p. 0016 Summary	
Final legislative act with provisions for delegated acts	

Detergents: use of phosphates and other phosphorous compounds

PURPOSE: to ensure a high level of protection of the environment from the potential adverse effects of phosphates and others phosphorous compounds in detergents and to ensure a well functioning internal market for detergents.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: phosphates are used in detergents to combat water hardness in order to allow efficient cleaning. Phosphates from detergents can contribute to certain adverse effects in the aquatic environment. The prime concern is that they can lead to an excess of nutrients which cause an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms, a phenomenon called eutrophication.

Nevertheless, in view of concerns about eutrophication, the Commission presented the report in 2007 and concluded that the state of knowledge concerning the contribution of phosphates in detergents to eutrophication was still incomplete, but was developing rapidly. Further scientific work conducted thereafter, as well as information on economic and social impacts of possible restrictions, have been the basis for an impact assessment report, which analyses a number of policy options to address the use of phosphates in detergents

IMPACT ASSESSMENT: the analysis of the impacts of the various policy options has been conducted taking into consideration results of the scientific analysis of the contribution of phosphates in detergents to eutrophication risks in the EU, as well as the criteria of effectiveness and efficiency (including practicality, socio-economic impacts, and monitorability). Five policy options have been scrutinised for their impact:

- Option 1: No action at EU level, leaving the responsibility to act to the Member States or in the context of regional cooperation (baseline option);
- Option 2: Voluntary action by industry;
- Option 3: Total ban of phosphates in detergents;
- Option 4: Restriction/limitation of phosphates content in laundry detergents;
- Option 5: Setting limits values for the content of phosphates in detergents.

The evaluation and the impact analysis of the options shows that the introduction at European level of a limitation on the use of phosphates and other phosphorous compounds in household laundry detergents (option 4) will reduce the contribution of phosphates from detergents to eutrophication risks of EU waters and reduce the cost of phosphorous removal for waste water treatment plants.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to extend the scope of Regulation (EC) No 648/2004 to allow introduction of a limitation on the content of phosphates and others phosphorous compounds in household laundry detergents, in order to decrease detergents' contribution to the overall eutrophication of EU surface waters, following the conclusions of the evaluations and the impact assessment performed by the Commission pursuant to Article 16 of Regulation (EC) No 648/2004.

The draft Regulation, therefore, establishes an overall limit of 0.5 % by weight for the content of phosphorous in household laundry detergents, covering all phosphates and phosphorous containing compounds. For the time being, until technically and economically viable alternatives to phosphates become available for other types of detergent, the proposal limits the content of phosphates and other phosphorous compounds only in household laundry detergents.

For household automatic dishwasher detergent containing phosphates, it is proposed that the Commission is tasked to review their contribution to the eutrophication risk within 5 years after the adoption of the proposed act, to submit a report to the European Parliament and to the Council (amendment of Article 16) and if deemed appropriate, to propose restrictions concerning their phosphates content by adapting the new Annex VIa to technical progress.

The proposal also adapts the current provisions of Regulation (EC) No 648/2004 to empower the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Finally, the proposed act maintains the already existing provision allowing Member States to lay down national rules to limit the content of phosphates and other phosphorous compounds in detergents other than household laundry detergents, if justified on environmental grounds.

BUDGETARY IMPLICATION: this proposal has no implication for the EU budget.

Detergents: use of phosphates and other phosphorous compounds

The Committee on the Environment, Public Health and Food Safety adopted the report drafted by Bill NEWTON DUNN (UK, ADLE) on the

proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in household laundry detergents.

It recommended that the European Parliament's position at first reading, under the ordinary legislative procedure, should be to amend the Commission proposal as follows:

Placing on the market: in order to ensure legal certainty and harmonised use of terms, it is appropriate to align the definition of "placing on the market" with the respective definitions provided in Regulation (EC) No 1907/2006 (REACH) and Regulation (EC) No 1272/2008 (classification, labelling and packaging).

Limit the use of phosphates and other phosphorous compounds: Members stress that some phosphorous-based ingredients are used at low levels in phosphate-free products such as phosphonates. Due to a concentration effect in compact products, the 0.5% phosphorous limit may be exceeded. Therefore, expressing the restriction as maximum 0.5 gram of phosphorous by standard washing load avoids impeding further compaction, which is a key driver of sustainability. They suggest that the date as of which the limitation applies should be set at 1 January 2015. It is appropriate also to limit the use of phosphates and other phosphorous compounds in household automatic dishwasher detergents, and to express the restriction in grams for the same reasons as above.

