



Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2014/0136(COD) Procedure completed
Appliances burning gaseous fuels Repealing Directive 2009/142/EC Amended by	2007/0225(COD) 2017/0353(COD)
Subject 2.10.03 Standardisation, EC/EU standards and trade mark, certification, compliance 3.40.06 Electronics, electrotechnical industries, ICT, robotics 4.60.08 Safety of products and services, product liability	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection		17/07/2014
		S&D STIHLER Catherine	
		Shadow rapporteur	
		PPE BUȘOI Cristian-Silviu	
		ECR DALTON Daniel	
		ALDE CHARANZOVÁ Dita	
		Verts/ALE DURAND Pascal	
	Former committee responsible		
	IMCO Internal Market and Consumer Protection		
Committee for opinion	Rapporteur for opinion	Appointed	
INTA International Trade			The committee decided not to give an opinion.
ENVI Environment, Public Health and Food Safety			The committee decided not to give an opinion.
ITRE Industry, Research and Energy			The committee decided not to give an opinion.
Former committee for opinion			
INTA International Trade			
ENVI Environment, Public Health and Food Safety			
ITRE Industry, Research and Energy			
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3445	12/02/2016
	Environment	3363	17/12/2014
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	BIENKOWSKA Elzbieta	
European Economic and Social Committee			

Key events

12/05/2014	Legislative proposal published	COM(2014)0258	Summary
03/07/2014	Committee referral announced in Parliament, 1st reading/single reading		
17/12/2014	Debate in Council	3363	
23/04/2015	Vote in committee, 1st reading/single reading		
23/04/2015	Committee decision to open interinstitutional negotiations with report adopted in committee		
30/04/2015	Committee report tabled for plenary, 1st reading/single reading	A8-0147/2015	Summary
10/11/2015	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE610.793 GEDA/A/(2015)010802	
19/01/2016	Debate in Parliament		
20/01/2016	Results of vote in Parliament		
20/01/2016	Decision by Parliament, 1st reading/single reading	T8-0013/2016	Summary
12/02/2016	Act adopted by Council after Parliament's 1st reading		
12/02/2016	End of procedure in Parliament		
09/03/2016	Final act signed		
31/03/2016	Final act published in Official Journal		

Technical information

Procedure reference	2014/0136(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Directive 2009/142/EC 2007/0225(COD) Amended by 2017/0353(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Modified legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/8/00446

Documentation gateway

Legislative proposal	COM(2014)0258	12/05/2014	EC	Summary
Document attached to the procedure	SWD(2014)0150	12/05/2014	EC	
Document attached to the procedure	SWD(2014)0151	12/05/2014	EC	

Economic and Social Committee: opinion, report	CES3986/2014	10/09/2014	ESC	
Committee draft report	PE544.262	20/01/2015	EP	
Amendments tabled in committee	PE549.463	04/03/2015	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0147/2015	30/04/2015	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2015)010802	12/10/2015	CSL	
Text adopted by Parliament, 1st reading/single reading	T8-0013/2016	20/01/2016	EP	Summary
Draft final act	00059/2015/LEX	09/03/2016	CSL	
Commission response to text adopted in plenary	SP(2016)191	16/03/2016		

Additional information

European Commission

[EUR-Lex](#)

Final act

[Regulation 2016/426](#)

[OJ L 081 31.03.2016, p. 0099](#) Summary

Final legislative act with provisions for delegated acts

2014/0136(COD) - 12/05/2014 Legislative proposal

PURPOSE: to amend Directive 2009/142/EC to ensure that appliances burning gaseous fuels on the market fulfil the requirements providing for a high level of protection of health and safety of users and protection of domestic animals or property and for rational use of energy.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : Directive 2009/142/EC setting out the conditions for the placing on the market and putting into service of appliance burning gaseous fuels is based on the New Approach principles regarding technical harmonisation and standards. It sets out only the essential requirements applying to appliances burning gaseous fuels, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) in accordance with Regulation (EU) No 1025/2012 on European Standardisation.

