



Ecodesign for Sustainable Products Regulation (ESPR):

Frequently Asked Questions (FAQ)

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Ecodesign for Sustainable Products Regulation:

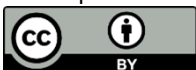
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Ecodesign for Sustainable Products Regulation (ESPR): Frequently Asked Questions (FAQ)

This document provides answers to questions frequently asked by stakeholders related to **Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products**¹ (ESPR). Any views expressed in this document are the preliminary views of the European Commission (EC) services and may not under any circumstances be regarded as stating an official position of the EC. The information transmitted intends to clarify Regulation 2024/1781. Only the Court of Justice of the European Union is competent to authoritatively interpret EU law.

¹ [Regulation - EU - 2024/1781 - EN - EUR-Lex \(europa.eu\)](#)

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1.1. General Scope

1. *What does 'placed on the market' or 'put into service' mean? Does it refer to products sold on the EU market or to customs clearance of products within the EU? Does the ESPR apply to products that are already on the EU market?*

A product is **placed on the market** when it is made available for the first time on the Union market. According to EU harmonisation legislation², each individual product can only be placed once on the EU market. Any subsequent operation, for instance from one distributor to another, is defined as making available.

Products made available on the market must comply with the EU harmonisation legislation applicable at the moment of placing on the market. Before they reach the customer in the EU, products from countries outside the EU are presented to customs and declared for the release for free circulation procedure. The placing on the market is the moment in which the product is supplied for distribution, consumption or use for the purposes of compliance with EU harmonisation legislation. When products are presented to customs and declared for the release for free circulation procedure, it can generally be considered that the goods are being placed on the EU market. However, the release for free circulation and the placing on the market do not necessarily take place at the same time, e.g. in the case of online sales by economic operators located outside the EU, placing on the market takes place before the product arrives at the customs in the EU.

Putting into service means the first use, for its intended purpose, in the Union, of a product. This concept can be applied in some specific areas or for specific products, e.g. elevators or medical devices, in addition to placing on the market, and results in the scope of EU legislation being extended beyond the moment of making available on the market.

2. *Does the term 'consumer products' include products intended for private users, professional users, or both?*

'Consumer product' means any product, excluding components and intermediate products, primarily intended for consumers (Article 2(36) ESPR).

'Consumer' means any natural person who is acting for purposes which are outside that person's trade, business, craft or profession (Article 2(2) of Directive (EU) 2019/771).

² [EUR-Lex - 52022XC0629\(04\) - EN - EUR-Lex \(europa.eu\)](#)

3. *Will the ESPR set specific requirements for products, such as recycled content percentages and recycling rate requirements?*

ESPR provides the framework to set requirements to improve the product aspects as specified in Article 5, including, i.a., recycled content, on the basis of the parameters in Annex I.

1.2. Spare Parts and Components

4. *Are spare parts included in the ESPR? How does the ESPR apply to components that have multiple applications, some within scope and some out of scope, such as a part that could be used in both an e-bike and a vehicle?*

Product rules (including on spare parts defined therein) should not be established under the ESPR for products for which it is already clear that ecodesign requirements would not be suitable or where other frameworks provide for the setting of such requirements. Vehicles are subject to several product-specific requirements and different harmonised type approval systems under EU acts. Additional harmonised requirements for vehicles should be limited to aspects that are not currently addressed. E-bikes and e-scooters are, however, not excluded from the scope of the ESPR.

Spare parts are components; therefore, they would normally follow the rule applicable to the main automotive product to the extent that they are covered by requirements set under sector-specific Union legislative acts applicable to them and with reference to the same product aspect. Otherwise, they are in principle in the scope of the ESPR.

5. *Are reused and remanufactured parts included in the ESPR?*

Ecodesign requirements established under the ESPR, as in general product legislation, apply to new products, therefore reused products are not included. 'Remanufacturing' means actions through which a new product is produced from objects that are waste, products or components and through which at least one change is made that substantially affects the safety, performance, purpose or type of the product. Therefore, remanufactured products are included in the potential scope of ESPR regulations because they are new products.

1.3. Vehicles and Mobile Machinery (and components/(spare)parts thereof)

6. *Are batteries in electric vehicles and tractors included in the ESPR, or are they regulated separately?*

Batteries are regulated separately under Regulation 2023/1542. However, the battery passport specified in the batteries regulation shall be fully interoperable with the DPP required by the ESPR, in relation to the technical, semantic and organisational aspects of end-to-end communication and data transfer.

7. *Is the ESPR relevant to heavy industries B2B? How does the ESPR affect the automotive sector and vehicle-related regulations, especially concerning the scope of vehicles, vehicle parts, mobile machinery, and batteries?*

The ESPR scope is very large, and it does not differentiate between B2B or B2C (except in the chapter on destruction of unsold goods).

Product groups to be regulated will be included in ESPR Working Plans, the first of which is to be adopted within 9 months after the ESPR entered into force, in line with the procedures laid down in the Regulation. The first Working Plan is under development.

As stipulated in its Article 1(2), the ESPR does not apply to vehicles as referred to in Regulation 167/2013, Regulation 168/2013 and Regulation 2018/858, in respect of those product aspects for which requirements are set under other sector-specific EU legislation applicable to those vehicles.

1.4. Miscellaneous Product Categories

8. *Does the ESPR cover packaging?*

Because of the broad scope of the ESPR, the question of coherence with existing sectorial legislation and policies is essential. **The general principle is that ESPR will only take the lead on regulating products when their environmental sustainability dimensions either cannot or have not been fully and appropriately addressed by other instruments.** If these dimensions are adequately addressed by other instruments, no action under this Regulation is likely to be taken.

This principle also applies to packaging. The upcoming **Packaging and Packaging Waste Regulation**³, contains, among other things, rules reducing packaging waste and promoting the reuse and recycling. As explained in Recital 25 of the ESPR, if needed, the ESPR could complement that Regulation by

³ [Texts adopted - Packaging and packaging waste - Wednesday, 24 April 2024 \(europa.eu\)](#)

setting product-based requirements that focus on the packaging of specific products. This could be particularly relevant to minimise packaging by taking account of its specific function in a specific product group. The ESPR will not, however, set general ecodesign requirements for packaging as a product group because these requirements are already contained in the sectoral legislation.

9. Are industrial monitoring and control instruments included in 'ICT products and other electronics'?

These products fall within the scope of the ESPR. However, whether or not ecodesign requirements should be established for them particularly will be decided during the preparatory studies and scoping exercises. This is in particular important for broader product groups, such as ICT products and electronics.

10. Do medical devices also need to comply with the ESPR and the DPP?

Medical devices fall within the scope of the ESPR. Should the Commission decide to include medical devices in the first (or any subsequent) ESPR working plan to develop ecodesign requirements, it will take into account the need to not negatively affect the health and safety of patients and users when developing ecodesign requirements.

11. Are energy-related products in scope?

Yes, the ESPR repeals the current Ecodesign Directive (2009/125/EC). Therefore, it includes energy related products in its scope. However, transitional provisions apply until 31 December 2026 for 19 named product regulations in development under the Ecodesign Directive as well as for any amendments necessary to address technical issues with regard to existing product regulations until 31 December 2030^{4,5}.

1.5. Product Parameters in scope

12. Which parameters are addressed/included in ESPR? Is there scope to include social aspects (human rights, working conditions)?

The product parameters that shall be used as a basis for improving product aspects under ESPR are listed in [Annex I](#) of the regulation (2024/1781).

The ESPR does not address social aspects of products, however, according to recital 116, it is appropriate that the Commission assesses the potential benefits

⁴ ESPR Art 79 (a) (i) refers to of photovoltaic panels, space and combination heaters, water heaters, solid fuel local space heaters, air conditioners including air-to-air heat pumps and comfort fans, solid fuel boilers, air heating and cooling products, ventilation units, vacuum cleaners, cooking appliances, water pumps, industrial fans, circulators, external power supplies, computers, servers and data storage products, power transformers, professional refrigeration equipment and imaging equipment.

⁵ ESPR Art 79 (a) (ii)

of setting requirements also in relation to social aspects of products. As part of that assessment, the Commission should consider to what extent those requirements could complement Union law, thereby addressing adverse impacts on human and social rights arising from companies' operations and from products. The Commission should therefore carry out an evaluation within four years of the date of entry into force of this Regulation on the potential benefits of inclusion of social sustainability requirements within the scope of this Regulation. The Commission shall present a report on the main findings of its evaluation to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, and make it publicly available (Art. 75(4)).

2. ESPR Interplay with Other Regulations

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13. *On what points concerning packaging will the ESPR complement the PPWR?*

See question 8 - *Does the ESPR cover packaging?* for further reference.

14. *How does the ESPR strengthen the repair of products? How does it relate to the **Right to Repair**?*

One of the aims of the ESPR is to make easier for consumers to repair the products they buy. It will do so by, for instance, setting in product regulations repairability requirements for specific products, focusing on parts that are likely to fail/break and ensuring that the relevant spare parts are available so end-users can opt for repairing their products instead of just replacing them. The repairability aspect can be improved through, i.a., the following parameters: availability of spare parts, compatibility with commonly available tools or ease of disassembly. Where relevant, ecodesign requirements can also include the obligation to present a repairability score, and to provide clear information to consumers on how to repair a product. The ESPR also enables the setting of horizontal requirements on repairability, and Recital 15 underlines the importance of developing such horizontal requirements for durability and repairability.

The Directive on promoting the repair of goods obliges manufacturers to repair goods for which repairability requirements mentioned above exist in product specific legislation adopted in the framework of the current Ecodesign Directive or the ESPR in the future. This means in practice that the manufacturer must repair goods when the defect concerns parts that the manufacturer must make available as spare parts under the applicable product requirements. The obligation to repair applies to products during the specified period for making those parts available. This obligation will apply to the products listed in Annex II to the Directive, which will be amended once new repairability requirements are established.

15. *How will you ensure coherence of parallel product regulations (for vehicles, construction materials, toys, etc.) with the ESPR in terms of requirements?*

The ESPR will only lead in regulating products when their environmental/sustainability dimensions cannot be adequately addressed by other instruments or regulations. In principle, when a product is regulated by other sectoral legislation, action is not likely to be taken by ESPR.

With regard to **construction products**, the revised Construction Products Regulation will be in principle the main tool for addressing the sustainability of construction products. But **construction products also fall within the scope of the ESPR**, which will be able to function as a **safety net** and allow setting requirements in case the revised Construction Product Regulation does not achieve the intended results.

However, there are basically two exemptions from this rule: **energy-related products which are also construction products** (e.g. heaters, boilers, heat pumps, or ventilating systems) will be regulated primarily under the ESPR, in continuation of the practice under the Ecodesign Directive, while the revised

Construction Products Regulation may complement this by regulating other aspects of these products, especially safety. Similarly, the ESPR will have priority for the setting of sustainability requirements for construction products that are **intermediate products**, except in principle for cement (ESPR recital 50, Art. 18(6)).

As regards the **Digital Product Passport**, recent proposals such as the proposal for a Toy Safety Regulation (COM(2023)462) or the proposal for a Detergents Regulation (COM(2023)217) require a digital product passport for these products. Both proposals rely on the digital product passport under the ESPR for the technical aspects. In this manner, consistency of the product passport under different legislation will be guaranteed.

16. What will be the relation between ESPR and CBAM, if any?

The Carbon Border Adjustment Mechanism (CBAM) is a price paid by importers on the carbon emitted during the production of certain goods that enter the EU, while the ESPR's objective is to set product requirements that have to be complied with to place a product on the market, so these are two different instruments. When preparing ecodesign requirements, however, the Commission will take into account existing EU legislation, including the CBAM Regulation which will be relevant when assessing international dimensions. The Commission services are working to align or at least ensure the compatibility of the underlying methodologies used for CBAM and ESPR purposes.

17. Is there a link between ESPR and CSRD?

The Corporate Sustainability Reporting Directive (2022/2464/EU) introduces sustainability reporting obligations for certain large companies and listed SMEs. The ESPR is a framework regulation, which enables the Commission to set information or performance requirements for specific products.

