

EU Ecodesign for Sustainable Products Regulation (ESPR) 2024/1781 - Let's Talk Circular Design

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01. About The Author



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Michelle is a Senior Team Leader at Compliance & Risks and manages a team of senior legal regulatory experts. She is an Irish qualified lawyer, currently living in Belgium with over 16 years experience in global environmental and product regulation.

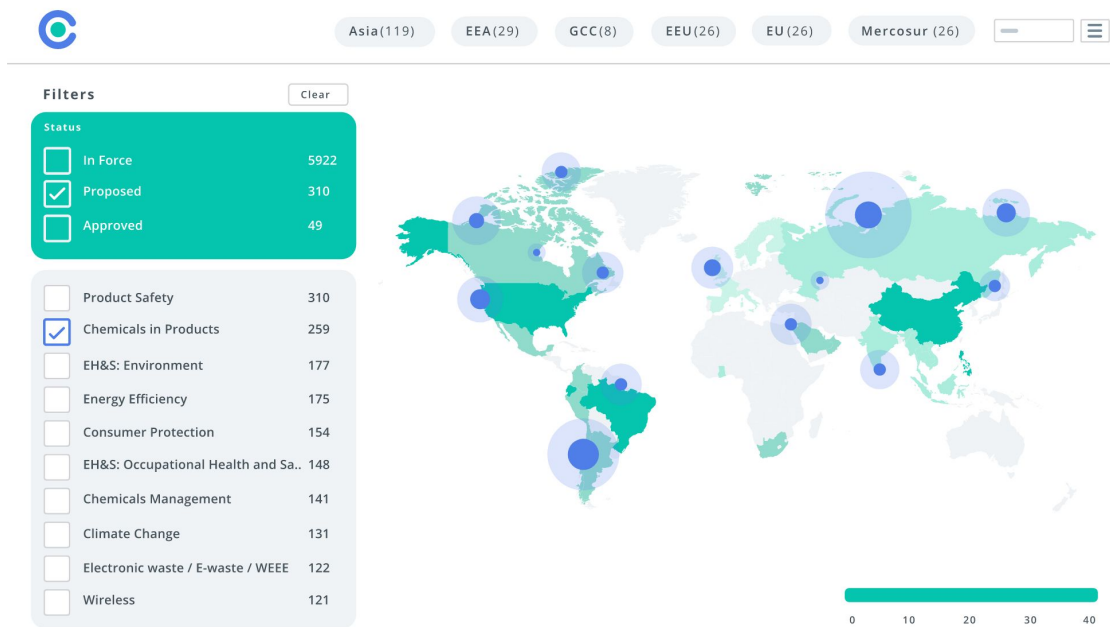
Michelle has a keen interest in sustainability and is the subject matter expert for circular economy, ecodesign, energy efficiency and ESG reporting on sustainable resource use. Her specialty areas also include waste electrical & electronic equipment (WEEE) and the transboundary movement of hazardous waste.

She is the project lead for numerous projects across global legislation and regularly provides in-depth analysis to complex legal queries. She is an expert researcher and regulatory tracker that prides herself in her attention to detail and providing clients with the best service possible.

She holds a bachelor of law degree from University College Cork, Ireland as well as a higher diploma in business finance & information systems. She qualified as a lawyer in Ireland in 2007 and also speaks french.

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03. Introduction

The new EU [Ecodesign for Sustainable Products \(ESPR\) Regulation 2024/1781](#) entered into force on 18 July 2024.

It provides a harmonized regulatory framework to make sustainable products the norm across all products placed on the EU market.

The ESPR allows for the introduction of ecodesign implementing regulations in the form of Delegated Acts that may be product specific (vertical application) for example on household washing machines and household washer-dryers, or may be of horizontal application in that will apply across a wider range of product groups, such as electronic appliances or textiles. Horizontal requirements will be developed to address requirements such as durability and repairability, for example.