Experience from the implementation of Directive 2009/142/EC has shown the need to modify some of its provisions in order to clarify and update them and ensure thus legal certainty as regards the definitions relating to its scope, the content of the Member States' communications of their gas types and supply pressures and certain essential requirements. The Commission proposes to replace Directive 2009/142/EC with a Regulation, so as to impose clear and detailed rules which do not give room for divergent transposition by Member States and ensure a uniform implementation throughout the Union.

IMPACT ASSESSMENT: the option of modifying Directive 2009/142/EC was found to be the preferred option because: (i) it is considered more effective since it will be enforceable in law ; (ii) it does not entail significant costs for economic operators and notified bodies; (iii) no significant economic or social impacts could be identified.

CONTENT: the proposed Regulation does not change the current scope of Directive 2009/142/EC. However, it modifies some of its provisions in order to clarify and update their content. The proposed Regulation is also aligned to the provisions of Decision No 768/2008/EC establishing a common framework for the marketing of products (NLF Decision).

The proposal provides for :

- the removal of the outdated temperature limit of 105°C from the definition of the scope;
- the introduction of currently missing definitions for the sector specific terminology under Directive 2009/142/EC;
- the introduction of a harmonised content and form of the communications of Member States on the types of gas and corresponding supply pressures used on their territory;
- the clarification of the relationship between Directive 2009/142/EC and other EU harmonisation legislation, including Ecodesign implementing measures under Directive 2009/125/EC and other Union energy policy instruments;
- the improvement of the readability of some of the provisions of Directive 2009/142/EC.

The modification also includes the following points:

Making available on the market of gas appliances and fittings, obligations of economic operators, CE marking, free movement: the proposal contains the typical provisions for product-related Union harmonisation legislation and sets out the obligations of the relevant economic operators (manufacturers, authorised representatives, importers and distributors), in accordance with the NLF Decision.

The proposed Regulation keeps the existing provision according to which fittings do not bear the CE marking. However, in order to improve clarity, the certificate accompanying fittings under Directive 2009/142/EC has been qualified as Fitting conformity certificate, in order to better define its content and clarify its relationship with the EU declaration of conformity requirement under other possibly applicable Union harmonisation legislation.

Notified bodies: in line with the NLF Decision, the proposal reinforces the notification criteria for notified bodies and introduces specific requirements for notifying authorities.

Conformity assessment: the proposal keeps the conformity assessment procedures provided for under Directive 2009/142/EC. However, it updates the corresponding modules in line with the NLF Decision. In particular, it keeps the requirement for a notified body intervention in the design and production phase of all appliances and fittings.

Furthermore, it keeps the current approach for the design phase, according to which the type examination of the product by the notified body takes the form of examination of the complete appliance or fitting. Therefore, in accordance with the NLF Decision, it provides only for the EU-type examination production type.

ENTRY INTO FORCE: the proposed Regulation will become applicable two years after its entry into force to allow manufacturers, notified bodies, Member States and European Standardisation Bodies, time to adapt to the new requirements.

A transitional provision is envisaged for the certificates issued by notified bodies under Directive 2009/142/EC so as to allow stocks to be absorbed and ensure a smooth transition to the new requirements.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

2014/0136(COD) - 30/04/2015 Committee report tabled for plenary, 1st reading/single reading

The Committee on the Internal Market and Consumer Protection adopted a report drafted by Catherine STIHLER (S&D, UK) on the proposal for a regulation of the European Parliament and of the Council on appliances burning gaseous fuels.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows:

Scope of the proposal: this Regulation should apply to domestic and non-domestic appliances intended for a number of specified applications burning gaseous fuels and to fittings designed to be incorporated into such appliances.

Members proposed several amendments in order to strengthen the text from a point of view of consumer safety.

The provisions of this Regulation do not affect the Member States' entitlement to lay down rules concerning commissioning or periodic inspections of appliances burning gaseous fuels, or other measures such as installer training or certification, in order to ensure their correct installation, use and maintenance, including precautionary safety measures. Those rules and measures are essential in preventing gas poisoning, including from carbon monoxide (CO), and the leakage of any substances harmful to health and safety.