There is a link, however, in Article 24 of ESPR which obliges economic operators to annually disclose information on unsold consumer products. Economic operators MAY decide to include this information in their sustainability reporting according to Articles 19a or 29a of the CSRD.

Furthermore, the improved environmental performance based on ecodesign (via improved sustainability of products placed on the market) might reflect also in the overall – company-wide- environmental performance according to the environmental data reported within CSRD or other voluntary or mandatory reporting frameworks.

See also chapter [Provisions on unsold consumer products](#).

18. What will be the relation between the ESPR and the EU Ecolabel? What criteria are applicable to MS incentives?

For product groups covered by both ESPR and EU Ecolabel Regulation (Reg. 66/2010), where relevant and to the extent possible, ESPR requirements and EU Ecolabel criteria will be developed in parallel, in order to ensure complementarity.

According to Article 41(4) ESPR, products covered by a delegated act under the ESPR which have been awarded the EU Ecolabel are presumed to comply with the respective ecodesign requirements to the extent that those requirements are covered by the EU Ecolabel criteria.

The ESPR foresees to protect consumers from misleading information by prohibiting the use of labels which mimic ESPR labels/information. However, the EU Ecolabel as well as nationally or regionally officially recognised EN ISO 14024 type I ecolabels will not be considered misleading or confusing consumers in this regard, provided that the criteria developed under those labels are at least as strict as the ecodesign requirements (Recital 48).

Information in the Digital Product Passport shall include whether the EU Ecolabel has been awarded to the product in line with Regulation (EC) No 66/2010 on the EU Ecolabel.

Last but not least, the ESPR provides that, where Member States provide incentives for products covered by a delegated act, such incentives must be aimed at the highest two classes of performance at EU level or, where relevant, at products with an EU Ecolabel (Art. 64(1)). However, where MS provide incentives on energy-related products covered by Regulation (EU) 2017/1369 or tyres covered by labelling requirements under Regulation (EU) 2020/740, the criteria set under those two instruments should be applied instead to identify the best classes of performance (ESPR Art. 64(2)).

3. ESPR Timeline and Application

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- 22. Could certain product-specific or horizontal measures apply sooner (or later) than 18 months after the adoption of delegated acts laying out the respective ecodesign requirements? 19

19. *What is the timeline for ESPR approval, publication, entry into force and application in member states?*

The ESPR was published in the Official Journal of the EU on 28 June 2024⁶. According to its Article 80, it entered into force 20 days after its publication, i.e. on 18 July 2024 and is directly applicable in all Member States.

20. *What other legal obligations arise from the ESPR text, for example related to the publication of the working plan or the adoption of delegated or implementing acts?*

The ESPR sets out several legal obligations and deadlines related to the working plan as well as to the adoption of implementing and delegated acts.

The first ESPR **working plan** must be adopted within nine months of the entry into force of ESPR.

Other relevant deliverables include references to mandatory reviews, evaluation and regular reports, for example linked to the reporting on consolidated information on destruction of unsold consumer goods, the evaluation of social aspects and reporting on market surveillance activities.

21. *When will ESPR product-specific or horizontal measures be developed and become applicable?*

With the publication of the first ESPR working plan, due nine months after entry into force, the Commission will set out the product priorities and indicative timelines for the years to come. Product-specific or horizontal measures will be developed via an iterative process which will include preparatory studies, impact assessments and various stakeholder consultations, and can take several years. Once the measures enter into force, economic operators will typically have at least 18 months before compliance is mandatory.

Please do also refer to the answers to frequently asked questions in the section on [Working plan and preparation of delegated acts](#) as well as section on [Provisions on unsold consumer products](#).

22. *Could certain product-specific or horizontal measures apply sooner (or later) than 18 months after the adoption of delegated acts laying out the respective ecodesign requirements?*

The date of application was set to not earlier than 18 months from entry into force of the delegated acts. This should provide economic operators with sufficient time to comply with the ecodesign requirements laid down in those delegated acts, particularly taking into consideration the needs of SMEs.

However, the legal text specifies that there is a possible exception for ‘duly justified cases for the whole act or for some specific requirements, or except in cases of partial repeal or amendment of delegated acts, where an earlier date of application may be set’. For example, anti-circumvention provisions are usually immediately applicable.

⁶ <https://eur-lex.europa.eu/eli/reg/2024/1781/oj>

The possibility of setting an earlier or later date of application will be considered on a case-by-case basis, taking into account the objectives of this Regulation. Staggered application periods, according to which some requirements enter into force sooner or later than others, could also be envisaged.

4. Ecodesign Forum incl. Member State Expert Group

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4.1. Establishment & Membership

23. *What is the Ecodesign Forum?*

As was the case under the Ecodesign Directive (2009/125), the Commission will work closely with a wide range of relevant stakeholders, including Member States, in order to gather expertise and advice in the implementation of ESPR. The subjects on which the Forum will be called to provide its views are set out in Articles 19 and 20 of ESPR and include the development of ecodesign requirements and working plans as well as questions in the area of market surveillance, self-regulation and destruction of unsold consumer products. In the same vein, the Ecodesign Forum will also have an advisory role in the implementation of energy labelling rules, in keeping with Article 14 of the Energy Labelling Regulation (EU) 2017/1369. Certain members will be selected via a call for applications, while others will be invited directly by the Commission (see more information below).

24. *Who can join the Ecodesign Forum, and how can they apply for membership?*

Membership of the Ecodesign Forum will be open to a wide range of stakeholders. Examples include (but are not limited to): *experts designated by Member States; industry representatives, including from SMEs and craft industry; social enterprises; trade unions; traders, retailers and importers; consumer and environmental organisations; actors involved in circular economy activities; European standardisation organisations; and researchers.*

All members will need to fall into one of the following categories: *individuals appointed to represent a common interest* (type 'B' members); *organisations* (type 'C' members); *Member State authorities* (type 'D' members); or *other public entities* (type 'E' members). Please see further details on these member-categories [here](#).

Members from the 'B' and 'C' categories (i.e. *individuals appointed to represent a common interest* and *organisations*) will be selected based on a **public call for applications**. This call will be published on the [Register of Commission Expert Groups](#) (and through other means, such as the ESPR webpage), as soon as possible after the Forum has been established. The call will clearly outline the selection criteria, including the required expertise and the interests to be represented in relation to the work to be performed. Applicants will be requested to complete relevant application forms and submit them to the Commission for examination, along with other supporting documentation (exact details will be set out in the call). As for all types 'B' and 'C' members, registration in the [Transparency Register](#) will be a pre-requisite for appointment as members (see Article 8 of the [Horizontal Rules on Commission Expert Groups](#)).

Members of type D and E (*Member State authorities* and *other public entities*) will be appointed directly by the Commission. While they will appoint their

representatives in the group, those individuals will not be members and will not express their personal views: they will represent the member and express the positions/views of that member.

In addition to members, the Commission may also decide to appoint 'observers' of the Ecodesign Forum. Registration in the Transparency Register is not a prerequisite for appointment as observer.

25. What will the membership criteria be and how will members be selected?

The Commission is currently preparing the call for applications for membership of the Ecodesign Forum. This call will apply to type 'B' and 'C' applicants only (see above), and will be published as soon as possible once the Forum has been established, on the [Register of Commission Expert Groups](#) (and through other means, such as the ESPR webpage). This call will set out the detailed membership criteria that type 'B' and 'C' applicants will need to meet in order to gain membership of the Forum.

Such criteria may include (but will not be limited to): proven and relevant competence and experience, including at EU level, in areas relevant to the work of the Forum; absence of conflicts of interest; proven capacity to effectively represent positions shared by stakeholders; proven experience/expertise in domains relevant to the Forum, etc.

Type 'B' and 'C' applicants will likely be required to submit a completed selection criteria form along with their application, as well as a cover letter explaining their motivation for applying for membership of the Forum and describing what contribution they could make to its activities. They will then be assessed against the selection criteria that will be set out in the call. Once this is completed, a list of the most suitable type 'B' and 'C' applicants will be established and members of the Forum will be appointed. Applicants which do not meet the selection criteria in full may in certain cases be granted observer status in the Forum.

When carrying out its selection process, the Commission will reserve the right to grant or withhold membership or observer status as it deems fit, in line with the selection criteria, including in the interest of ensuring a 'balanced and effective' participation of stakeholders, as required under the ESPR text.

26. When and where will the call for applications for membership of the Ecodesign Forum be published?

As soon as possible after the Commission Decision establishing the Ecodesign Forum has been adopted. This is likely to be in Q3 2024. It will be published on the [Register of Commission Expert Groups](#) (and through other means, such as the ESPR webpage).

27. Will individual companies/industry representatives be eligible to be members, or must they join via professional associations?

A final decision on membership criteria has yet to be taken and full details will be published in the call for applications. Given the very wide range of stakeholders that the Ecodesign Forum will be required to gather, the possibility of restricting full membership to organisations with proven capacity to effectively represent the position shared by stakeholders – i.e. representative associations/umbrella organisations – has not been excluded.

In all cases, stakeholders interested in following the work of the Ecodesign Forum are encouraged to contact relevant representative organisation(s) at EU level.

28. Will stakeholders be able to join the Ecodesign Forum at a later stage, depending on the product categories for which requirements are being considered/developed?

Yes. The current intention is to maintain a **continuously open call for applications**, meaning that, at any relevant moment, stakeholders of types ‘B’ and ‘C’ (see above) will be able to apply for membership of the Ecodesign Forum, and the Commission services will take their application into account when additional expertise is needed.

It should nevertheless be noted that, following a first round of applications for membership of the Forum (a deadline for which will be communicated in the call for applications to be published), the Commission may ‘phase’ the examination of subsequent applications, in line with the needs for expertise that arise.

29. Can SMEs be part of the Ecodesign Forum and if so who should they contact?

Yes, the ESPR text makes clear that SMEs should participate in the Ecodesign Forum. As already mentioned however, while final membership criteria will be published together with the call for applications, in the interest of ensuring balanced and effective participation in the Forum, the Commission may decide to restrict full membership to organisations with proven capacity to effectively represent the position shared by stakeholders. In the case of SMEs, this would mean associations representing SME interests (i.e. membership-based organisations).

SMEs interested in following the work of the Ecodesign Forum are in all cases encouraged to contact the relevant representative organisations at EU level.

The Commission is currently looking into possibilities to provide support to SME representatives, especially those of microenterprises, to enable their effective participation in the Ecodesign Forum.

30. Do members of the Ecodesign Forum need to be EU-based?

As required under Article 19 of the ESPR, the Commission will strive to ensure balanced and effective participation of all relevant parties in the Ecodesign Forum. This could include non-EU-based parties. Applications to join the Forum

will be examined on a case-by-case basis. While the Commission may reserve the right to restrict full membership status to EU-based stakeholders, a decision to grant observer status to non-EU-based organisations or individuals may in such cases be taken. As for all type B and C members, registration in the [Transparency Register](#) will be a pre-requisite for appointment as members (see Article 8 of the [Horizontal Rules on Commission Expert Groups](#)). Please note that registration in the Transparency Register is not necessary for appointment as observer.

The Commission may nevertheless decide to grant full membership to non-EU-based authorities, organisations or individuals, where it considers that the advice and expertise provided to the Commission would not be complete without their full participation in the Forum.

31. Will service providers (e.g. for the DPP) be allowed to join the Ecodesign Forum?

The Ecodesign Forum is intended to be composed of parties having an interest in the product(s)/product group(s) that ESPR will address. Should service providers (e.g. for the Digital Product Passport) be deemed to have such an interest, they may qualify to join the Forum. However, compliance with the selection criteria to be outlined in the call for applications will need to be demonstrated, as outlined above.

32. Will there be only one Ecodesign Forum or will there be product-specific sub-groups?

While the only sub-group currently foreseen is the Member State sub-group required under Article 20 ESPR, the Commission may in the future decide to establish additional sub-groups for the purpose of examining specific questions or subject matters.

Meetings dedicated to specific products and/or workstreams are nevertheless anticipated. For these meetings, attendance of stakeholders with most direct interest in the sector(s) in question will be prioritised.

33. How will the Commission ensure that the perspectives of all those affected across the supply chain (including outside the EU) are heard in the Ecodesign forum?