In a nutshell, product design must legally result in sustainable products.

In accordance with Article 4(7), the first Delegated Act setting out the ecodesign requirements will not enter into force before 19 July 2025.

Also in order to allow sufficient time to comply with the ecodesign requirements, the Delegated Acts will not apply in the Member States until at least 18 months after their entry into force.



04. What Products are in Scope?

The ESPR will replace the existing [Ecodesign Directive](#) framework and move beyond energy efficiency into the realm of sustainability requirements.

The idea is that ESPR will unlock the true potential of the ecodesign directive and dive into environmental and circular requirements across the entire life cycle of the product.

The repeal of the existing Ecodesign Directive will take place in different stages, and existing implementing regulations will continue to apply until such measures are repealed or declared obsolete.

In order to allow the ESPR to have the highest impact, the ESPR applies to the broadest range of products possible. Article 1(2) states that it applies to “any physical goods placed on the market or put into service, including components and intermediate products.”

This means that potentially it can cover *all products* on the European market including components, and intermediate products.

There is no distinction made between household, commercial or professional products other than the requirements relating to the destruction and disclosure of unsold consumer goods. This means the ecodesign requirements can apply to any type of product including both

business-to-consumer (B2C) and business-to-business products (B2B).

The list of products excluded from scope is limited to food, feed, medicinal products, veterinary medicinal products, living plants, animals and micro-organisms; products of human origin; products of plants and animals relating directly to their future reproduction; vehicles and products whose sole purpose is to serve defense or national security.

It is worth noting, that although vehicles are exempted from scope, one of the priority groups that will be considered in the first working plan are tyres. In addition, both e-bikes and e-scooters are included in the scope as per Recital 13.

Products shown at a trade fair, exhibitions and similar events are not in scope provided that a visible sign clearly indicates that such products do not comply and that they are not for sale until they have been brought into conformity.



4.1. Priority Products

The first task for the EU Commission is to adopt its first working action plan by 19 April 2025. The plan will cover a 3 year period and will set out:

1. The priority list of product groups that will be considered for Delegated Acts and estimated timelines for their adoption;
2. The priority product aspects and relevant product groups considered for horizontal ecodesign measures; and
3. The list of unsold consumer products that could be included in the ban on the destruction of unsold consumer products.

Article 18(5) requires the EU Commission to prioritize the following product groups in the first working plan (or provide a justification as to why are not included in the plan):

1. Iron and steel;
2. Aluminum;
3. Textiles, notably garments and footwear;
4. Furniture, including mattresses;
5. Tyres;
6. Detergents;
7. Paints;
8. Lubricants;
9. Chemicals;
10. Energy-related products (where implementing measures need to be revised or newly defined);
11. ICT products and other electronics;
12. Cement (a delegated act should be adopted by 1 January 2030 if ecodesign requirements are not sufficiently covered under the proposed Construction Products Regulation)

4.2. New Preparatory Studies

To help prepare for the new ecodesign requirements that will stem from the ESPR a number of preparatory studies have already started on some of these priority products.

For intermediate products of iron and steel, a [preparatory study](#) is being conducted by the Joint Research Centre (JRC) of the EU Commission. This study published its first draft report in June 2024, on tasks 1 - 3 which define the product scope, and include market and technical analysis.

Professional dishwashers were identified in the [Ecodesign and Energy Labeling Working Plan 2022-2024](#) as a potential new energy related product. The [ESPR preparatory study and impact assessment support study for professional dishwashers](#) is being led by Oeko-Institut e.V. (technical lead) together with Trinomics B.V., Fraunhofer ISI, Fraunhofer IZM, Ecomatters and VITO. This study started in June 2024 and is expected to be completed in December 2026. Interestingly, the professional dishwashers product group was already studied in the past but now due to progress in technical standardization, it is back on radar for future ecodesign measures.