Members introduce a transitional provision which will ensure that detergents which are placed on the market in accordance with current legislation may continue to be made available on the market for another two years following the entry into force of this Regulation.

Information on sustainable use: household laundry detergent labels: (i) shall mention relevant information, by means of a logo and/or text, on encouraging the sustainable use of laundry detergents, such as recommendations for avoiding the incomplete filling of washing machines, paying attention to the dosing instructions, washing at low temperature and recycling/refilling packaging, and (ii) shall contain references to other existing sources, such as internet websites, containing further information for consumers, in order to allow them to have access to useful recommendations, suggestions and advice encouraging their sustainable use.

A new provision stipulates that in order to prevent distortions in environmental competitiveness, manufacturers shall not make any environmental claims on attributes which are merely complying with Union legislation.

Reporting: Members call on the Commission to carry out a series of evaluations:

- by December 2013, the Commission shall evaluate, submit a report to the European Parliament and to the Council on the use of phosphonates and polycarboxylates in detergents and, if justified, present a legislative proposal with a view to their gradual phase-out or restriction to specific applications;
- by 31 December 2016, the Commission shall evaluate, submit a report to the European Parliament and to the Council on the use of phosphates and other phosphorus compounds in industrial and institutional detergents;
- by 31 December 2016, the Commission shall evaluate, submit a report to the European Parliament and to the Council and, if justified, present a legislative proposal providing for a limit of 0.2% of phosphorous compounds in household laundry detergents and household automatic dishwasher detergents;
- by 31 December 2014, the Commission shall also evaluate and submit a report to the European Parliament and to the Council on the technical, economic and sustainable development perspectives for
- phosphate recovery and recycling from domestic sewage, animal manures and industrial wastes.

Implementing powers and delegated acts: Members introduce amendments concerning : (i) the adaptation of the basic act to the new procedures regarding implementing powers laid down by Regulation (EU) 182/2011; (ii) the adaptation of the basic act to the new procedures regarding delegated acts. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Detergents: use of phosphates and other phosphorous compounds

The Committee on the Environment, Public Health and Food Safety adopted the report drafted by Bill NEWTON DUNN (UK, ADLE) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in household laundry detergents.

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- by 31 December 2016, the Commission shall evaluate, submit a report to the European Parliament and to the Council on the use of phosphates and other phosphorus compounds in industrial and institutional detergents;
- by 31 December 2016, the Commission shall evaluate, submit a report to the European Parliament and to the Council and, if justified, present a legislative proposal providing for a limit of 0.2% of phosphorous compounds in household laundry detergents and household automatic dishwasher detergents;
- by 31 December 2014, the Commission shall also evaluate and submit a report to the European Parliament and to the Council on the technical, economic and sustainable development perspectives for phosphate recovery and recycling from domestic sewage, animal manures and industrial wastes.

Implementing powers and delegated acts: Members introduce amendments concerning: (i) the adaptation of the basic act to the new procedures regarding implementing powers laid down by Regulation (EU) 182/2011; (ii) the adaptation of the basic act to the new procedures regarding delegated acts. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Detergents: use of phosphates and other phosphorous compounds

The European Parliament adopted by 631 votes to 18, with 4 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in household laundry detergents.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement negotiated between the European Parliament and the Council. They amend the proposal as follows:

Definitions: the amended text includes definitions of consumer laundry detergent; consumer automatic dishwasher detergent; cleaning; placing on the market as well as the definition of making available on the market meaning any supply for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge.

Limitations on the content of phosphates and of other phosphorous compounds (Annex VI a):

(1) Consumer laundry detergents: the text limits, from 30 June 2013, placing on the market of these detergents if the total content of phosphorous is equal to or greater than 0.5 g in the recommended quantity of the detergent to be used in the main cycle of the washing process for a standard washing machine load as defined in section B of Annex VII for water of hard water hardness:

- for normally soiled fabrics in the case of heavy-duty detergents;
- for lightly soiled fabrics in the case of detergents for delicate fabrics.

(2) Consumer automatic dishwasher detergents: the text limits from 1 January 2017, the placing on the market of these detergents if the total content of phosphorous is equal to or greater than 0.3 g in the standard dosage as defined in section B of Annex VII.