As the ESPR text sets out, the Commission will be obliged to ensure balanced and effective participation in the Forum of all parties having an interest in the relevant product(s)/product group(s) being worked on.

The selection criteria, to be set out in the call for applications, will therefore be designed with the aim of ensuring that all key stakeholders (including those from outside the EU) are well represented in the Forum – whether as full members or observers.

34. Will the Ecodesign Forum be consulted during the development of preliminary studies & impact assessments, or only at a later stage?

The Commission will gather the necessary expertise and advice via specific consultations of the Forum when preparing ecodesign requirements. It may therefore choose to consult the Forum during the development of preliminary or review studies, evaluations and impact assessments, and/or at a later stage, when preparing the rules themselves. This will be decided on a case-by-case basis.

4.2. Member States Expert Group

35. What is the status of the Member States Expert Group and what will its role be?

Article 20 of the ESPR text obliges the Commission to establish a Member States Expert Group, in the form of a sub-group of the Ecodesign Forum. It will be composed of experts designated by the Member States.

The Member States Expert Group will contribute in particular to: preparing ecodesign requirements; assessing self-regulation measures; exchanging information and best practices on measures to enhance compliance with this Regulation; and setting priorities in the area of prohibitions on the destruction of unsold consumer products.

36. How will the Commission handle a situation when the Ecodesign Forum and the Member States Expert Group have different opinions?

As a sub-group of the Ecodesign Forum, the Member States Expert Group would have to report to it on its discussions and conclusions reached, and the Ecodesign Forum will take this into account in its discussions. In line with horizontal rules for Commission expert groups⁷, the Ecodesign Forum will be obliged, to the extent possible, to arrive at its opinions, recommendations or reports by consensus. Should there be a clear difference of opinions, including between the main Ecodesign Forum and the Member States Expert Group, this will be recorded in the minutes of the meeting and considered by the Commission. Finally, main opinions expressed on the most relevant issues at stake will be mentioned in the Explanatory Memorandum of the relevant future legal acts, in a dedicated section describing the stakeholder consultation process.

⁷ [Commission Decision C\(2016\) 3301](#)

4.3. Transition between the Consultation Forum and the Ecodesign Forum

37. *What will happen to the Consultation Forum established under the current Ecodesign Directive 2009/125/EC, once the Ecodesign Forum is in place?*

Given that a transitional regime between the existing Ecodesign Directive 2009/125/EC and ESPR is foreseen (see Article 79 of ESPR), the **Ecodesign and Energy Labelling Consultation Forum** – established under Directive 2009/125/EC – will continue to exist for some time after ESPR’s entry into force so in parallel with the the Ecodesign Forum. The EL -ED Consultation Forum will be consulted in the context of work on the following categories of energy-related products:

- Those for which work is already substantially advanced, and for which regulations setting ecodesign requirements under the existing Ecodesign Directive 2009/125/EC are foreseen before the end of 2026. **These products are listed in Article 79(1)(a)(i) of ESPR.**
- Products already regulated under the existing Ecodesign Directive 2009/125/EC, for which certain “technical corrections” may be needed, before the end of 2030.

In parallel, the Ecodesign Forum will be consulted on any energy-related product listed in the first ESPR working plan, and subsequent working plans, that fall outside the transition mechanism.

38. *How will work on energy labelling be divided between the Consultation Forum and the Ecodesign Forum during the transitional period?*

For energy-related products subject to the transitional provisions under Article 79(1)(a) of ESPR: consultation in the area of energy labelling will continue to take place under the already existing framework, i.e. the Ecodesign and Energy Labelling Consultation Forum and the Energy Labelling Member State Expert Group. This will be the case until the expiry of the transitional period.

For energy-related products not subject to the transitional period: consultation will take place in the new Ecodesign Forum. In these cases, the Ecodesign Forum will fulfil the role of the Ecodesign and Energy Labelling Consultation Forum referred to in Article 14(1) of the Energy Labelling Regulation (EU) 2017/1369. For draft delegated acts on energy labelling, the Energy Labelling Member State Expert Group will continue to be consulted.

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5.1. General questions on DPP – timeline, scope and content

39. *What is the timeline for the introduction of the DPP?*

The introduction of the DPP for specific product groups regulated under the ESPR will follow the same timeline as the introduction of other ecodesign requirements. Given the fact that the adoption of the delegated acts will depend on the progress of the standardisation process, the entry into force of the first ESPR delegated acts, including provisions on DPP, is expected in mid-2027, around the same time as the DPP for batteries of electric vehicles (defined in Art. 78 of the Batteries Regulation).

40. *Will all products need a DPP?*

No, only product groups for which information requirements are set in ESPR product specific delegated acts will need a DPP. It is also possible that certain components of a product have a DPP (i.e. batteries) without the main product itself having one. In addition, the Commission may exempt products from having a DPP where other EU law includes a system for the digital provision of information, which the Commission considers as achieving the objectives of the DPP referred to in Article 9(3)(a) and (b), namely:

- ensure that actors along the value chain can easily access and understand product information relevant to them; and
- facilitate the verification of product compliance by competent national authorities.

41. *Will there be an obligation for third party certification or a conformity assessment on the information disclosed in the DPP?*

It is too early to tell, as this might depend on the product group and the type of information to be included in the DPP. In the coming years, based on the ESPR working plan, the Commission will propose specific requirements for product groups or horizontal measures via delegated acts. Those requirements will also include information requirements defining the DPP content, i.e. the data available in the DPP for each product group. Where relevant, third-party conformity assessment might be required for part of the information.

42. *Who will define the DPP-content, the data that should be included in the DPP?*

In the coming years, based on the ESPR working plan, the Commission will propose specific requirements for product groups or horizontal measures via delegated acts. Those requirements will also include information requirements

defining the DPP-content, i.e. the data available in the DPP for each product group.

In some cases, other relevant legislation might also include such requirements.

43. Will the DPP-content be consulted with relevant stakeholders?

As for all requirements under ESPR, the information requirements, including the DPP-content, will be product-specific and subject to a dedicated preparatory process and impact assessment, including an open public consultation and discussions within the Ecodesign Forum, with stakeholder feedback collected throughout the whole process.

44. Is the DPP part of the ESPR or is there other legislation also mentioning it?

While the DPP has been introduced in the ESPR, it has also been taken up in other relevant EU policies and proposals, which may rely on the mechanisms (controls & IT infrastructure) of the ESPR, e.g. the Batteries Regulation. Other secondary legislation -some of which are not yet formally adopted by the co-legislators, such as the Construction Product Regulation, the new Toy Safety Regulation, the new Detergents Regulation, also take up the DPP. Moreover, elements of the DPP are also included in the Critical Raw Materials Act or the Packaging and Packaging Waste Regulation (proposal).

45. Does a DPP have to be updated when a new regulation comes into force, affecting that product type?

Potential updates of DPPs will be considered and addressed in the preparation of delegated acts. A DPP would need to be updated or a new DPP issued, depending on changes.

46. Will information on substances of concern present in a product need to be included in the DPP of this product? Would substances of concern and their mixtures require to have a DPP themselves, in addition to labels required under the CLP Regulation?

All substances of concern present in a product will have to be tracked by default and information on those substances will be included in the DPP if a DPP is required for the product. Relevant thresholds and exemptions will be defined in the product-specific delegated act. Substances and mixtures themselves will not be required to have a DPP, unless another specific legislation requires otherwise, or unless such substances and mixtures are regulated under the ESPR.

47. *For product-specific Ecodesign regulations now under revision, will the ESPR product passport requirement only be applicable after the following next revision (5 years later)?*

At the time of the ESPR entry into force, there were 19 ongoing workstreams for energy-related products where substantial work has been already carried out under Directive 2009/125. The transitional regime allows these product regulations to be adopted as measures pursuant to Directive 2009/125 by the end of 2026. The preparation and adoption of these regulations will take place under the legal framework set by the previous Ecodesign Directive 2009/125. The ESPR, including provisions on the DPP, is therefore not relevant in relation to the scope and content of those regulations.

Requirements for products to have a DPP will only apply when a delegated act adopted under ESPR sets out information requirements.

5.2. DPP technical aspects

48. *Who will define the DPP-system, i.e. the technical infrastructure allowing the DPP to work?*

Work is already ongoing. DPP IT architecture will rely on harmonised standards being developed by the European Standardisation Organisations CEN/CENELEC⁸ (to be delivered before the end of 2025). The European Commission will issue in the coming years up to five delegated and implementing acts under ESPR, relying on those standards and, if necessary, common technical specifications, to define different elements of the DPP IT architecture.

49. *Will the Commission develop a template for the DPP or will companies need to develop their own system (possibly in cooperation with service providers)?*

There is no template or tool available or foreseen. Such a template would depend to a great extent on the requirements established in individual delegated acts for product groups (or horizontally). However, there will be minimum requirements on the content of DPPs for specific product groups.

We expect that service providers will include such templates in their services.

⁸https://standards.cenelec.eu/dyn/www/f?p=205:7:0:::FSP_ORG_ID:3342699&cs=1798F43FAA14922B642266F24B912DC61

50. *What will be the environmental impacts of the DPP? Can we guarantee that the presence of a DPP itself will not have undesirable environmental impacts linked for instance to data duplication and storage in data centers?*

Requirements for each product group will be subject to an impact assessment and consultations before adoption of the respective delegated acts. Impact assessments will take into account the relative environmental (and other) costs and benefits, including footprints related to data storage and transfers which will, to a large extent, depend on the technical solutions used and on the specific requirements of the digital product passport for each product group (i.e. will a passport be required for every item, model or batch? How many items of the product are placed on the market?).

51. *Is there any specific technology for "decentralised approach for data storage", e.g. blockchain, that is considered to become a standard?*

The intention of the Commission is to remain technology-neutral while providing relevant criteria to develop necessary standards. There is no specific technology favoured or excluded at this stage.

52. *Is there any certainty around the data carrier for the DPP? Would a QR code be sufficient? Are NFC chips considered?*

Requirements for data carriers will be set out in delegated acts taking into account the particularities of the specific product groups. Standards are under development in this respect. Impacts related to different data carriers (for instance related to recyclability or waste generation in case of NFC physical circuits) will be thoroughly assessed.

53. *What is the CIRPASS⁹ and CIRPASS-2¹⁰ project?*

Funded by the European Commission under the Digital Europe Programme, CIRPASS is a collaborative initiative to prepare the ground for the gradual piloting and deployment of a standards-based digital product passport aligned with the ESPR requirements, with an initial focus on the electronics, batteries, and textile sectors.

The project consortium is composed of 31 partners representing a large number of industrial, research, digital, and international, standards, organisations across Europe and beyond. The project's aim is to gather information and to provide elements supporting the Commission and other stakeholder by looking into possible concepts for the DPP, exploring cross-sectoral product data models and DPP systems with demonstrated benefits for the circular economy, as well as developing possible roadmaps for its deployment. Views and opinions expressed

⁹ <https://cirpassproject.eu/>

¹⁰ <https://cirpass2.eu/>

by CIRPASS and CIRPASS-2 are however those of the relevant author(s) only and do not necessarily reflect those of the European Commission.

CIRPASS-2 will demonstrate functioning of Digital Product Passports in real settings through circular pilot deployments and use cases in textiles, electronics, tyres, and construction value chains. Learnings from these pilots can provide valuable insights for different stakeholders, including policy makers, standardisation bodies but also companies, with a focus on SMEs.

5.3. DPP Value chain aspects and complex products

54. How does the DPP fit within the remanufacturing or refurbishment processes? Will a remanufactured or refurbished product keep its original DPP or will it have a new one with a link to the previous DPP?

A refurbished product will keep the original DPP, whereas a remanufactured product that is placed on the market “as new” will need a new one. In that case, it is likely that there would be a link between the old and the new DPP if the technical solutions allow this.

55. How are upstream operators supposed to provide data for a DPP that is required for a downstream product, when a DPP is not yet required for upstream pre-products? How will the Commission ensure that supply chain actors provide relevant DPP information to manufacturers (Art. 31a)? Will this also apply to suppliers from third countries?

Where such upstream information is required, it will be the responsibility of the economic operator who places the product on the market to ensure that this information is provided by their suppliers and included in the DPP, and that it is accurate and complete. This is also valid for products imported from third countries. The obligations of suppliers in this regard are set out in Article 38 ESPR.