A [review study](#) is also underway examining whether existing energy labeling and ecodesign requirements for household dishwashers under EU Regulations [2019/2022](#) and [2019/2017](#) should be increased in the context of the ESPR.

Professional laundry appliances are also under the spotlight. A new [preparatory study on industrial and professional \(i.e. commercial\) laundry appliances](#) began in March 2024.

A separate [study on household laundry appliances](#) has also started.

This study looks at whether the existing requirements under the energy labeling regulation [2019/2014](#) and ecodesign regulation [2019/2023](#) for household washing machines and household washer-dryers should be increased under ESPR.

An [ecodesign preparatory study](#) for product measures on scarce, environmentally relevant and critical raw materials and on recycled content is ongoing.

This study aims to investigate the type of products and materials that could be subject to implementing measures looking at technical, economic, environmental, market and societal impacts of these potential requirements.

Finally there is also a [study examining the possibility of a recyclability index for photovoltaic products](#).

This study includes an analysis and development of scoring systems for the potentially compulsory disclosure of recyclability of PV modules and inverters.

4.3. Second-Hand Products: Remanufacturing vs Refurbishment

The ESPR does not apply to second-hand products that are already on the EU market. However, there can be a little confusion over new types of second-hand products that we are seeing on the market and where they sit.

Second-hand goods that have undergone refurbishment or repair, originating from within the Union (.ie already on the EU Market) are not considered new products under the ESPR and will therefore not be expected to comply with delegated acts that enter into force after their placing on the market.

However, remanufactured products on the other hand are considered new products and they will be subject to ecodesign requirements that are in force at the time of their placing on the market.

The difference between a refurbished product and a remanufactured product is important as it affects the applicability of the ESPR and its delegated acts.

Definitions are provided in the text for both the concepts remanufacturing and refurbishment as follows:

Article 2(16) defines 'remanufacturing' as 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.

Article 2(18) defines 'refurbishment' as "actions carried out to prepare, clean, test, service and, where necessary, repair a product or a discarded product in order to restore its performance or functionality within the intended use and range of

performance originally conceived at the design stage at the time of the placing of the product on the market."

The [EU Blue Guide](#) also has some guidelines on what is considered a "new product" in the EU.

However, the concept of a "substantial change" referred to in the definition of "remanufacturing" is not further explained or defined under the ESPR. Looking at both definitions, it would not include an action that is intended to restore the product to what was originally conceived at the design stage at the time of placing the original product on the market.

Also, it is worth noting that a substantial change does not necessarily mean that the remanufactured product must be an entirely new type of product, it could also be the same type of product but the change to its safety, performance, or purpose is substantial.

The difference between a remanufactured product and a refurbished product can be a little blurred so it is crucial to consider each product on a case-by-case basis.



4.4. Construction and Building Products

For the construction and building sector there is crossover with other legislation. The EU [Energy Performance of Buildings Directive \(EU\) 2024/1275](#) requires Member States to set up Minimum Energy Performance Requirements (MEPS) for building elements. It is expected that these MEPS will be used to limit the installation of energy-related products that do not conform with requirements under the ESRP or its Delegated Acts.

Similarly, there is also overlap with the [proposed EU Construction Products Regulation](#) (CPR). Priority for setting sustainability measures will be given to the ESRP for energy-related construction products (for example heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products, excluding building-integrated photovoltaic panels) however the CPR will also still apply in a complementary manner.

Furthermore, the latest draft of the EU CPR states that where conflicts arise between it and the ESRP, the relevant provision of the CPR should prevail so it may be confusing how these pieces of legislation actually fit together.

We also see that, although the CPR will cover cement, if adequate performance environmental requirements and information requirements are not set under the CPR, then the EU Commission is tasked to adopt a delegated Act under the ESRP by 1 January 2030 for this product group.



05. Types of Ecodesign Requirements

The ESPR enables the EU Commission to adopt delegated acts containing ecodesign requirements to improve the product aspects listed in Article 5.