Labelling of dosage information: the following provisions on labelling shall apply to the packaging of detergents sold to the general public:

(1) Consumer Laundry Detergents: the packaging of detergents sold to the general public intended to be used as laundry detergents shall bear the following information:

- the recommended quantities and/or dosage instructions expressed in millilitres or grams appropriate to a standard washing machine load, for soft, medium and hard water hardness levels and making provision for one or two cycle washing processes,
- for heavy-duty detergents, the number of standard washing machine loads of normally soiled fabrics, and, for detergents for delicate fabrics, the number of standard washing machine loads of lightly-soiled fabrics, that can be washed with the contents of the package using water of medium hardness, corresponding to 2.5 millimoles CaCO₃/l,
- the capacity of any measuring cup, if provided, shall be indicated in millilitres or grams, and markings shall be provided to indicate the dose of detergent appropriate for a standard washing machine load for soft, medium and hard water hardness levels.

The standard washing machine loads are 4.5 kg dry fabric for heavy-duty detergents and 2.5 kg dry fabric for light-duty detergents in line with the definitions of Commission Decision 1999/476/EC establishing the Ecological Criteria for the award of the Community eco-label to Laundry Detergents. A detergent shall be considered to be a heavy-duty detergent unless the claims of the manufacturer predominantly promote fabric care i.e. low temperature wash, delicate fibres and colours.

(2) Consumer Automatic Dishwasher Detergents: the packaging of detergents sold to the general public intended to be used as automatic dishwasher detergents shall bear the following information:

- the standard dosage expressed in grams or ml or number of tablets for the main washing cycle for normally soiled tableware in a fully loaded 12 place settings dishwasher, making provisions, where relevant, for soft, medium, and hard water hardness.

It should be noted that the Commission shall make publicly available the list of national measures and the lists of competent authorities and of approved laboratories.

Making available on the market: the amended text provides that the Member States:

- shall not prohibit, restrict or impede the making available on the market of detergents, and/or of surfactants for detergents, which comply with the requirements of this Regulation, on grounds that are dealt with in this Regulation;
- may maintain or lay down national rules concerning restrictions on the content of phosphates and of other phosphorous compounds in detergents for which no restrictions on the content are set out in Annex VIa where justified, in particular, on grounds such as protection

- of public health or the environment and where technically and economically feasible alternatives are available;
- may maintain national rules that were in force concerning restrictions on the content of phosphates and of other phosphorous compounds in detergents for which restrictions set out in Annex VIa have not yet become applicable. Such existing national measures shall be reported to the Commission and may remain in force until the date when the restrictions set out in Annex VIa apply.

Temporary measures: where a Member State has justifiable grounds for believing that a specific detergent, although complying with the requirements of this Regulation, constitutes a risk to safety or health of humans or of animals or a risk to the environment, it may take all appropriate provisional measures in order to ensure that the detergent concerned, no longer presents that risk, is withdrawn from the market or recalled within a reasonable period or its availability is otherwise restricted, commensurate with the nature of the risk. It shall immediately inform the other Member States and the Commission thereof, giving the reasons for its decision.

Penalties: Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented.

This may also include appropriate measures allowing the Member States' competent authorities to prevent the making available on the market of detergents or surfactants for detergents that fail to comply with this Regulation.

Report: by 31 December 2014, the Commission shall, taking into account information from Member States on the content of phosphorous in consumer automatic dishwasher detergents placed on the market in their territories and in the light of any existing or new scientific information available to it regarding substances employed in phosphate-containing and alternative formulations, evaluate by way of a thorough assessment whether the restriction set out in Point 2 of Annex VIa should be modified. The Commission shall submit this thorough assessment to the European Parliament and to the Council.

Furthermore, if the Commission, on the basis of this thorough assessment, considers that the restriction of phosphates and other phosphorous compounds used in consumer automatic dishwasher detergents require revision, it shall present at the latest by 1 July 2015 an appropriate legislative proposal. Any such proposal must intend to minimise the negative impact from all consumer automatic dishwasher detergent products on the wider environment, whilst considering any economic costs identified in this thorough assessment.

Delegated acts: in order to adapt Regulation (EC) No 648/2004 to scientific and technical progress, to introduce provisions on solvent-based detergents and in order to introduce appropriate individual risk-based concentration limits for fragrance allergens, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to the Annexes to that Regulation that are necessary to meet those objectives. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including consultations at expert level.

Detergents: use of phosphates and other phosphorous compounds

PURPOSE: to limit the use of phosphates in consumer laundry detergents and consumer automatic dishwasher detergents in order to reduce the contribution of phosphates from detergents to eutrophication risks and to reduce the cost of phosphates removal in waste water treatment plants.