56. Should a complex product have one DPP, or several, for each of its components? For example, would its battery passport be separate from a passport for the whole product?

In cases where components are addressed by a separate delegated act, they may need a separate DPP. In those cases, DPPs of different components of a product would be linked to the DPP of the product.

5.4. DPP Compliance and Enforcement

57. *Are there plans to monitor the product passports centrally to ensure that the Regulation is complied with and that there are no duplicate product passports? How will the Commission verify the accuracy & reliability of the data entered by manufacturers?*

Only the registry information (unique identifiers, etc.) will be verified by customs authorities before releasing the product on the EU market. Market surveillance authorities in Member States will be responsible for monitoring other mandatory data, for example to ensure it is accurate, complete and up-to-date.

58. *What penalties will be imposed on manufacturers who fail to maintain accurate and up-to-date DPP information?*

Penalties are for Member States to decide. As specified in Article 74 ESPR, they must be ‘effective, proportionate and dissuasive’.

59. *Will products from outside of the EU also need a product passport? What obligations will online marketplaces from outside of the EU have in this respect?*

Yes, products imported on the EU market will also have to be accompanied by a product passport. In that case, the economic operator who places the product on the EU market will be responsible for ensuring the presence of a digital product passport.

Online marketplaces will need to make DPPs accessible to potential customers in the EU market. Online marketplaces will also need to grant access to their interfaces to help market surveillance authorities to identify non-compliant products sold online.

60. *Will the DPP enable consumers to compare two products from the same product category but from different brands – for example on an environmental LCA result?*

Yes, in cases where this information is required by the relevant delegated act. The DPP must be accessible to consumers at the place of purchase (including online). It is possible that consumer organisations, NGOs, companies or other actors will offer services to guide consumers’ choices. The web portal established in accordance with Article 14 ESPR should facilitate this.

61. *How will the Commission ensure that the decentralised approach for DPP data storage does not lead to inconsistencies in data access and quality across different Member States?*

There is only one globally unique identifier, leading to one DPP for a specific product. The requirements on data access and quality will be set in the delegated acts. Member States authorities need to check that information is correct. It may be possible for automated checks for completeness of DPPs.

6. Energy Label and ‘Old’ Ecodesign

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62. *For Ecodesign regulations that are under revision up to 2026, e.g. for solid fuel local space heaters, will ESPR have any impact on them? If so, when?*

At the time of ESPR's entry into force, there were 19 energy-related product workstreams for which substantial progress had already been made under the previous Ecodesign Directive 2009/125. ESPR's transitional regime (see its Article 79) allows for the continuation of work on these workstreams, and for adoption of the resulting measures, under the legal framework of the previous Directive 2009/125, before the end of 2026. The ESPR is therefore not relevant in relation to the scope and content of those regulations.

63. *Will a DPP also be required for energy related products, which already have EPREL?*

Under Article 8(4)b ESPR, a DPP may not be required when other EU law includes a system for the digital provision of information related to a product group and the Commission considers that it achieves the objectives for the ESPR.

64. *Regarding products already in EPREL database, do companies continue to use EPREL? Or need to switch to DPP?*

EPREL is required to be used for products subject to energy labels. The energy labelling regulation is not affected by the entry into force of the ESPR and therefore EPREL continues to operate.

65. *What does the ESPR mean for products regulated under the previous Ecodesign Directive 2009/125 that will only transition to ESPR after the end of 2026? What will change for these products?*

The ongoing work streams under the transitional regime need to be finalised no later than the end of 2026 to be adopted as regulations under the previous Ecodesign Directive 2009/125. While the scope and content of those regulations will be governed by the previous Ecodesign Directive, their enforcement will nevertheless benefit from certain ESPR provisions, since they will fall under the ESPR section of Member State national market surveillance strategies as well as the reinforced ESPR safeguard provisions. Following entry into force of the ESPR, when new reviews of product regulations adopted under the previous Ecodesign Directive occur, that process will be carried out under the framework established by the ESPR.

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7.1. Working plan and product prioritisation

66. *How will products be prioritised for the working plans and what is the role of Art 18 and the JRC report?*

Article 18 of ESPR includes both criteria for the prioritisation of products and a list of products to be included¹¹ in the first working plan (unless there is justification for not doing so). The [JRC study](#) on possible new priority products, a draft version of which was the basis for a public consultation in 2023, will serve as a basis for the Commission's assessment. It includes most of the products listed in Article 18 and a preliminary assessment of possible horizontal requirements. The Commission will also consider the energy-related products which need to be reviewed or which were announced under the Ecodesign Directive and not yet regulated. Finally, the availability of resources necessary to implement the working plan will be assessed before deciding on it.

67. *When will the working plan be published and how many products/ which products and horizontal measures will be included? Is there the option to add/delete products compared to the legal text?*

As provided in Article 18 ESPR, the first working plan has to be published at the latest nine months after entry into force of ESPR. The Commission plans therefore to adopt it in Spring 2025. The legal text provides the possibility for the Commission to depart from the list, by adding or not selecting some of the products listed, with an appropriate justification for these changes.

7.2. Preparation of delegated acts (general)

68. *For products mentioned in Article 18 ESPR or shortlisted in the JRC report - how did you take existing legislation covering these into account?*

The JRC report, which includes also the products listed in Article 18 ESPR with the exception of energy-related products and ICT products, assessed the existing legislation applicable and discussed possible policy gaps – this is included in the product sheets annexed to the report, and it is taken into account in the ranking and recommendations of the JRC report.

¹¹ These are: iron and steel; aluminium; textiles (in particular garments and footwear); furniture (including mattresses); tyres; detergents; paints; lubricants; chemicals; energy related products for which ecodesign requirements are to be set for the first time or for which existing measures adopted pursuant to Directive 2009/125/EC are to be reviewed under ESPR; and information and communication technology products and other electronics.

69. How will ecodesign requirements for product groups be developed? How will it be assessed which criteria/requirements (e.g. recycled or renewable content, PEF, durability, reparability) apply to which products?

Ecodesign requirements will be developed through preparatory studies, which will look at all product aspects listed in Article 5(1) ESPR, with a view to regulate those aspects which are relevant. Preparatory studies will also look at all other criteria and provisions provided in the ESPR and will be followed by the impact assessment of potential requirements before adoption of delegated acts setting these requirements.

70. Will there be product specific impact assessments for delegated acts?

Yes, impact assessments are obligatory for each delegated act setting ecodesign requirements under ESPR, as provided in its Article 5(10).

71. Can we expect specific guidelines to be published alongside the delegated acts?

Delegated acts on specific products or horizontal requirements should include the necessary definitions, details of calculation and thresholds necessary to implement the ecodesign requirements. They will also often be followed by standardisation requests to European standardisation organisation, triggering the development of harmonised standards facilitating implementation. For specific requirements for which such tools may be appropriate, the Commission may develop online tools to guide manufacturers, in particular SMEs, in implementation. The Commission does not plan other types of guidance a priori.

72. Can the exceptions effectively be included in ESPR delegated acts, for aspects not regulated in other laws?

ESPR delegated acts will define the precise scope of products to which ecodesign requirements apply, including exceptions to this scope where appropriate. This is independent of the aspects regulated in other laws, which are systematically considered when defining ecodesign requirements.

73. How do you plan to engage with stakeholders, especially the ones impacted by the first working plan?

Before setting ecodesign requirements, each product will be the object of a preparatory study, including extensive consultation of stakeholders, especially the ones to be impacted by ecodesign requirements. The Commission will also consult the Ecodesign Forum, established in accordance with Article 19 ESPR, where representatives of stakeholders can give an opinion on delegated acts under the ESPR before they are adopted.

74. What can industry do to prepare for the ESPR while there are still so many open questions until the product specific delegated acts come out?

ESPR working plans, by announcing the products that will be prioritised for regulation, enable industry to anticipate the Commission's work and consider the possible evolution of technologies for the products concerned. Once the preparatory work starts for a specific product or horizontal requirement, stakeholders are invited to participate in several meetings along the process and to contribute to it with comments and any useful information and data.

75. Could there be horizontal measures introduced beyond the product groups presented in the working plan?

Yes, horizontal requirements can concern products and aspects not included in the working plan (but still included in ESPR scope), as provided by Article 5(6) ESPR, for all ecodesign requirements.

76. Would horizontal requirements to be defined in the working plan be applicable to several product categories but not all?

Yes, horizontal requirements can apply to any group of products sharing similarities, which make this horizontal approach possible. In most cases, they will not apply to all products falling within the ESPR scope.

7.3. Preparation of delegated acts (specific product groups or aspects)

77. How are biobased products affected by the ESPR?

Biobased products are not distinguished from other products included in the scope of ESPR. They will be assessed in the same way as other products, looking at all product aspects listed in ESPR Article 5, and may be regulated using parameters listed in Annex I to the ESPR like other products. Some of these parameters, e.g. 'use or content of sustainable renewable materials', may be relevant for these products, but other parameters may be used as well.

78. What will the scope of the work on textiles be?

Article 18 of ESPR requires the Commission to include textiles, and in particular garments and footwear, in the first ESPR working plan – unless there is a justification for not doing so. As a preparatory step towards this, and ahead of final adoption of the first working plan, the Commission has started preliminary preparatory work on textiles, with a focus on apparel (i.e. garments).

Textile products other than apparel will still be considered and discussed in the context of preparation of the first ESPR working plan, along with timelines for

future steps – or, where relevant, justification for any categories not to be prioritised.

79. When do you expect the development of the delegated act on furniture and the application to furniture products?

This is also to be discussed in the ESPR working plan, including a discussion of scope (whether or not to include mattresses in particular) and timeline if appropriate.

80. To which extent will novel and low-carbon technologies or feedstocks such as renewable energy, hydrogen or bio-based feedstock be affected or considered under the ESPR?

These different elements will be considered in the framework of the preparatory studies and impact assessments to be undertaken for each product or horizontal requirement before adopting delegated acts. They are also related to product parameters as listed in Annex I to the ESPR and these parameters are the basis for defining ecodesign requirements.

7.4. Delegated acts on intermediate products

81. How will the requirements for intermediate products affect economic operators (downstream) purchasing and using such intermediates/components in their final product? Who will be responsible for meeting requirements – the final producer of the finished good or the supplier(s) of the intermediate(s)/component(s)?

Like other ecodesign requirements, requirements on intermediate products and on components apply when the product (here the intermediate product or the component) is put on the EU market – it is therefore the supplier of the intermediate product or of the component which is responsible for compliance with the ecodesign requirements.

82. How will intermediate products be assessed: on a life-cycle basis, or only until being placed on the market (e.g. cradle to gate)? How will you define the scope/boundaries?

A cradle-to-gate approach is currently being discussed for intermediate products, although it cannot be excluded a priori that further life cycle considerations (in terms of both processes and impacts) will be integrated for certain applications.

83. *What if ecodesign criteria for an intermediate product are not yet available before the criteria for the final product are started/discussed/finalised?*

For all products, final or intermediate, the existence of regulatory requirements (ecodesign or others) is duly taken into account in the preparatory process of ecodesign requirements – requirements on final products would ensure consistency with requirements on intermediate products (if defined already) and vice versa.

7.5. Product Prioritisation report of the JRC

84. *When will the final version of the preliminary JRC study on ESPR product priorities be available?*

The JRC is currently revising the preliminary study on ESPR new product priorities, in light of the feedback received from stakeholders during the Open Public Consultation as well as new evidence relevant for the product groups and horizontal measures analysed. The publication of the final report can be expected in Q3/2024. The final report will be published on [this website](#).

85. *What prioritisation criteria were applied by the JRC in its report?*

The methodology applied by the JRC for its analysis supporting the ESPR working plan was based on the criteria for product prioritisation in the Commission's proposal for the ESPR, and considered environmental, market and economic aspects as well as the extent to which selected product groups are already covered by existing environmental EU policy. The prioritisation criteria considered ten environmental aspects (water effects, air effects, soil effects, biodiversity effects, waste generation and management, climate change, life-cycle energy consumption, human toxicity, material efficiency, and lifetime extension) in terms of global environmental impacts and the potential for improvement in the EU, especially considering what could be achieved via ecodesign requirements under the framework of the ESPR. For a more detailed description of the methodology, stakeholders can consult Section 3.2 of the Preliminary Study on New Product Priorities, available at this [link](#).