Article 5 lists the following circular economy product aspects:

1. Durability;
2. Reliability;
3. Reusability;
4. Upgradability;
5. Repairability;
6. Possibility of maintenance and refurbishment;
7. Presence of Substances of Concern (SoC);
8. Energy use and energy efficiency;
9. Water use and water efficiency;
10. Resource use and resource efficiency;
11. Recycled content;
12. Possibility of remanufacturing;
13. Recyclability;
14. Possibility of recovery of materials;
15. Environmental impacts, including carbon and environmental footprint;
16. Expected generation of waste.

Ecodesign requirements are then split between performance requirements or information requirements.



5.1. Performance Requirements

Performance requirements are used to remove the worst performing products from the market.

Products must achieve a certain performance level in relation to a product parameter listed in Annex I in order to be placed on the market.

Annex I sets out the product parameters that may be covered as follows:

1. Durability and reliability of the product (guaranteed lifetime, technical lifetime, mean time between failures, indication of real use information on the product, resistance to stress or aging, etc.);
2. Ease of repair and maintenance (spare parts information, materials and components used, availability and access);
3. Ease of upgrading, re-use, remanufacturing and refurbishment (number of components used, ease of non-destructive disassembly, access to or use of hardware and software needed, etc.);
4. Design for recycling, ease and quality of recycling;
5. Avoidance of technical solutions detrimental to re-use, upgrading, repair, maintenance, refurbishment, remanufacturing and recycling of products and components;
6. Use of substances and in particular the

use of Substances of Concern (SoC) (during the production process, presence in the product or at end-of-life);

7. Use or consumption of energy, water and other resources in one or more life cycle stages of the product (including software and firmware updates, impact on deforestation);
8. Use or content of recycled materials and recovery of materials, including critical raw materials;
9. Use or content of sustainable renewable materials;
10. Over-packaging of products (weight and volume of the product and its packaging, and the product-to-packaging ratio);
11. Incorporation of used components; Quantity, characteristics and availability of consumables needed for proper use and maintenance as expressed through yield, technical lifetime, ability to reuse, repair, and manufacture, mass-resource efficiency, interoperability;
12. Product environmental footprint expressed as a quantification of a product's life cycle environmental impacts;
13. Carbon footprint of the product;
14. Material footprint of the product;
15. Microplastic and nanoplastic release;
16. Emissions to air, water or soil;
17. Amount of waste generated (including plastic waste, packaging waste, and their ease of reuse, etc.);



18. Functional performance and conditions for use;

19. Lightweight design (including reduction of material consumption, etc.).

The performance requirements may take the form of either or both the following as appropriate:

1. A minimum or maximum level (for example, energy or water consumption limits, limit on type of material you can use in a product, requirement to use a specific amount of a recycled content in the product),
2. A non-quantitative requirement that aims to improve performance in relation to one or more product parameters (for example, it may be a prohibition of a specific technical solution that is detrimental to product reparability).

5.2. Information Requirements - Digital Product Passport

The information requirements will outline how information on the product aspects in Article 5 is communicated to customers and other economic actors downstream.

One of the big talking points of the ESPR is the introduction of a new mandatory Digital Product Passport (DPP) which will be used to provide information on a product's environmental sustainability. The concept of the DPP is a relatively new concept under EU legislation. Although the DPP is one of the main requirements under the ESPR, it was actually the [EU Batteries Regulation \(EU\) 2023/1542](#) which was the first regulation in the EU to introduce DPP which will be mandatory from 18 February 2027. It is also being discussed under the [proposed safety of toys regulation](#).

The DPP itself is contained in a data carrier on or in the product, its packaging or on documentation accompanying the product. The data carrier must comply with one of the standards listed in Annex III or equivalent European or international standards until the references of harmonized standards are published in the Official Journal of the European Union.