LEGISLATIVE ACT: Regulation (EU) No 259/2012 of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorus compounds in consumer laundry detergents and consumer automatic dishwasher detergents.

CONTENT : following agreement in first reading, the European Parliament and Council adopted a Regulation restricting the use of phosphates and other phosphorus compounds in consumer laundry and automatic dishwasher detergents in order to reduce the level of phosphorus poured into the waters

The new Regulation amends Regulation (EC) No 648/2004, which harmonised the labelling of detergents and the biodegradability of certain substances they contain. It will also improve the free movement of detergents in the internal market by harmonising existing different national rules concerning their phosphate content. In the absence of EU legislation, some countries had taken national measures restricting the use of phosphates in detergents.

Others had relied on voluntary action by industry to replace phosphates. Imports of detergents from third countries into the EU are insignificant.

Phosphates and other phosphorous compounds are used in detergents to reduce water hardness and allow detergents to perform efficiently. However, they can damage the aquatic environment and disturb the ecological balance by increasing the proliferation of algae, a phenomenon called eutrophication. Eutrophication is currently monitored under Directive 2000/60/EC (Water Framework Directive.)

Consumer laundry detergents: the limit value for consumer laundry detergents is set at 0.5 grams of phosphorus per washing process in a standard washing machine. It will be applicable as from 30 June 2013.

In addition to domestic detergents, the scope of the regulation also includes detergents used in public laundrettes.

Consumer automatic dishwasher detergents: the limit value for consumer automatic dishwasher detergents is set at 0.3 grams of phosphorus in a standard dosage. It will be applicable as from 1 January 2017.

This limit will have to be confirmed before that date by means of a thorough assessment in the light of the most recent scientific data and taking into account available alternatives to the use of phosphates.

The deferred application of the restrictions is intended to give producers (in particular small and medium-sized enterprises) enough time to reformulate their phosphate-based detergents with more ecological alternatives.

Free movement: Member States may lay down national rules concerning restrictions on the content of phosphates and of other phosphorus compounds in detergents for which no restrictions on the content are set out in the Regulation where justified, in particular, on grounds such as the protection of public health or the environment and where technically and economically feasible alternatives are available.

They may maintain national rules that were in force on 19 March 2012 concerning restrictions on the content of phosphates and of other

phosphorus compounds in detergents for which restrictions set out have not yet become applicable. Such existing national measures shall be reported to the Commission by 30 September 2012 and may remain in force until the date when the restrictions set out apply.

From 19 March 2012 until 31 December 2016 Member States may adopt national rules that implement the restriction on the content of phosphates and of other phosphorus compounds, where justified, in particular, on grounds such as the protection of public health or the environment and where technically and economically feasible alternatives are available. Member States shall notify such measures to the Commission in accordance with Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services.

Where a Member State has justifiable grounds for believing that a specific detergent, although complying with the requirements of the Regulation, constitutes a risk to the safety or health of humans or of animals or a risk to the environment, it may take all appropriate provisional measures, commensurate with the nature of the risk, in order to ensure that the detergent concerned no longer presents that risk, is withdrawn from the market or recalled within a reasonable period or its availability is otherwise restricted.

Report: by 31 December 2014, the Commission shall evaluate by way of a thorough assessment whether the restriction on phosphorus in dishwasher detergents should be modified. That assessment shall include an analysis of the impact on the environment, industry and consumers of consumer automatic dishwasher detergents with phosphorus levels above and below the limit value, taking into account matters including cost, availability, cleaning efficiency and the impact on waste water treatment.

In addition, if the Commission, on the basis of this thorough assessment, considers that the restriction of phosphates and other phosphorus compounds used in consumer automatic dishwasher detergents requires revision, it shall, by 1 July 2015, present an appropriate legislative proposal.

ENTRY INTO FORCE: 19/04/2012.

DELEGATED ACTS: the Commission has the power to adopt delegated acts in respect of amendments to the Annexes to Regulation (EC) No 648/2004 in order to adapt the Regulation to scientific and technical progress, to introduce provisions on solvent-based detergents and in order to introduce appropriate individual risk-based concentration limits for fragrance allergens.

The power to adopt delegated acts shall be conferred on the Commission for a period of 5 years from 19 April 2012. By 19 July 2016, the Commission shall draw up a report in respect of the delegation of power. The delegation of power shall be tacitly extended for further periods of 5 years, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each such period. Delegated acts shall enter into force only if no objection has been expressed either by the European Parliament or the Council.