8. Methodology for Ecodesign of Energy-related Products (MEErP) and ESPR methodology, including Product Environmental Footprint (PEF)

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86. *Did you further develop the methodology to define performance/information requirements? Is there a methodology to rank them?*

The methodology to define and compare ecodesign requirements under the ESPR will build on the [Methodology for Ecodesign of Energy-related Products \(MEErP\)](#), whose latest revision dates from March 2024, with the adaptations and complements necessary to address the wider scope and new features of the ESPR. This includes also the ranking of possible requirements and the definition of classes of performance. These adaptations and complements are being developed with the support of the JRC and will be used progressively for the first products regulated under the ESPR.

87. *Will a methodology be defined to calculate aspects such as durability, recyclability or reparability of products or will existing standards be used (e.g. EN45554)? Can standardisation be involved in preparing delegated acts to be able to prepare standards where needed in a timely manner? Is there a link between the coming ISO 590XX standards on circular economy and the ESPR?*

The calculation methods for each parameter used in ecodesign requirements will be introduced in the delegated acts where the requirements are set. They may use existing standards where appropriate or require the development of new standards through standardisation requests. Requirements related to durability or recyclability already exist in implementing measures under the previous Ecodesign Directive, e.g. the resistance to oscillations under stress for the hoses of vacuum cleaners, and requirements on dismantling of components for various regulated products.

The preparation of delegated acts will involve the consultation of stakeholders, including stakeholders involved also in standardisation activities if they so wish, in particular in the context of the Ecodesign Forum. There is no link established a priori between the ESPR and the standardisation activities on circular economy, but – depending on the exact scope and content of the standards to be developed or just published (e.g. ISO 59004, 59010 et 59020) – such links are not excluded in the future.

88. *Will the performance requirements or information requirements require performing a life cycle assessment or calculating a product carbon footprint?*

Annex I to the ESPR includes the environmental footprint of a product and the carbon footprint of a product as possible parameters for ecodesign requirements. They can therefore be included in delegated acts, either as information parameters (to disclose the result of the product life cycle assessment and/or report the corresponding performance class) or as performance parameters (to respect a given threshold on these parameters). This would then require manufacturers to calculate these footprints for products regulated by these delegated acts. This will only be done after thorough assessment showing that using these parameters for a given product respects the criteria of Article 5 ESPR, and the delegated acts would include precise instructions on the calculation of

these parameters. Online tools may also be considered to facilitate the calculation of these parameters by economic actors.

89. How will the ecodesign requirements align with the work already done on the Product Environmental Footprint (PEF) method?

The Product Environmental Footprint (PEF) method, and its derived category rules (PEFCRs), are some of the methods used to develop ecodesign requirements. PEF is a methodological reference for the assessment of the environmental impacts of products, analysis of hotspots and identification of critical areas. Similarly, when relevant PEFCRs are available, these can be used to support and refine the environmental analysis of the product group and to define rules for calculating the carbon and environmental footprint of products.

90. What methods will be used for life cycle assessment? Will there be improvements to the Product Environmental Footprint (PEF) method? How far is the validity and the availability of environmental footprint datasets taken into account when using the PEF, particularly the validity of the product environmental footprint category rules (PEFCRs)? How will PEFCR and CEN methods (prepared by different teams) e.g. for durability, design for recyclability etc., be used in the ESPR? What will the calculation rules for reporting carbon footprint be (e.g. ISO, industry's standard)?

Life cycle assessment is used for different purposes in ESPR: for prioritisation of product groups, hotspot analysis and identification of relevant product aspects, definition of possible requirements based on environmental impact indicators, and assessment and monitoring of impacts. Depending on the purposes and characteristics of a product, the following methods and tools are to be used for life cycle assessment (see also [Environmental Footprint Methods - European Commission](#)):

1. the updated EcoReport tool, as included in the revised MEErP, that better integrates circularity aspects and uses PEF environmental impact indicators and EF3.1 datasets where appropriate.
2. the complete PEF method, currently defined in the [2021 Commission Recommendation](#) and expected to be updated by 2025 (together with the development of the new EF4.0 database in 2026-2027), and derived PEFCRs, where relevant.
3. other methods derived or considered compatible with PEF (developed by CEN or others).

The choice of the method to be used during the preparatory studies will depend on the type of products concerned, the availability of data and/or PEFCRs when undertaking the assessment and the relevance and feasibility of using measurements of environmental impacts along the life cycle of products among the parameters to be regulated. This can also include the calculation and

reporting of the product carbon footprint, for which methodological developments are on-going also to harmonise it with calculations prescribed under PEF, ETS, and CBAM.

91. Are there any thoughts how performance requirements will be defined for intermediate products such as chemicals?

Commission services are indeed considering the specific features of intermediate products and how to prepare and implement ecodesign requirements for them. This will be developed in particular for those intermediate products that will be prioritised in the first ESPR working plan, which is not finalised at the time this FAQ document is drafted.

92. How will the ecodesign requirements align with the eco-modulation for the Extended Producer Responsibility (EPR)?

For specific waste streams, e.g. textiles, EPR fees could be eco-modulated on the basis of ecodesign requirements adopted under ESPR and their measurement methods, so as to ensure alignment of requirements.

93. Will a testing methodology standard be defined to measure recycled plastic content in products and packaging?

Methods to verify or calculate recycled content in plastics materials are already being developed in the context of the Single-Use Plastics Directive 2019/904. In December 2023, the Commission adopted an implementing act setting out a methodology to calculate and verify recycled plastic content, focussing at first on PET bottles, which account for 97% of all SUP beverage bottles and can be recycled mechanically. The Commission plans to adopt a revised implementing decision in 2024, covering issues not dealt with in the December 2023 act. The calculation rules under the Single-Use Plastics Directive will serve as a starting point and provide lessons learnt for the rules in other/broader sectors. To the extent possible, potential ecodesign requirements related to recycled plastic content for specific products or aspects under ESPR will also build on these methods to ensure consistency between policies and facilitate the harmonised implementation of requirements.

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94. Self-regulation measures violate anti-trust regulations.

Annex VI to ESPR sets out criteria for self-regulation measures. These include that care must be taken to ensure respect for Union competition law, in particular Article 101 TFEU regarding anti-competitive agreements.

95. Products covered by a delegated act must have a digital product passport. What about products that are covered by a self-regulation measure? Can they also use the digital product passport?

Self-regulation measures may establish a requirement to provide relevant information about the product via electronic means through a data carrier. If there are requirements concerning the visual aspects of the data carriers or of other means to allow customers access to that information contained in the digital product passport set out in delegated acts adopted by the Commission, the requirements contained in self-regulation measure should not mislead or confuse customers by mimicking those requirements.

96. How much time will the Commission need to verify the self-regulation measures?

The time needed for this assessment may differ on a case-by-case basis depending on the complexity of the submitted self-regulation measure.

97. Will a self-regulation measure be possible for products falling under the scope of a horizontal delegated act?

Yes, a self-regulation measure may supplement the horizontal ecodesign requirement by setting ecodesign requirements for a specific product group.

98. Does the requirement of 80%-market share for economic operators to submit a self-regulation measure refer to Member State or EU level?

The requirement of 80% market share refers to EU level.

99. Can self-regulation measures be submitted for products covered by the working plan?

No, economic operators may submit to the Commission a self-regulation measure only for products not included in the working plan.

100. Can companies apply for self-regulation measures before the first working plan or should they wait for the publication of the working plan in early 2025?

Self-regulation measures are not possible for product groups that are included in the working plan, it is advisable to wait for the adoption of this working plan first.

101. Where can one find information on whether a self-regulation measure has been developed or is in the process of being developed and by whom?

One of the main requirements for self-regulation measures is their transparency. Self-regulation measures must be publicised, including on a publicly and freely accessible website and via other electronic means of disseminating information. Stakeholders, including industry, and non-governmental organisations, must be invited to comment on the measure. Before the process of developing the measure starts, economic operators intending to establish it should make a public announcement of their intention, to ensure that any operators placing on the market the product covered by that measure have the possibility to participate, including in the preparatory phase.

102. Will self-regulation measures be subject to Member State market surveillance?

According to Article 21, compliance of signatories with the requirements of the self-regulation measure will be monitored by an independent inspector who must be selected taking into consideration all necessary skills for verifying compliance and ensuring that no conflict of interest occurs. The inspector must draw a compliance report at the end of each one-year reporting period, based on the information and data provided by all signatories.

In addition, market surveillance authorities may conduct activities during which non-compliance with the self-regulation measures might be identified. The results of market surveillance activities must be taken into account in the compliance report drawn by the inspector, and corrective action has to follow.

The independent inspector must notify the Commission of the lack of compliance of a signatory. Where the Commission concludes that the self-regulation measure no longer fulfils the criteria set out in the ESPR, the self-regulation measure will be deleted from the list of self-regulation measures.

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103. What is the definition of “substance of concern” in ESPR?

The definition can be found in Article 2(27) ESPR. It states the following:

(27) ‘substance of concern’ means a substance that:

(a) meets the criteria laid down in Article 57 of Regulation (EC) No 1907/2006 and is identified in accordance with Article 59(1) of that Regulation;

- This first part of the definition refers to substances identified as substances of very high concern (SVHC) in accordance with Article 59 of Regulation 1907/2006 concerning Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

(b) is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 in one of the following hazard classes or hazard categories:

- (i) carcinogenicity categories 1 and 2;*
- (ii) germ cell mutagenicity categories 1 and 2;*
- (iii) reproductive toxicity categories 1 and 2;*
- (iv) endocrine disruption for human health categories 1 and 2;*
- (v) endocrine disruption for the environment categories 1 and 2;*
- (vi) persistent, mobile and toxic or very persistent, very mobile properties;*
- (vii) persistent, bioaccumulative and toxic or very persistent, very bioaccumulative properties;*
- (viii) respiratory sensitisation category 1;*
- (ix) skin sensitisation category 1;*
- (x) hazardous to the aquatic environment - categories chronic 1 to 4;*
- (xi) hazardous to the ozone layer;*
- (xii) specific target organ toxicity – repeated exposure categories 1 and 2;*
- (xiii) specific target organ toxicity – single exposure categories 1 and 2;*

- The second part of the definition refers to substances with harmonised classification in one of the selected hazard classes or categories under Regulation 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP Regulation). This means that only substances with harmonised classification are included, while self-classified substances are not.

(c) is regulated under Regulation (EU) 2019/1021; or

- The third part of the definition refers to persistent organic pollutants regulated under the legislation on Persistent Organic Pollutants.

(d) negatively affects the reuse and recycling of materials in the product in which it is present

- The last part of the definition refers to substances that will be product specific and defined in product-specific delegated acts adopted under the ESPR.

104. Do requirements on substances of concern apply to all products immediately? If not, when will they apply?

No, the requirements mentioned in the ESPR do not apply immediately. Potential requirements related to substances in general (performance requirements) or to substances of concern (information requirements ('tracking')), will only apply to selected product groups and will follow the same timeline as the development and introduction of other ecodesign requirements for these selected product groups:

- Product groups to be regulated will be included in the ESPR working plan, to be adopted likely early 2025.
- In the coming years, based on the working plan, the Commission will propose delegated acts, setting up specific requirements for product groups or horizontal measures. Developing these proposals will involve a consultation process, including public consultations and a dedicated impact assessment. The requirements set out in the delegated acts are likely to include requirements related to substances.
- The entry into force of the first ESPR delegated acts, including provisions on substances of concern, is expected mid-2027.

105. Is a substance considered a SoC if it meets at least one of the four defined criteria (a, b, c, d) or does it have to meet several/all?

In the definition of "substance of concern" provided in Article 2(27) ESPR, the "or" between the parts of the definition means that a substance should meet at least one of the four criteria (a, b, c, or d) to be considered a substance of concern.

106. If a substance is subject to some obligations under another legislation, will requirements under the ESPR replace those obligations?