Retailers and online marketplaces must be provided with a digital copy of the data carrier or the unique product identifier by the economic operator placing the product on the market. This is provided free of charge promptly or within 5 working days of receiving the request to do so.

The DPP can contain information specified in Annex III and also information on substances of concern.

Annex III lists the type of information that may be included in the DPP as appropriate. This includes:

1. Product performance information (eg. a reparability score, a durability score, a carbon footprint or an environmental footprint based on classes of performance determined by the EU Commission if appropriate);
2. Information on installation, use, maintenance and repair in order to optimize durability of the product;
3. Information for treatment facilities on disassembly, reuse, refurbishment, recycling, or disposal at end-of-life;
4. Information on Substance of Concern (SoC) (this should not be based on reasons relating primarily to their hazards to health or the environment);
5. Unique product identifier;
6. Global Trade Identification Number (based on Standard ISO/IEC 15459-6 or equivalent of products or their part);
7. Commodity codes, (such as a TARIC code);
8. Compliance documentation and information (i.e. declaration of conformity, technical documentation or conformity certificates);
9. User manuals, instructions, warnings or safety information;
10. Manufacturer information, (i.e. unique operator identifier, and digital instructions related to the product);
11. Unique operator identifiers other than that of the manufacturer;
12. Unique facility identifiers;
13. Importer information including their name, registered trade name or registered trademark, postal address and email. This information is on the public part of the DPP plus on the product or, on its packaging (if this is not possible), or in a document accompanying the product. These contact details shall be clear, understandable and legible;
14. Importer EORI number;
15. DPP service provider hosting the back-up copy of the digital product passport;
16. Award of EU Ecolabel (if applicable).

It is worth noting that if requested by the customer, at the time of purchase or up to 6 months after purchase, the manufacturer must also provide the digital instructions for the product in paper format to the customer free of charge within 1 month of receiving the request.

There will be different access rights to the information in the DPP for different actors such as customers, manufacturers, importers and distributors, dealers, repairers, refurbishers, remanufacturers, recyclers, competent national authorities, public interest organizations and the Commission, or any organization acting on their behalf.

The plan is that the DPP will allow access to relevant sustainability information for actors along the value chain, in particular consumers, economic operators and competent national authorities.

It will facilitate the competent national authorities to carry out product compliance checks which is often seen as one of the weaknesses of ecodesign legislation and will improve traceability of products along the value chain.

One of the worries voiced by manufacturers was the danger of the security and confidentiality of this level of information in one database. To alleviate their worries, the EU Commission must store the unique identifiers (operator, product identifiers and facility) and also the unique identifiers for batteries (required under the EU Batteries Regulation EU) 2023/1542) in a secure digital registry.

This registry must be set up by 19 July 2026 by the EU Commission and must ensure this information is safely secured in terms of confidentiality in accordance with EU law and rules on the protection of personal data. The Delegated Acts will also specify what other information must be stored in this registry.

The EU Commission must also set up and manage a publicly accessible web portal to allow stakeholders to search and compare information included in the DPP.

The web portal must be designed to guarantee stakeholders can search for the information with their respective access rights.

Finally, separate to the DPP, the ESPR may also be used to require information to be placed:

1. On the product itself;
2. On the product packaging;
3. On a label;
4. In a user manual;
5. On a website or application.

5.3. How to Prepare for the DPP?

In order to prepare for the implementation of the DPP under the ESPR for different prioritized product groups, the EU Commission funded the [CIRPASS project](#) which has looked at ways for the gradual deployment of the DPP for electronics, batteries and textiles. This first phase of the project was completed in March 2024 and now has moved onto the second phase known as the [CIRPASS-2 project](#).

The CIRPASS-2 is looking at pilot deployments and use cases in textiles, electrical and electronic equipment, tyres and construction value chains. It is possible to sign up as a stakeholder on their website and also to join expert working groups which will keep you informed on the progress for deployment of the DPP for different products sectors.

