

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Revision of Regulation (EC) 648/2004 on Detergents
LEAD DG (RESPONSIBLE UNIT)	DG GROW F2 Bioeconomy, Chemicals & Cosmetics
LIKELY TYPE OF INITIATIVE	<i>Proposal for a Regulation of the European Parliament and of the Council</i>
INDICATIVE PLANNING	Q4 2022

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

This initiative contributes to the European Commission's priority for a [European Green Deal](#) and its [Chemicals Strategy for Sustainability](#). The initiative also supports other Commission strategies such as the [Industrial Strategy](#).

This initiative follows up on the [evaluation of the Detergents Regulation](#) and the [Fitness Check of the most relevant chemicals legislation \(excluding REACH\)](#). The detergents evaluation concluded that the [Detergents Regulation](#) has achieved its objectives to a large extent. However, it also identified a number of weaknesses and areas for further improvement. In addition, the chemicals Fitness Check concluded that there is room for the simplification of the regulatory framework for chemicals.

Problem the initiative aims to tackle

The Detergents Regulation aims at ensuring the free movement of detergents and surfactants for detergents in the Single Market while at the same time protecting human health and the environment. The detergents evaluation concluded that all three objectives have been achieved to a large extent. However, the evaluation also identified a number of weaknesses and areas for further improvement. A key issue is that the concepts and definitions in the Detergents Regulation are not always in line and coherent with the meaning they have gained over time in practice. This results in lack of clarity as to whether certain products that are currently available on the market fall under the scope of the Regulation or not (e.g. microbial cleaning products). There are also some areas where the Regulation has not kept pace with technical and/or other developments (e.g. the refill sale of detergents). Finally, the evaluation also found that the need for additional requirements such as the expansion of phosphorus limitations or the inclusion of specific requirements for certain harmful substances potentially used in detergents should be further examined.

The most significant issues identified are overlaps and inconsistencies between the Detergents Regulation and other pieces of EU chemicals legislation that are also applicable to detergents, *i.e.* the [REACH Regulation](#), the [CLP Regulation](#) (including its recently added Annex VIII harmonising the information relating to emergency health response), and the [Biocidal Products Regulation](#). These overlaps often cause duplications in the labelling requirements for detergents that in turn result in unclear information to consumers and create an unnecessary regulatory burden for the detergents industry. Another Impact Assessment is taking place in parallel and is looking specifically at the simplification and digitalisation of the labelling requirements for detergents¹.

The chemicals Fitness Check also highlighted the complexity of the EU regulatory framework for chemicals and identified the need for simplification and burden reduction as one of the main challenges and areas for further improvement. The complexity of the framework is partly due to the large number of sector- or product-specific pieces of legislation that in some cases have embedded links with each other as well as with the two horizontal pieces of EU chemicals legislation *i.e.* the CLP and the REACH Regulations. The possibility of reducing the

¹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12992-Chemicals-simplification-and-digitalisation-of-labelling-requirements_en

number of sectoral pieces of chemicals legislation such as the Detergents Regulation should therefore be explored.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for this initiative is Article 114 of the Treaty on the functioning of the European Union. The Detergents Regulation aims at ensuring the free movement of detergents and surfactants for detergents in the Single Market while at the same time protecting human health and the environment. In the last seventeen years that it has been in force, the Regulation has managed to level the playing field for detergents manufacturers and has delivered positive results for human health and the environment. These go beyond what Member States could have achieved through national rules and voluntary agreements. The harmonised rules for the biodegradability of surfactants are often regarded internationally as the "golden standard", and the phosphorus limits have raised the bar in many countries, where similar limits were not already in force. For these reasons, it is appropriate that the aspects regulated by the Detergents Regulation continue to be regulated at EU level.

B. Objectives and Policy options

The main objectives of this initiative are: 1) to address the weaknesses that were identified in the evaluation, namely the clarifications on the scope and definitions of the Detergents Regulation, its adaptation to technical and/or other developments, the potential need for additional requirements for detergents and the lack of coherence with other EU chemicals legislation; and 2) to tackle any other problems that may be identified during the Impact Assessment. In addition, with the view to simplifying the regulatory framework for chemicals and based on the findings of the chemicals Fitness Check, this initiative will assess which is the best instrument to do so.