No, if a substance is subject to some requirements under another legislation, requirements set out in delegated acts adopted under the ESPR cannot replace those requirements, unless explicitly stated, and until the other legislation is adapted.

107. Will there be thresholds and exemptions possible for requirements on substances of concern? Will they be the same for all products? How will they be defined? Will they take into account impacts on recycling?

Yes, there will be thresholds and exemptions possible for requirements on substances of concern. Those are likely to be different for different product groups.

Each product-specific delegated act will provide possible thresholds and exemptions for information requirements related to substances of concern, based on the technical feasibility or relevance of tracking, the existence of analytical methods to detect and quantify them, the need to protect confidential business information or in other duly justified cases. Only for substances of concern identified as substances of very high concern (SVHC) in accordance with Article 59 REACH, no exemptions will be possible if they are present in products, their relevant components or spare parts in a concentration above 0,1 % weight by weight.

Those thresholds will be part of the development of the product-specific delegated acts. Hence the impact assessment for and consultations on the delegated acts will cover the draft thresholds.

108. How will substances negatively affecting reuse or recycling be defined (part d of the definition)? Will they be the same for all products?

The definition of substances negatively affecting reuse or recycling will follow the same procedure as the product specific delegated act, i.e. a consultation process including public consultations and an impact assessment. Those substances will be specific to a given product group. The list of substances relevant for a product group may also change over time, subject to a revision of the delegated act, in case additional substances are identified as negatively affecting reuse or recycling, or in case recycling technology evolves in ways that eliminate the negative effect on recycling for a particular (group of) substance(s).

109. What could be possible examples of substances “negatively affecting the reuse and recycling of materials in the product in which it is present”?

Halogenated flame retardants currently representing a major issue in the recycling of electronic displays are an example. The use of halogenated flame retardants is not allowed in the enclosure and stand of electronic displays under Regulation 2019/2021.

It must, however, be noted that this is a ban (i.e. a performance requirement), and not an information requirement. By default, substances negatively affecting the reuse or recycling would be subject to information requirements, without necessarily being subject to restrictions (i.e performance requirements).

110. Is there going to be a central, up-to-date list of substances of concern?

There is no central list covering all substances of concern that may fall under the definition; however, there are several sources of information that can be consulted for each criterion to identify substances of concern.

The list of Substances of Very High Concern covered is available by consulting the “Candidate List of substances of very high concern for Authorisation”¹² managed by the European Chemicals Agency (ECHA), pursuant to Article 59(10) REACH. The Candidate List covers substances included under point a) of the definition of Substance of Concern.

All substances covered by point b) of the definition of Substance of Concern are listed in the table in Part 3 to Annex VI to CLP, which however contain many other substances relevant for ESPR. Excel versions of this table, which offer user-friendly filtering, are available on ECHA’s website. The publicly accessible C&L inventory¹³ managed by the European Chemicals Agency contains classification and labelling information on notified and registered substances received from manufacturers and importers. It also includes the list of harmonised classifications. The database is refreshed regularly with new and updated notifications. However, this inventory does not include information on the product groups for which the substance is considered a substance of concern.

Persistent organic pollutants, currently included in Annexes I, II, III and IV to the Regulation on Persistent Organic Pollutants, are available by consulting the table¹⁴, managed by the ECHA.

As for substances negatively affecting the reuse and recycling of materials in the product in which they are present, currently there are no EU product-specific ecodesign requirements.

111. How many substances of concern would currently fall under the definition?

Some entries in legislation that the definition relies on refer not only to individual substances, but also to groups of substances. This makes it difficult to provide an exact number of substances of concern. The following is a rough estimate:

- a) ~450 substances that are SVHC under REACH;
- b) ~5000 substances with a harmonized classification in the selected hazard classes or categories under CLP
- c) several hundred substances under the POPs Regulation

The above estimate is expected to evolve over time as for example more harmonised classifications are being published.

¹² <https://echa.europa.eu/candidate-list-table>

¹³ <https://echa.europa.eu/fr/information-on-chemicals/cl-inventory-database>

¹⁴ echa.europa.eu/list-of-substances-subject-to-pops-regulation

112. When new substances fall under the definition (for instance because they were added to a hazard class under CLP), will there be some kind of grace period before they need to comply with all requirements?

The ESPR foresees the need to specify exemptions or derogations or threshold concentrations for each of the substances of concern. There is no automatic inclusion of newly classified substances after the adoption of an ESPR delegated act.

113. The definition is quite broad and includes many substances present in products we use every day. Will there be a ban on all those substances of concern in products?

The fact that a substance is considered a “substance of concern” within the meaning of ESPR does not mean that there will be a ban on this substance (or that a product is dangerous). For the majority of substances, there will likely only be information requirements in product-specific delegated acts.

114. What was the logic behind the CLP hazard classes and categories selected (part b of the definition)?

The hazard categories selected as ‘substances of concern’ are ‘substances having a chronic effect for human health or the environment’, as announced in the Chemicals Strategy for Sustainability, which also provides what such substances include. They are the substances that could create health and environmental effects when they remain present in articles with longer lifetimes or in articles produced from secondary raw materials, which are the products that make an economy more circular.

115. Will information on all substances of concern present in a product be included in the digital product passport?

By default, for products regulated under the ESPR which have a DPP, information on all substances of concern present in a product, above the relevant thresholds, should be included in the DPP. Relevant thresholds and exemptions will be set in the product-specific delegated act.

116. What kind of information on substances of concern will be included in the digital product passport? Will this information be accessible to everybody?

It is too early to tell. All details regarding information requirements, including the type of information to be provided and the relevant access rights, will be product specific and will be defined in the product-specific delegated act.

117. Will consumers see the levels of all substances of concern present in a given product? Or will there be a “score” or a “label”, similar to the energy label, which would inform consumers on the amount and risks associated with substances of concern in a product?

It is too early to tell. All details regarding information requirements, including the type of information to be provided, the possible introduction of labels, etc., will be product specific and will be defined in the product-specific delegated act.

118. Will the chemical substances and mixtures themselves need to have a digital product passport if they meet one or more of the “substance of concern” criteria in ESPR?

No, chemical substances and mixtures themselves will not need to have a digital product passport if they are a “substance of concern” in the meaning of ESPR, unless they are part a product category that is specifically regulated under ESPR. Suppliers of hazardous substances and mixtures have to supply their customers with safety data sheets, as required by REACH.

119. Will there be any requirements on the use of substances of concern during the production process or in intermediate products, if they are not present in the final product?

It is too early to tell. In theory, ESPR allows to set information requirements that make it possible to track the substances of concern throughout the life cycle of the products concerned. All details regarding information requirements will be defined in the product-specific delegated act.

120. What is the interaction between the ESPR and chemical safety policy (i.e REACH)? What does "restrictions should not PRIMARILY be based on chemical safety reasons" mean?

The ESPR is complementary to chemical legislation. According to the legal text, *performance requirements, shall not restrict, for reasons relating primarily to chemical safety, the presence of substances in products. However, the setting of performance requirements shall also, where appropriate, reduce significant risks to human health or the environment.*

This means that the ESPR will not set requirements on the presence of substances in products based on chemical safety aspects, as this is the role of dedicated chemicals legislation, e.g., REACH. However, requirements set under ESPR for other reasons might in some cases have an indirect positive effect on chemical safety. When setting requirements under the ESPR, the Commission will also have to consider chemical safety aspects in order NOT to increase risks.

121. What are the links with the SCIP database? Will information requirements on substances of concern in the ESPR be the same as those required in SCIP? Could the same platform for declaration be used?

There are links with the SCIP database. However, the scope of reporting both in terms of substances and product groups covered is different. The Commission aims at a progressive alignment and integration of SCIP with the DPP as far as technically possible, to avoid the duplication of requirements for products and substances covered by both ESPR and SCIP.

122. How will economic operators be able to get information on substances of concern in the supply chain? Is there regulation requiring that information to be disclosed?

REACH and CLP already include requirements for companies to classify and label their substances and mixtures and to communicate that information in the supply chain and to the publicly accessible C&L inventory managed by the European Chemicals Agency. However, the obligation to provide this information with 'articles', other than for products containing the substances of concern falling under part a) of the definition is a new supply chain information requirement stemming from the ESPR itself.

123. How will different product aspects be ranked? Sometimes presence of substances of concern could lead to higher durability for instance, with limited consumer risks?

All details regarding requirements for a given product group, including considerations related to trade-offs, will be defined in the product specific delegated acts.

124. Definitions of "substances of concern" currently exist in different legislation (CSRD, Taxonomy, PPP, ESPR). They are similar, but not exactly the same. Is any harmonisation foreseen?

Definitions are tailored to suit the specific scope and goals of the respective legislations. Any changes would require careful analysis to ensure that the proposed harmonized definition accurately captures the intended scope and maintains the effectiveness of each piece of legislation. The Commission may explore assessing possible alignment in the future.

125. What will be the transition times for new harmonized classifications to disclose in the DPP/tracking of SoC? (from date of ATP publication? after 18month implementation period?)

In case a new SVHC (SoC falling under part a) of the definition) would be identified via the REACH process, this would likely trigger a tracking requirement for SoC and thus require an update to the DPP. Timelines and modalities for such updates would still have to be discussed and respective guidance will be provided

at a later stage. With regard to other types of SoC (e.g. triggered by a harmonised classification under CLP, identification as PoPs) any information requirement would require a targeted impact assessment including consultations of stakeholders to determine whether there is a need for exemptions and to set the thresholds. This new information could potentially be considered when ESPR requirements/delegated acts are being reviewed.

11. Provisions on unsold consumer products

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126. If a product is to be sold outside the EU, do the ESPR provisions on unsold consumer products apply?

The provisions on unsold consumer products apply to products that are placed on the EU market. Products that have not been placed on the EU market are not covered by the ESPR provisions on unsold consumer products.

127. Do free samples and testers fall under the definition of unsold consumer products?

No, free samples and testers are not offered for sale to consumers, therefore they do not fall under the definition of unsold consumer products.

128. Article 24 requests disclosure during the first financial year. If the ESPR enters into force in July 2024, how do you define the first financial year?

The disclosure obligation applies to the first full financial year after entry into force.

This means that financial years starting on a date after the entry into force are falling in the scope of the disclosure obligation under Article 24 ESPR.

Disclosure on the first full financial year has to take place in the subsequent financial year.

129. Does the definition of destruction include recycling of products?

Destruction is defined as the intentional damaging or discarding of a product as waste with the exception of discarding for the sole purpose of delivering the discarded product for preparing for reuse, including refurbishment or remanufacturing operations.

This means that destruction covers the last three activities of the waste hierarchy, namely recycling, other recovery (including energy recovery) and disposal.

130. How will the reporting obligation work regarding company structures? Can a report for the whole group of companies be included on the website?

Article 24 requires the disclosure of information on unsold consumer products by economic operators on their website.

It is up to the economic operator to determine how to disclose the required information according to its company structure, as long as the information is disclosed on their website in a clear and visible manner.

Consolidated disclosure by a parent company is possible, for instance by referring to this consolidated disclosure on a website of the subsidiary.

131. At what point in the manufacturing process can a product be considered an “unsold consumer product”?

Once the consumer product has been made available on the market but has not been sold, or has been sold but subsequently returned by a consumer, it is considered an unsold consumer product.

These should be final products. Product components or intermediate products are not considered consumer products.

132. Would products that have been on the market too long but are still available for purchase by consumer count as “unsold consumer products”?

It does not matter for how long the product has been available for purchase by a consumer; as long as the product is not sold, including when the product is returned by a consumer, it is considered ‘unsold consumer product’.

133. ESPR does not provide a definition of “discarding”. What does this definition include?

The term ‘discarding’ stems from the definition of ‘waste’ under article 3(1) of the Waste Framework Directive, being any substance or object which the holder discards or intends to discard or is required to discard.

In practical terms discarding can be considered the act of disposing of a product, for instance by delivering it to a waste treatment operator, which as a consequence renders the unsold consumer product waste.

The obligations under the ESPR related to unsold consumer products apply to the economic operator that discards a product which is rendered waste as a consequence, and not to the waste treatment operator that receives the discarded product.

134. When will the measures related to the destruction of unsold consumer products be applicable?

The principle of prevention of destruction (Article 23 ESPR) applies from the entry into force of the ESPR.