An interesting study by the European Parliamentary Research Service was also published on the [Digital Product Passport for textiles](#). The study was concluded on 24 June 2024 and provides a recommendation to the EU Parliament on the timeline for the implementation of the DPP for textiles:

According to the results of this study, the deployment of the DPP could be introduced in 3 phases:

- Phase 1. Deployment of a “minimal & simplified DPP” for textiles at short-term horizon 2027.
- Phase 2. Deployment of an “advanced DPP” for textiles at mid-term horizon 2030.
- Phase 3. Deployment of a “full circular DPP” for textiles at long-term horizon 2033.

Whether the EU Commission will agree with this recommendation as regards timing and format will depend on how the requirements are enacted under a Delegated Act under the ESPR but it does give an indication of how this could look.



06. Chemicals and Substances of Concern

As mentioned earlier, the DPP may require the inclusion of information on substances of concern (SoC).

The definition of SoC in the ESPR is very broad and includes not just chemicals that meet criteria under the [EU REACH Regulation](#), [CLP Regulation](#) and [PoPs Regulation](#) but also chemicals that *"negatively affects the reuse and recycling of materials in the product in which it is present"*.

This means that chemicals used in the design of products must not only be safe but also be sustainable.

Restrictions of substances based on chemical safety or food safety are not in scope although restrictions based on sustainability are permissible.

The idea behind this is to allow the EU Commission the power to prevent substances that hinder circularity from being included in a product.

Information on SoC will make it possible to track the substance throughout the life cycle of the product and will include:

- A. Name or numerical code of the SoC present in the product (i.e. CAS number);
- B. Location of the SoC within the product;
- C. Concentration, maximum concentration or concentration range of the SoC, at the level of the product, its relevant components, or spare parts;
- D. Product instructions for safe use;
- E. Information for disassembly, preparation for reuse, reuse, recycling and the environmentally sound management of the product at end-of-life.



07. Unsold Consumer Products - Disclosure and Destruction

Chapter VI sets out the requirements on the destruction of unsold consumer goods.

Article 24 requires economic operators that discard unsold consumer products directly, or have unsold consumer products discarded on their behalf, to annually disclose the following information (for the previous financial year):

- The number and weight of unsold consumer products discarded per year (by product category);
- The reasons for their discarding; (and if a derogation is granted if available)
- The proportion of discarded products, whether directly or through a third party, delivered for: preparation for re-use, including refurbishment and remanufacturing, recycling, other recovery operation;
- Planned and taken preventative measures.

It is interesting to note that delivery of goods to "donation" is not specifically mentioned in relation to this disclosure.

The disclosure requirement applies to an 'economic operator' which is defined as the "manufacturer, the authorized representative,

the importer, the distributor, the dealer (retailer) and the fulfillment service provider". With so many companies responsible, it is hard to see how this will work in practice.

Economic operators that are subject to sustainability reporting as part of their ESG corporate reporting in accordance with the [Corporate Sustainability Reporting Directive \(CSRD\)](#) may also include this information as part of the sustainability report. One of the major stumbling blocks of this requirement is the fact that the term "discard" is not defined. The point in time when a product will be considered "discarded" needs to be clearly defined, for example, is it the moment when the product is no longer offered for sale but still in stock and how do we establish this?

The EU Commission will adopt a Delegated Act by 19 July 2025 which will set out the details and format of the disclosure, the types of products covered, and how this information will be verified. We hope to see a clear definition of "discard" in the Delegated Act and how the different types of economic operators will all have to comply with this requirement at this stage.



Also the reporting deadline for the first disclosure is not clear. The first disclosure must include unsold consumer products discarded during the first full financial year during which the ESPR is in force (so from July 2024 to July 2025). However, the first Delegated Act will be adopted by 19 July 2025 so it is not even in force before the financial year that it applies to is completed. Article 25 also places a ban on the destruction of unsold consumer products listed in Annex VII from 19 July 2026. The Annex VII lists apparel and clothing accessories and footwear. This ban (as well as the above disclosure requirement) does not apply to medium-sized enterprises until 19 July 2030. Whereas micro and small enterprises are specifically exempted from these requirements.

