

# **Public consultation on 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 phosphorous compounds in household laundry detergents**

## **Background**

Under Article 16 of the Detergent Regulation<sup>1</sup> the European Commission were required to submit a report on the use of phosphates in detergents by the 8<sup>th</sup> April 2007 and to present, where justified, a legislative proposal with the view to their gradual phase-out or restriction in certain applications. On the basis of the report<sup>2</sup>, it has been concluded that a European limit of phosphates and others phosphorous compounds in household laundry detergent is required to (1) reduce the contribution of phosphates from detergents to eutrophication in EU waters and (2) reduce the cost of phosphorous removal in waste water treatment plants. Imposing such a limit in other types of detergents such as automatic dishwasher detergents (ADW) or professional detergents was considered premature due to the lack of technically and economically viable alternatives.

## **Reason for the Commission Proposal for an amended Detergent Regulation**

Phosphates are primarily used in detergents to ensure efficient cleaning in hard water. Phosphates originating from detergents and discharged into waste water have to be removed through costly chemical or biological processes at waste water treatment plants. Not all treatment plants in the EU are equipped with the necessary technology to carry this out.

When excessively discharged into water, phosphates, like nitrates, can raise the amount of nutrients to an unsustainable level, eventually causing algae to grow at the expense of other aquatic life. This phenomenon is known as 'eutrophication' or, more commonly, 'red tides' or 'green tides'. The main sources of discharge of phosphates into surface waters are (1) agriculture (2) sewage and (3) detergents.

Some alternatives to phosphates also contain phosphorous, albeit in a different chemical form, which can potentially create environmental problems when used in higher concentrations. Consequently, the Regulation proposes a phosphorous content limit of 0.5 % of the total weight of the product in all laundry detergents on the EU market. This will apply as of 1st of January 2013, to minimise the costs to detergent manufacturers of modifying the composition of laundry detergents in the normal product life cycle.

---

<sup>1</sup> (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, Regulation (EC) No 907/2006 of 20 June 2006 amending Regulation (EC) No 648/2004 on detergents, in order to adapt Annexes III and VII amended for the last time by Regulation (EC) No 551/2009 of 25 June 2009 amending Regulation (EC) No 648/2004 on detergents, in order to adapt Annexes V and VI thereto (surfactant derogation)

<sup>2</sup> [COM(2007) 234]

The proposal foresees the need to re-assess the situation regarding automatic dishwasher detergents by 31 December 2014.

The proposal would benefit not only waste water treatment plants, with reduced costs for phosphate removal, but also consumers who pay for waste water treatment, and ultimately the environment.

The Regulation also allows for the provision of future amendment of the Regulation additional labeling of detergents, including fragrance allergens.

## **COMMISSION PROPOSAL**

### ***Article 1 Objective & Scope***

Regulation (EC) No 648/2004 is amended to empower the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union for the purpose of amending the Annexes to this Regulation for

- the additional labelling of detergents, including fragrance allergens;
- the information that manufacturers must hold at the disposal of the Member States competent authorities and medical personnel;
- limitations on the content of phosphates and other phosphorous compounds in detergents.

### ***Article 2 Definitions***

To facilitate readability a definition of 'cleaning' is proposed instead of a reference to the relevant ISO standard.

### ***Article 4a Limitations on the content of phosphates and of other phosphorous compounds***

Detergents listed in Annex VIa that do not comply with the limitations on the content of phosphates and of other phosphorous compounds laid down in that Annex shall not be placed on the market from the date set out in that Annex.

### ***Article 12 Committee Procedure***

Paragraph 3 is deleted.

### ***Article 13 Adaptation of Annexes***

Article 13 is replaced to provide for the adaptation by the Commission, by means of delegated act in accordance with Articles 13a, 13b and 13c, of the Annexes to scientific and technical progress for solvent-based detergents and where individual risk-based concentration limits for the fragrance allergens are established by the Scientific Committee on Cosmetics and Non-food Products, the Commission shall, adapt the limit of 0.01% set out in Section A of Annex VII accordingly.

### ***Article 13a Exercise of the delegation***

### ***Article 13b Revocation of the delegation***

### ***Article 13c Objections to delegated acts***

Article 13c also permits Member States to 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 on grounds of protection of the aquatic environment and where technically and economically feasible alternatives are available.

#### ***Article 16 Review***

Article 16 is replaced by a requirement for the Commission to submit a report to the European Parliament and to the Council on the use of phosphates and other phosphorous compounds in household automatic dishwasher detergents and, if justified, present a legislative proposal with a view to their gradual phase-out or restriction to specific applications report by 31 December 2014.

#### ***Article 18 Penalties***

Article 18 requires Member States to lay down the rules on penalties applicable to infringements of this Regulation notify those provisions and any subsequent amendment affecting those provisions to the Commission. Those rules shall include measures allowing competent authorities of Member States to detain consignments of detergents that fail to comply with this Regulation. The text set out in the Annex to this Regulation is inserted as Annex VIa.

Annex VII (a) the following text is deleted: “If individual risk-based concentration limits for the fragrance allergens are subsequently established by the SCCNFP<sup>3</sup>, the Commission shall propose the adoption of such limits to replace the limit of 0.01% mentioned above. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(3).

#### ***Article 20 Entry into force***

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. However, a transitional period is provided for points (1), (3), (7), (9) and (10) of Article 1 which shall apply from 1 January 2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

#### **Deadline for submissions**

The Department of Enterprise, Trade and Innovation invites stakeholder views on the Commission’s proposal especially those involved in the manufacture and supply of laundry detergents. Submissions should be sent by email to [chemicals@deti.ie](mailto:chemicals@deti.ie) to arrive no later than 10<sup>th</sup> March 2011. Please note that all submissions will be published.

#### **Further Information**

- [Commission Proposal](#)
- [CION Impact Assessment I](#)
- [Summary Impact Assessment](#)

---

<sup>3</sup> Scientific Committee on Cosmetics and Non-food Products