The transparency obligation set out in Article 24 ESPR applies from the entry into force of the ESPR for large enterprises and six years from the entry into force for medium-sized enterprises. The first reporting period will be the first full financial year after entry into force.

The prohibition of the destruction of the consumer products listed in Annex VII to the ESPR (namely apparel and clothing accessories, footwear) will apply two years after entry into force for large enterprises and six years after entry into force for medium-sized enterprises.

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135. Will there be any kind of labels that indicate whether the product is compliant with the ESPR?

For each product category regulated by delegated acts there will be specific rules on how the required information is to be made available. These rules will specify how the necessary information should be provided. If a digital product passport is available, the information must be included therein. In addition, if needed, the delegated act will indicate other forms for providing the required information, one of the possibilities being a label referred to in Article 16 ESPR. The delegated act will specify the content of the label as well as its layout and the way it must be displayed to customers.

136. Will products be banned when the ESPR is implemented or do least performing only get poor scores?

The Commission may set out performance requirements that products have to comply with in order to be placed on the EU market. It may also decide to set only information requirements providing information to customers about product's performance. All details will be specified in the delegated acts.

137. Regarding the ratings, will all the different sustainability requirements be matched into one grade, or will there be several?

The extent to which parameters can be aggregated will depend on specific product groups and will be set out in relevant delegated acts.

13. Green Public Procurement (GPP)

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138. Will green public procurement requirements be developed alongside delegated acts setting ecodesign requirements or afterwards?

Where feasible and appropriate (including taking into account the characteristics of the product(s) in question), green public procurement (GPP) requirements will be developed in parallel with the corresponding product's delegated act.

139. Will the GPP requirements be related to standardization in any way?

GPP requirements will be related to the product aspects that are addressed for the products in question in the relevant delegated act.

140. When can we expect GPP implementing acts to be adopted? Will there be a working plan for which products GPP implementing acts will first be adopted?

Implementing acts for GPP will be developed in parallel with the corresponding delegated acts. GPP requirements will be developed where it is appropriate in order to incentivise the supply of and demand for environmentally sustainable products and taking into account the value and volume of public contracts for the relevant product groups as well as the economic feasibility for buying more environmentally sustainable products in such public contracts. Therefore, not every product regulated under an ESPR delegated act will necessarily also have GPP requirements.

141. How will ESPR work with other acts dealing with green public procurement (CPR, NZIA, EED, etc.)?

The scope of those legal acts is different. The interplay between those acts will depend on the products identified in the subject matter of the contract to be awarded, or in the technical specifications, or contract performance clauses that are set up for the tendering procedure in question.

142. With regard to Art. 65(3), subparagraph 5, is compliance with the implementing acts enough to consider the targets achieved?

The implementing act might require, on an annual or multiannual basis, a minimum percentage of 50 % of procurement conducted at the level of contracting authorities or contracting entities, or at an aggregated national level, of the most environmentally sustainable products. Those products will be defined in the corresponding delegated act applicable to the products in question. Targets will be considered achieved when the percentage is reached in conformity with the requirements set in the relevant implementing act.

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143. Will the Commission offer guidance documents, training sessions, or workshops tailored for manufacturers on ESPR compliance?

Yes, the Member States and the Commission shall, in their respective areas of responsibility, provide adequate information including **guidance**, targeted and specialised **training**, and specific **assistance** and support, including financial support, to SMEs active in the manufacturing of products for which ecodesign requirements are set.

The Commission shall also, where appropriate, support the calculation of the product environmental footprint by providing secondary datasets and digital tools, such as tools for life cycle assessment calculation, and support the implementation of the digital product passport. It is important that the Member States' actions are taken in accordance with applicable State Aid rules. While developing and implementing those actions, Member States can rely on the support provided by EU programmes and initiatives for SMEs.

144. Will the Commission offer technical or financial support to SMEs and Member States for ESPR implementation?

The Commission is currently exploring different pathways to support the implementation of ESPR for different actors – including already existing funding programmes that align with ESPR priorities. For example, the [Technical Support Instrument \(TSI\)](#) of DG Reform could offer technical support for Member States to implement ESPR requirements, e.g. for (joint) market surveillance activities. In addition, programmes such as [Interreg](#), [HorizonEurope](#), and [LIFE](#) may offer opportunities and pathways for EU companies investing in innovative circular and sustainable solutions for their businesses.

145. Will there be a structured dialogue between the Commission and SMEs to make sure that the product rules are designed in a way that SMEs need as little support as possible?

Through the Ecodesign Forum, SMEs can participate in the dialogue with the Commission and other stakeholders.

When necessary, the Commission will provide financial support to SME representatives to enable their effective participation in the Ecodesign Forum, and provide easily accessible information to SMEs on available financial support and programmes.

146. How do you plan to provide financial support to SMEs' participation in Forum?

Individual SMEs can join the Ecodesign Forum discussions as **observers**. The Ecodesign Forum will have a hybrid format, to facilitate participation through the possibility to join online.

SMEs and micro-enterprises can become **members** of the Forum through their representation in relevant umbrella organisations. The Commission will strive to

provide financial support to enable their effective participation. More information will be made available on the ESPR website in due course.

147. How do we keep the competitiveness of companies while requiring companies to submit data that will be publicly available? How will you monitor the effects of the ESPR on SMEs competitiveness?

Taking into account the nature of the product and its market, the information to be included in the product passport will be carefully examined on a case-by-case basis when preparing product-specific rules, in close collaboration with all stakeholders. Access to information will be granted on a 'need-to-know' basis. Different stakeholders will have access to different set of information, based on access rights defined for each product group regulated.

The rules will be laid down in a thorough preparatory process including stakeholder consultation and impact assessment – so that effective, well-designed and proportionate product rules are developed. The rules will also be periodically reviewed.

Regulation under the ESPR will bring harmonised rules, thus ensuring that diverging national sustainability requirements do not result in market fragmentation. This will bring benefits for businesses such as widening existing markets, reducing compliance costs and lowering administrative burdens, enabling sustainability frontrunners and those businesses that are investing in sustainability, to move to the fore.

148. How is likely product price increase factored into the equation, bearing in mind the costs related to compliance? Is industry expected to bear these costs?

In certain cases, ESPR compliance might create additional costs, but it is important to bear in mind that better environmental performance, including use of energy and resources, also translates into cost savings. In any case, adapting to a circular business model and investing in sustainability – including environmental, social and economic sustainability – now will help improve resilience and save on costs for companies in the future.

In several cases, better design and production may mean a more expensive purchase price. However, the cost-benefit analysis to be included in the impact assessments for each product group will ensure that the focus of the Regulation is on achieving maximum benefits for the minimum cost. Often a small tweak in design can lead to benefits of far greater magnitude.

Furthermore, circular business models based on selling the performance or results of the product instead of the product itself, or through sharing and lending, deliver massive efficiency gains that can be passed on to the consumer and the environment. These models have already proven very successful in the business-to-business area, but have great potential also in the area of consumer goods.

Companies proposing sustainable products should have a competitive advantage as data shows that EU customers are increasingly keen on having long-lasting, durable and repairable products. However, in the past, it has not been so easy for

consumers to compare products on this basis when purchasing. Some companies see in-house repairing, refurbishing and upgrading services as another source of revenue, and an opportunity to maintain a longer-term relationship with the customer.

149. Where can we find the LCA tool provided free of charge by the Commission?

The [Ecoreport Tool](#) can be used in policy preparatory studies with the exclusive purpose of assessing the environmental and economic performance of products in the scope of the Ecodesign Directive, and will be available for the ESPR use as well.

Manual: <https://op.europa.eu/en/publication-detail/-/publication/7e5bedf2-eb32-11ee-bf53-01aa75ed71a1/>

150. How will the Commission prevent excessive administrative burden for companies, in particular SMEs, under ESPR? Will there be flanking measures to alleviate this burden?

When preparing and laying down rules under ESPR, the Commission will be required to ensure that they are proportionate, in both the financial and administrative sense, for all affected stakeholders, including SMEs. In concrete terms, this means developing rules which can be implemented in the simplest, least costly way, and avoiding unnecessary red tape – whilst ensuring that they remain effective. Under ESPR, this will be ensured via key procedural steps such as the thorough preparatory studies that will be carried out, the detailed impact assessments that will be drafted (which will have dedicated sections on SMEs) and the multiple stakeholder consultation exercises that will precede adoption of all rules. In addition, the ‘Ecodesign Forum’ will provide a key arena for discussion and consultation with ESPR stakeholders.

In addition to the SME support measures already outlined in this section, factors that will support companies in complying with the future rules include: the iterative, open and inclusive preparatory process, which will enable companies to provide input and contribute to shaping the future rules; substantial advance notice regarding the general direction of work under ESPR, including via the adoption of multiannual working plans, which will provide time for companies to begin making the necessary organisational and systemic preparations, even before detailed product rules are laid down; and generous transitional periods following adoption of ecodesign measure (typically 18 months).

15. Online Marketplaces

- 151. What roles and responsibilities should marketplaces have in complying with the ESPR requirements (such as DPP, market surveillance, and destruction of unsold products), and how is it ensured that goods sold to consumers through e-commerce from outside th European Union meet these requirements? 75

151. What roles and responsibilities should marketplaces have in complying with the ESPR requirements (such as DPP, market surveillance, and destruction of unsold products), and how is it ensured that goods sold to consumers through e-commerce from outside the European Union meet these requirements?

The ESPR has not amended the general legal framework regulating e-commerce, obligations of providers of online marketplaces and market surveillance. Providers of online marketplaces are intermediaries between economic operators that are subject to the ESPR obligations and customers. They are therefore subject to the general obligations stemming from the Digital Services Act (Regulation (EU) 2022/2065) and the Market Surveillance Regulation (Regulation (EU) 2019/1020). Providers of online marketplaces have to design their platforms to allow the economic operators to comply with their obligations under the ESPR. Items of content that refer to products that are not compliant with ESPR obligations are considered to be illegal content. Providers of online marketplaces have therefore to cooperate with market surveillance authorities and to facilitate any action taken to tackle that illegal content, including by removing it. This cooperation includes establishing a regular and structured exchange of information with market surveillance authorities on action taken, including the removal of product offers, granting those authorities access to their platforms to enable them to identify non-compliant products offered for sale there and finally to allow them to scrape data from those platforms.

16. Transition / Application

- 152. What will change for transitional products after 2026 under the ESPR? Will the DPP and information requirements (e.g. relating to substances of concern) apply? Will new delegated acts be adopted?..... 77
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152. What will change for transitional products after 2026 under the ESPR? Will the DPP and information requirements (e.g. relating to substances of concern) apply? Will new delegated acts be adopted?

All existing product regulations adopted under the Ecodesign Directive remain in force until they will be repealed by an ESPR delegated act. The concept of existing regulations pursuant to the Ecodesign Directive applies to product regulations in force when the ESPR enters into force, and also to those for which work will be ongoing when the ESPR enters into force and that would be adopted at the latest by the end of 2026. The ESPR also foresees a staged repeal of the Ecodesign Directive and the possibility to technically amend regulations adopted under that Directive until end of 2030. To ensure the smooth functioning of these regulations, the ESPR will have no impact on their implementation under the Ecodesign Directive.

153. How will the transition periods apply to an SME that manufactures final products as a toll manufacturer for large companies who place products on EU market?

The transitional regime allows for an extended period where the ongoing work that has been started under the Ecodesign and Energy labelling working programme 2022-2024 before the entry into force of the ESPR will continue with an aim to ensure that this work leads to the adoption of the relevant product regulations regulating specific products as measures pursuant to Article 15 Ecodesign Directive.

Any product regulated by ecodesign whether under the Ecodesign Directive 2009/125 or via regulations set under the new ESPR framework must meet the legal requirements that allow it to be placed on the EU market independently of the size of the manufacturer or of whether or not they are established in the EU. It is the responsibility of the manufacturer of the product to ensure that the product meets those requirements.

154. For products under the transitional regime, could additional requirements coming from the ESPR apply to these product (e.g. DPP)?