The EU Commission can adopt Delegated Acts listing further products that are included in this prohibition as well as derogations.

By 19 July 2027 (and every 3 years thereafter) the EU Commission will publish consolidated information on the destruction of unsold consumer products on their website. This information will include the prevalence of the destruction of specific groups of unsold consumer products per year based on the information disclosed by economic operators. The comparative environmental impacts resulting from destruction of unsold consumer products per product group will also be included. It does not say whether the EU Commission will name and shame specific companies as part of this information.



08. Conclusions and Thoughts

The broadness of scope of products covered in this regulation has left a lot of companies scratching their heads on whether and when they will be required to comply.

We hope this uncertainty will be laid to rest with the publication of the first ESPR action plan in April next year. However, it remains to be seen whether this plan will provide the needed clarity.

The second-hand goods market may be impacted by requirements depending on whether your product is refurbished or remanufactured and the lines between these two concepts are not always that clear cut. Further guidance needs to be published to help manufacturers in this regard.

The introduction of the digital product passport (DPP) providing reliable sustainability product information is a necessary step.

When moving information to digitalization there can be a risk of overloading consumers with too much information that it can lose its desired effect. Also the protection of security from having this information in one registry must be a priority for the EU Commission.

The disclosure obligation for unsold consumer products needs further clarity as to timelines and products covered, but we expect the Delegated Act will explain this.

What is clear is that the ESPR sets the building ground to move product design firmly into a new digital and circular economy era.

The Ecodesign Directive has been successful in delivering energy efficiency and some circular economy requirements around repair and material efficiency, it is now time to see what potential the ESPR can truly unlock in terms of sustainable products for the EU market.

0.9. Annex

Important Compliance Deadlines under ESPR		
18 July 2024	Date of entry into force	Article 80
19 April 2025	EU Commission must publish the first working plan setting out the Priority products	Article 18(5)
19 July 2025	First Delegated Act on Ecodesign requirements will not enter into force before this date	Article 4(7)
	Adoption of First implementing Act regarding Disclosure of Unsold Consumer Goods	Article 24(3)
	Adoption of First Delegated Act on Ban of destruction of unsold goods	Article 25(5)
19 July 2026	Digital registry to store unique identifiers must be set up by the EU Commission	Article 13(1)
	Ban on destruction of unsold consumer products listed in Annex VII (apparel, clothing accessories and footwear)	Article 25(1)
At least 18 months after date of entry into force	Date of Application of Delegated Act	Article 4(4)
19 July 2027 (and every 3 years thereafter)	EU Commission will publish on its website consolidated information on the destruction of unsold consumer products	Article 26
31 December 2026	Articles 1, 2, 8(2), 11, 14, 15, 18 and 19 and Annexes I, II, IV, V and VII to Ecodesign Directive 2009/125/EC shall continue to apply for 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 under this date	Article 79(1)(a)(i)

Important Compliance Deadlines under ESPR

19 July 2030	<p>Medium-sized enterprises are subject to ban on destruction of unsold consumer products listed in Annex VII (apparel, clothing accessories or footwear)</p> <p>Medium-sized enterprises must disclose number of unsold discarded consumer products on their website</p>	Articles 24 (1) and 25(1)
31 December 2030	Articles 1, 2, 8(2), 11, 14, 15, 18, and 19 and Annexes I, II IV, V and VII of Ecodesign Directive 2009/125/EC shall continue to apply to products regulated by implementing measures adopted pursuant to Article 15 of Directive 2009/125/EC insofar as amendments are necessary to address technical issues until this date	Article 79(1)(a)(ii)

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