Availability on the market and putting into service: it is stated that appliances shall only be made available on the market and put into service if, when normally used, they comply with this Regulation.

Fittings: Members considered that fittings should satisfy the essential requirements so as to fulfil correctly their intended purpose when incorporated into an appliance or assembled to constitute such an appliance. It is considered justified that fittings should also bear the CE marking. Exceptions should be provided for in cases where the size or nature of the appliance or fitting does not allow it.

Given that the fitting should bear the CE marking, Members proposed deleting the obligation of manufacturers to issue a fitting conformity certificate.

Alignment with the New Legislative Framework (NLF): the proposal seeks to align the Regulation to the provisions to the goods package adopted in 2008 and in particular to the [Decision EC 768/2008](#) on a common framework for the marketing of products.

After careful analysis of the proposal and a comprehensive comparison with the proposals of the "Alignment Package", Members offer several amendments aiming to improve the consistency of the text with the NLF:

- the appliances covered by this Regulation include those burning gaseous fuels (?appliances?) and fittings which are new to the Union market when they are placed on the market; that is to say they are either new appliances and fittings made by a manufacturer established in the Union or appliances and fittings, whether new or second-hand, imported from a third country; it should apply to all forms of supply across the Union, including distance selling;
- the address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by appliance manufacturers and the market surveillance authorities;
- instructions and safety information, as well as any labelling, shall be clear, understandable and intelligible;
- the EU declaration of conformity may be a dossier made up of relevant individual declarations of conformity; it shall be in a language which can be easily understood by appliance manufacturers and market surveillance authorities;
- in order to assist compliance with the essential requirements applicable to finished appliances, the EU declaration of conformity for a fitting shall state the characteristics of the fitting and it shall contain instructions on how the fitting should be incorporated into an appliance or assembled to constitute such an appliance;
- a copy of the EU declaration of conformity shall be supplied with the appliance or the fitting;
- the CE marking and the inscriptions referred to in Annex IV shall be affixed visibly, legibly and indelibly to the appliance and the fitting

or to their data plate. Where that is not possible or not warranted on account of the nature of the appliance or the fitting, the CE marking shall be affixed to the packaging and to the instructions accompanying the appliance or the fitting;

- interested parties should have the right to appeal against the result of an assessment carried out by a notified body;
- a procedure should enable interested parties to be informed of measures intended to be taken with regard to appliances and fittings presenting a risk to the health or safety of persons or to domestic animals or property.

Market surveillance: Members introduced a new Chapter on Union Market Surveillance, Control of appliances and fittings entering the Union market and Union Safeguard Procedure, aligned to Articles of Decision EC 768/2008.

2014/0136(COD) - 20/01/2016 Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 629 votes to 63, with 16 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on appliances burning gaseous fuels.

Parliament's position, adopted at first reading under the ordinary legislative procedure, amended the Commission proposal as follows:

Scope of the proposal: this Regulation should apply to domestic and non-domestic appliances intended for a number of specified applications and to fittings designed to be incorporated into such appliances

Parliament proposed several amendments in order to strengthen the text from a point of view of consumer safety.

The provisions of this Regulation do not affect the Member States' entitlement to lay down rules concerning commissioning or periodic inspections of appliances burning gaseous fuels, or other measures such as installer training or certification, in order to ensure their correct installation, use and maintenance, including precautionary safety measures. Those rules and measures are essential in preventing gas poisoning, including from carbon monoxide (CO), and the leakage of any substances harmful to health and safety.

Moreover, this Regulation shall not affect the obligation upon Member States to adopt measures with respect to the promotion of the use of energy from renewable sources and to the energy efficiency of buildings.

Availability on the market and putting into service: Parliament stated that appliances shall only be made available on the market and put into service if, when normally used, they comply with this Regulation.