The transition regime allows the ongoing work on 19 product regulations to be adopted at the latest by the end of 2026 under the legal framework set by the previous Ecodesign Directive. Those regulations will only be able to set ecodesign requirements for the products in respect of the current scope established by that Directive. While that framework allows a wide range of requirements to be established, it does differ in some ways from the ESPR framework, for example in aspects such as substances of concern or the Digital Product Passport. In the case of products with an energy label, EPREL would provide the digital information system.

17. Enforcement & Market surveillance

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155. How will enforcement be monitored? For example, is there a database/platform? What specific criteria will be used to assess the effectiveness of the established surveillance mechanisms, and how transparent will this assessment process be? How will the Commission address potential inconsistencies in enforcement standards and practices across different Member States?

Assessing the effectiveness of the established market surveillance mechanisms is one of the topics on which members of the Ecodesign Forum will be called upon to contribute (Article 19 ESPR). This process will be informed by the 4 years' report to be set by the Commission (Article 67 ESPR). The first report is due by 30 June 2028. It will be public and will contain information on the activities performed during the four precedent years, based on the data entered into the Information and Communication System for Market Surveillance (ICSMS) referred to in Regulation (EU) 2019/1020 (see next question) and any other relevant source of information (e.g. results of joint actions).

The ESPR contains the following specific additional rules complementing the framework created by Regulation (EU) 2019/1020 on market surveillance of products, to further strengthen the planning, coordination and transparency of Member States' market surveillance authorities:

- Member States have to plan their market surveillance activities for the four years to come in a section of their national market surveillance strategies dedicated to the ESPR (Article 66 ESPR). This section has to list the requirements that each Member State considers a priority for enforcement, taking also into account the joint priorities agreed by the Member States as well as the market surveillance activities planned to reduce or bring non-compliance to an end for those products or requirements identified as priorities.
- The ESPR requires Member States to enter in the Information and Communication System for Market Surveillance (ICSMS) information on the nature and severity of the penalties applied. Based on that information, the Commission will publish four-yearly reports. This report will also set indicative benchmarks concerning the frequency of checks and penalties imposed by the national market surveillance authorities.

156. How will the Commission ensure that all Member States are held accountable to the same standards of enforcement?

If the information in the hands of the Commission, gathered either via its own investigations or following complaints from citizens, businesses or other stakeholders, indicates that there is a systemic enforcement gap in any Member State, the Commission, after having discussed it with the Member State concerned in a bilateral dialogue, can start an infringement procedure under Article 258 TFEU which may result in the matter being brought before the Court of Justice of the EU. If the Court finds that a Member State has breached EU law, the national authorities must take action to comply with the judgment and remedy

the breach identified. If, despite the court's judgment, the Member State still does not rectify the situation, the Commission may refer the Member State back to the Court for the second time, specifying the lump sum or penalty payment that the Court may then impose on that Member State (Article 260 TFEU).

157. What mechanisms will be in place for manufacturers and stakeholders in the EU to report non-compliance or inadequate enforcement by Member States?

There are already mechanisms in place. See here:

https://european-union.europa.eu/contact-eu/make-complaint_en

158. How will the Commission handle reports from manufacturers regarding non-compliance by Member States, and what actions will be taken in response to such reports?

See explanations here:

https://commission.europa.eu/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law-member-states/how-make-complaint-eu-level_en

159. Will there be any independent audits or third-party assessments to verify the enforcement activities of Member States?

No (see previous questions on assessing the effectiveness of the established surveillance mechanisms and on mechanisms in place for manufacturers and stakeholders in the EU to report non-compliance or inadequate enforcement by Member States).

160. How will it be ensured that market surveillance and customs authorities have enough resources for additional controls?

Article 10(5) of the Market Surveillance Regulation (EU) 2019/1020 requires Member States to grant the necessary resources in order to carry out market surveillance for products made available online and offline. It mentions in particular sufficient number of competent personnel, expertise, procedures, and other arrangements for the proper performance of their duties.

The ESPR contains provisions that could potentially transform the reporting burden (in ICSMS) into improved efficiency and better information exchange between authorities to enabling more effective collaboration across Member States. ICSMS information will be processed and compared with the one set under the relevant national strategy section and indicative benchmarks and list of priorities for enforcement will be part of the report prepared by the Commission.

161. How will Member States enforce reparability and durability including availability of spare parts provided by third parties (EU/non-EU)? How will the Commission ensure that all Member States consistently enforce ecodesign criteria?

Effective enforcement in relation to products placed on the EU market, whether domestically produced or imported, is essential for achieving the aims of this Regulation. In this regard, setting ecodesign requirements including on reparability and durability aspects must include also their verifiability by market surveillance authorities. This is expressly mentioned in Article 5(12) ESPR:

“Ecodesign requirements shall be verifiable. The Commission shall identify appropriate means of verification for specific ecodesign requirements, including direct checks of the product or on the basis of the technical documentation”.

Spare part requirements under ESPR might impose on suppliers the obligation to guarantee that key spare parts are available either for end users or for professional repairers together with repair instructions under some easily verifiable conditions.

To support Member States in their efforts to ensure sufficient action is taken to prevent non-compliance with ecodesign requirements, the Commission should, where relevant, make use of the support measures provided for in the Market Surveillance Regulation (EU) 2019/1020. The ESPR also foresees that the Commission should organise and, where appropriate finance, joint market surveillance and testing projects in areas of common interest, joint investments in market surveillance capacities and common training programmes for the staff of market surveillance authorities, customs authorities, notifying authorities and notified bodies. In addition, the Commission will draw up guidelines on how to apply and enforce requirements adopted pursuant to this Regulation where necessary to ensure their harmonised application.

162. How will it be ensured that goods sold to consumers through e-commerce from outside the European Union meet the ESPR-requirements?

Online marketplaces are sometimes the only link possible between market surveillance authorities and the economic operator. Online marketplaces can play different roles depending on their business model and what they offer to the potential customers:

- they can be manufacturers offering their own products;
- they can be fulfilment service providers taking care of some services as coordinating packaging, addressing, and dispatching products without ever owning the product; or
- they can merely provide the platform on which products are distributed by economic operators such as manufacturers, importers, distributors or dealers.

Obligations for online marketplaces under the Digital Service Act are:

- **compliance by design** (that obliges them to enable traders to provide information concerning the labelling of the product concerned)
- no liability for third -party content: implying that they don't have the obligation to take pre-emptive checks to ensure that only compliant products are sold on their platforms, they only need to react swiftly to request by MSA and warn the dealers and eventually remove illegal content.

Providers of online marketplaces have also a general obligation under the market surveillance regulation to cooperate with the market surveillance authorities. Actions within the framework of that cooperation should include the establishment of a regular and structured exchange of information on action taken by providers of online marketplaces, including the removal of product offers. Providers of online marketplaces should also grant access to their interfaces to help market surveillance authorities to identify non-compliant products sold online. Moreover, it is possible that market surveillance authorities would also need to scrape data from online marketplaces.

163. Will the Commission set up a new administrative cooperation group ('ADCO') under the Market Surveillance Regulation for the ESPR?

No, the administrative cooperation group ('ADCO') set up pursuant to Regulation (EU) 2019/1020 will be used for the purposes of identifying the products or requirements identified as priorities for market surveillance under the ESPR and the activities planned to reduce or bring to an end non-compliance with the ESPR. ADCO should identify common priorities for market surveillance to be considered under Member States' national market surveillance strategies, priorities for the provision of EU support, and ESPR requirements that are applied or interpreted differently, thus potentially leading to market distortion.

164. Who carries out market surveillance? Which government offices are responsible for ESPR in each Member State? Where can this information be found?

In order to ensure effective surveillance of their markets, EU Member States must designate one or more market surveillance authorities to ensure appropriate checks on the characteristics of products are performed on an adequate scale and – if necessary – penalties are imposed. The penalties must be effective, proportionate and dissuasive (Article 74 ESPR).

The list of designated market surveillance authorities per sector is available here: [DocsRoom - European Commission \(europa.eu\)](#)

18. Verification & Conformity

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- 167. Will the Notified Bodies participating in the process of conformity assessment for the ESPR particularly be appointed for the ESPR, or in terms of product groups? 84

165. What will be the procedures for conformity assessment and the requirements for the conformity assessment bodies to monitor these?

The specific delegated act setting the ecodesign requirements for the concerned product or group of products will also indicate the relevant conformity assessment procedure that is appropriate and proportionate to the nature of the product concerned and of the product parameters regulated in that act.

To ensure consistency with other EU law, the conformity assessment procedures should be chosen from either the internal production control module included in the ESPR or the modules included in Decision No 768/2008/EC, ranging from the least stringent to the most stringent. The Commission can, where necessary, adapt the module chosen.

166. In which way will certification bodies will be involved in ESPR?

Depending on what the delegated act will establish, it can be that a simple declaration (accompanied by the relevant technical examinations and documentation) of the manufacturer will be enough to ensure the conformity of the product(s) in question with the relevant ecodesign requirements. But it can be also that the delegated act establishes that the conformity assessment modules laid down in Decision No 768/2008/EC, requiring the intervention of a third party, are most appropriate.

In that case, the conformity assessment bodies recognised in their competence to perform the relevant assessment will intervene. In order to ensure uniform conditions for the implementation of the ESPR, those bodies should be notified to the Commission by Member State authorities. Although the notified body must be established on the territory of the notifying Member State, it may have activities or personnel outside the Member State, or even outside the Union. Certificates and other conformity assessment attestations are, however, always issued by and in the name of the notified body. Since the notified body always has to carry out its assessment functions within the jurisdiction of the designating Member State, it has to inform the notifying authority, which must be capable of ensuring the monitoring of the total body as it has to take the responsibility for its operations. If monitoring is not considered possible, the notifying authority should withdraw or limit the scope of the notification as deemed necessary.

167. Will the Notified Bodies participating in the process of conformity assessment for the ESPR particularly be appointed for the ESPR, or in terms of product groups?

Member States take the final responsibility for the competence of their notified bodies with respect to the other Member States and the EU. They must therefore verify the competence of the bodies seeking notification, based on the criteria laid down in the applicable Union harmonisation legislation in conjunction with essential requirements and the conformity assessment procedure(s) in question.

As specified in the answer to question above, the specific delegated act setting ecodesign requirements for a given product or group of products will indicate the relevant conformity assessment procedure. Where relevant, notified bodies will be designated by Member States for such specific product or group of products.

19. International & Trade

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168. How will the ESPR affect economic operators in third countries?

Rules developed under the ESPR will have implications on producers, not only in the EU but also in third countries, in the same way as the ESPR's predecessor, the Ecodesign Directive had. This is because the same rules will apply to products placed on the EU market regardless of where they are made.

The adoption of ecodesign requirements will always be preceded by thorough stakeholder consultation where trading partner countries will have the full possibility to partake as well as by dedicated impact assessments where the Commission is bound to examine international dimensions and ensure that impact on third countries is proportionate.

169. Will any additional import procedures apply under the ESPR?

Yes, the economic operator placing the product on the EU market will have to upload the unique identifiers and the commodity code as set out in Annex I to Council Regulation (EEC) No 2658/87¹⁵ in a special registry managed by the European Commission. In addition, relevant delegated acts may specify other data that need to be included in the registry to verify the authenticity of the digital product passport or improve the efficiency and effectiveness of market surveillance and customs controls.

Once the relevant information has been uploaded in the registry, the economic operator will receive a unique registration identifier. That unique registration identifier will have to be made available to the customs authorities who will verify whether the unique registration identifier and the commodity code correspond to the data in the registry. The registry will be interconnected with the EU Customs Single Window Certificates Exchange System (EU SCW-CERTEX) and the verification will be automatic.

170. Will the ESPR apply in Northern Ireland?

Yes. The Northern Ireland Protocol states in Article 5(4) that certain pieces of EU law specified in Annex 2 in Northern Ireland. The existing Ecodesign Directive is listed in Annex II and that reference will be read as referring to the ESPR.

171. Do you envisage support to non-EU countries?

The Commission services are currently looking at how to best provide technical as well as potential financial support to non-EU countries with regard to ESPR implementation/ESPR impacts.

¹⁵ [Regulation - 2658/87 - EN - Combined Nomenclature - EUR-Lex \(europa.eu\)](#)

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