Any policy option considered will aim to ensure a high level of protection of human health and the environment and to facilitate compliance, increase cost-efficiency and competitiveness, and minimise regulatory burden for the EU detergents industry. The important technological, societal and other developments as well as the need to future-proof the legislation will be taken into consideration when addressing available policy options.

The baseline scenario to be used as benchmark against which policy options will be assessed will reflect the current state of the Detergents Regulation and the overall regulatory framework applicable to detergents. Policy options in line with the following scenarios will be looked at in terms of improving the coherence and simplifying the regulatory framework for detergents:

- Clarifications on the scope and definitions of the Regulation,
- Potential additional requirements for detergents e.g. expansion of phosphorus limitations or requirements for certain harmful substances currently not covered by the Regulation.
- Improvement of the coherence of the regulatory framework for detergents by addressing the overlaps and inconsistencies with the REACH, CLP and Biocidal Products Regulations.
- Options on the instrument itself such as revising the Detergents Regulation, its repeal and incorporation of its provisions in other pieces of EU chemicals legislation, alignment with the [New Legislative Framework](#) ('NLF') and non-legislative options.

Detailed policy options will be developed during the impact assessment process and will be based on extensive desk research, in-depth analysis and taking into account the consultation of all interested parties.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

- Increased cost-efficiency for industry, e.g. through decreased compliance costs.
- Increased competitiveness of EU businesses by creating a level playing field through a clear, simplified and coherent EU regulatory framework, further reducing risks of market fragmentation.
- Greater access of SMEs to the internal market through a potential broader scope that encompasses innovative and niche products.

Although it is expected that all economic operators will benefit from this initiative in the long term, the proposed policy options could change obligations for the industry, which may also result in short term increased costs for certain operators. For instance, the need to change the product labels as a result of the possible expansion of the scope to more products, or the need to reformulate certain products to comply with the expanded scope of any new phosphorus limitations.

Likely social impacts

- Improved health and safety of consumers and professional users.
- No significant negative impacts on employment and labour markets are expected. On the contrary, a potential expansion of the scope could lead to an increased demand and the creation of jobs.

Likely environmental impacts

- Further minimising environmental risks, e.g. by extending the phosphorus limitations to cover more products or by extending the biodegradability requirements to non-surfactant organic ingredients in detergents.

Likely impacts on simplification and/or administrative burden

<ul style="list-style-type: none"> • Reduced administrative burden as a result of a clearer and more coherent regulatory framework.
D. Evidence Base, Data collection and Better Regulation Instruments
Impact assessment
<p>An impact assessment will be prepared to support the preparation of this initiative and to inform the Commission's decision. The evidence base and impacts of a range of options will be supported by a comprehensive external study and consultation of the general public and other relevant stakeholders.</p>
Evidence base and data collection
<p>The initiative will build on the findings of two evaluations in the field of EU chemicals legislation, namely the evaluation of the Detergents Regulation and the Fitness Check of the most relevant chemicals legislation (excluding REACH). The work of this impact assessment will further take into account the experience gathered from the application/implementation of the Detergents Regulation in the last sixteen years and the recent and ongoing work in the Commission Expert group, <i>i.e.</i> the Detergents Working Group. Finally, the impact assessment will also be supported by an external study 'on the making available and placing on the market of detergents'.</p>
Consultation of citizens and stakeholders
<p>The objectives of the consultation activities are to gather information and insights, evidence and data, and to test or validate existing analysis and preliminary findings with stakeholders' views. As a minimum, consultations will include the following categories of stakeholders: public administrations and authorities; industry and consumer associations; academia; industry stakeholders; market surveillance authorities; NGOs, civil society and citizens; consumers and professional users.</p> <p>Consultation activities will include a 12-week public consultation in all EU languages. The initial findings of the public consultation will be included in a factual summary report, which will be published on the "Have your say" portal along with all contributions. Targeted consultation activities, in the form of interviews, will be conducted with industry representatives (EU and national); competent authorities (national); consumer bodies (EU-level and national) and a selection of large and small companies. The findings of all consultation activities will be summarised in a synopsis report and annexed to the impact assessment report.</p>
Will an Implementation plan be established?
<p>The establishment of an implementation plan is not foreseen for this initiative.</p>