At trade fairs, exhibitions, demonstrations or similar events, Member States shall not prevent the showing of appliances or fittings which do not comply with this Regulation, provided that a visible sign clearly indicates that such appliances or fittings do not comply with this Regulation and that they are not for sale until they have been brought into conformity. During demonstrations, adequate safety measures shall be taken to ensure the protection of persons, domestic animals and property.

Gas supply conditions: by 18 months after the entry into force of the Regulation, Member States shall communicate to the Commission and the other Member States the types of gas and corresponding supply pressures of gaseous fuels used on their territory. They shall communicate any changes thereof within six months after the announcement of the envisaged changes.

Alignment with the New Legislative Framework (NLF): the proposal seeks to align the Regulation to the provisions to the goods package adopted in 2008 and in particular to the [Decision EC 768/2008](#) on a common framework for the marketing of products.

Members offer several amendments aiming to improve the consistency of the text with the NLF:

- this Regulation covers appliances and fittings which are new to the Union market when they are placed on the market; that is to say they are either new appliances and fittings made by a manufacturer established in the Union or appliances and fittings, whether new or second-hand, imported from a third country. It shall apply to all forms of supply, including distance selling;
- manufacturers shall indicate on the fitting their name, registered trade name or registered trade mark, and the postal address at which they can be contacted or, where that is not possible, on the packaging or in a document accompanying the fitting. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by appliance manufacturers and the market surveillance authorities;
- instructions and safety information as well as any labelling, shall be clear, understandable and intelligible;
- manufacturers shall ensure that the fitting is accompanied by a copy of the EU declaration of conformity containing, inter alia, instructions for incorporation or assembly, adjustment, operation and maintenance in a language which can be easily understood by appliance manufacturers, as determined by the Member State concerned. Where a large number of fittings are delivered to a single user, the batch or consignment concerned may be accompanied by a single copy of the EU declaration of conformity;
- before placing an appliance on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer and that the manufacturer has drawn up the technical documentation, that the fitting bears the CE marking and is accompanied by a copy of the EU declaration of conformity.

EU declaration of conformity: the EU declaration of conformity for a fitting shall state the characteristics of the fitting and shall contain instructions on how the fitting should be incorporated into an appliance or assembled to constitute an appliance. The EU declaration of conformity shall be in a language which can be easily understood by appliance manufacturers and market surveillance authorities, as determined by the Member State concerned.

CE marking: the CE marking shall be affixed visibly, legibly and indelibly to the appliance and the fitting or to their data plate as far as relevant. Where that is not possible or not warranted on account of the nature of the appliance or the fitting, it shall be affixed to the packaging and to the documents accompanying the appliance or the fitting. It shall be affixed before the appliance or the fitting is placed on the market.

Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.

Market surveillance: in order to ensure legal certainty, Parliament proposed to clarify that rules on Union market surveillance and control of products entering the Union market provided for in [Regulation \(EC\) No 765/2008](#) apply to appliances and fittings covered by this Regulation.

Members also introduced provisions relating to the procedure at national level for dealing with appliances or fittings presenting a risk, Union

safeguard procedures and compliant appliances or fittings which present a risk for the health and safety of persons.

2014/0136(COD) - 09/03/2016 Final act

PURPOSE: to update internal market rules applicable to gas appliances to ensure that appliances and their fittings respect requirements for a high level of protection of the health and safety of persons, domestic animals and property, as well as for sensible energy use.

LEGISLATIVE ACT: Regulation (EU) 2016/426 of the European Parliament and of the Council on appliances burning gaseous fuels and repealing Directive 2000/142/EC.

CONTENT: the new Regulation revises the provisions of Directive 2009/142/EC. It covers appliances and fittings which are new to the Union market when they are placed on the market; that is to say, they are either new appliances and fittings made by a manufacturer established in the Union or appliances and fittings, whether new or second-hand, imported from a third country.

Scope: the Regulation applies to domestic and non-domestic appliances intended for a number of specified applications and to fittings designed to be incorporated into such appliances. Typical appliances burning gaseous fuels include boilers, gas cookers/ovens/barbecues and patio heaters.

Appliances specifically designed for use on aircrafts and railways or for research purposes for temporary use in laboratories are excluded from the scope.

The Regulation does not prevent Member States from:

- laying down rules concerning commissioning or periodic inspections of appliances or other measures such as installer training or certification, in order to ensure the correct installation, use and maintenance of appliances, including precautionary safety measures;
- laying down requirements as they may deem necessary concerning installation aspects, space ventilation conditions and aspects relating to the safety of the building itself and its energy performance, provided that those requirements do not impose design requirements on appliances.
- adopting measures with respect to the promotion of the use of energy from renewable sources and to the energy efficiency of buildings, provided that such measures are compatible with the TFEU.

Obligations of economic operators (manufacturers, importers, distributors): all economic operators intervening in the supply and distribution chain must take appropriate measures to ensure that they make available on the market only appliances which are in conformity with the Regulation. In particular, manufacturers must ensure that appliances have been designed and manufactured in accordance with the applicable essential health and safety requirements set out in Annex I. They must particularly:

- implement the conformity assessment procedures established by the Regulation;
- keep the technical documentation and the EU declaration of conformity for 10 years after the appliance has been placed on the market;
- carry out sample testing of appliances made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming appliances and fittings and recalls of such appliances and fittings, and shall keep distributors informed of any such monitoring;
- ensure that their appliances and fittings bear a type, batch or serial number or other element allowing their identification;
- indicate on the appliance their name, registered trade name or registered trade mark, and the postal address at which they can be contacted or, where that is not possible, on the packaging or in a document accompanying the appliance;
- ensure that instructions and safety information, as well as any labelling, is clear, understandable, intelligible and legible;
- further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the appliance with the Regulation, in a language which can be easily understood by that authority;
- immediately take the corrective measures necessary to bring the appliance into conformity, to withdraw it or recall it, if appropriate.

For their part, importers must make sure that the appliances and fittings they place on the market comply with the requirements and do not present a risk. They must also make sure that conformity assessment procedures have been carried out and that the CE marking and documentation drawn up by manufacturers are available for inspection by the competent national authorities.

CE marking: before the appliance is placed on the market, the CE marking shall be affixed visibly, legibly and indelibly to the appliance or to its data plate, or where that is not possible, it shall be affixed to the packaging and to the accompanying documents. The CE marking and the identification number may be followed by any other mark indicating a special risk or use. Member States shall take appropriate action in the event of improper use of that marking.

Notifying authorities: the Regulation sets requirements for notifying authorities responsible for conformity assessment bodies. These bodies must apply the conformity assessment procedures without creating unnecessary burdens for economic operators. Interested parties have the right to appeal against the result of a conformity assessment carried out by a notified body.

Market surveillance: in the context of aligning the legislation on subsystems and safety components with the new legislative framework for the marketing of products, and in order to ensure legal certainty, the rules on Union market surveillance and control of products entering the Union market provided for in [Regulation \(EC\) No 765/2008](#) apply to appliances and equipment referred to in the Regulation.

The new Regulation also contains provisions regarding procedures at national level for dealing with appliances or equipment presenting a risk, Union safeguard procedures, and compliant appliances which present a risk to health and safety.

Transitional provisions: Member States shall not impede the making available on the market of products which are in conformity with Directive 2009/9/EC and which were placed on the market before 21 April 2018.

ENTRY INTO FORCE: 20.4.2016.

APPLICATION: from 21.4.2018, with the exception of certain provisions that apply from 21.10.2016 or from 21.3.2018.

DELEGATED ACTS: the Commission may adopt delegated acts in respect of in respect of the content of the Member States' communications on the gas supply conditions on their territory. The power to adopt delegated acts shall be conferred on the Commission for a period of 5 years

(which may be tacitly extended) from 21 April 2018. The European Parliament or the Council may raise objections to a delegated act within two months from the date of notification (which may be extended by two months). If the European Parliament or the Commission raise objections, the delegated act will not enter into force.