

# **Frequently Asked Questions (FAQ) on the Ecodesign Directive 2009/125/EC establishing a framework for the setting of ecodesign requirements for energy-related products and its implementing Regulations**

**(Questions collected for discussion at the ADCO meeting of 22 March 2011 in Berlin)  
(Document status: discussion in the Ecodesign Working Group pending)**

*This Frequently Asked Questions (FAQ) document summarises questions and answers of general interest regarding the Ecodesign Directive 2009/125/EC and its implementing Regulations.*

*The answers provided reflect a common understanding between Commission services, Member States, including Market Surveillance Authorities, and interested stakeholders. The answers as such are not legally binding. A binding interpretation of Community law is the sole competence of the European Court of Justice.*

*These FAQ cannot go beyond or substitute for the requirements of the Ecodesign Directive or its implementing Regulations. The Ecodesign Directive is addressed to the Member States and must be transposed into national law according to Article 23. The Ecodesign Regulations (implementing measures) are binding in their entirety and directly applicable in all Member States.*

*This is a living document and so may be revised in the future, according to discussions in the Ecodesign-Administrative Cooperation for Market Surveillance (ADCO) group, consisting of national Market Surveillance Authorities and the Commission, and the Ecodesign-Working Group, consisting of the Commission, representatives of Member States and all interested stakeholders.*

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## **Ecodesign Directive 2009/125/EC of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products**

### ***(1) Question on legal reference in EC declaration of conformity***

During inspection of declarations of conformity from various products that have to comply with the standby regulation No 1275/2008 the market surveillance authorities found that several of the producers outside the EU only declared conformity with the Directive 2005/32/EC or the recent version Directive 2009/125/EC. But the standby regulation 1275/2008 is not mentioned.

Article 5 of Directive 2009/125/EC states:

1. Before a product covered by implementing measures is placed on the market/or put into service, a CE marking shall be affixed and an EC declaration of conformity issued whereby the manufacturer or its authorized representative ensures and declares that the product complies with all relevant provisions of the applicable implementing measure.

2. The EC declaration of conformity shall contain the elements specified in Annex VI and shall refer to the appropriate implementing measure.

Therefore the authority does not consider it sufficient just to declare that the product is in conformity with the Directive; the relevant implementing measures have to be specifically mentioned in the declaration.

### ***(1) Answer on legal reference in EC declaration of conformity***

The view is correct. Article 5 (3) of the Ecodesign Directive 2009/125/EC stipulates that the EC declaration of conformity shall refer to the appropriate implementing measure, in the present case to the Regulation No 1275/2008 on standby and off mode electric power consumption of electrical and electronic household and office equipment.

### ***(2) Question on due date of EC declaration of conformity***

From which point in time has the manufacturer the obligation to issue an EC declaration of conformity before placing a product on the market covered by an implementing measure? From the entry into force date or from the application date of the relevant implementing measure?

### ***(2) Answer on due date of EC declaration of conformity***

The manufacturer or his authorized representative has the obligation to issue an EC declaration of conformity (and providing the technical documentation and affixing a CE marking) before placing a product on the market and/or putting it into service from the first application date of the implementing measure that is relevant for the product.

NB: For certain products (a) requirement(s) may only be set from the second or later application date of an implementing measure. In this case, the first application date is that second or later application date.

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NB: Other EU legislation may require EC declaration of conformity, technical documentation and affixing a CE marking for the same product. A common EC declaration of conformity and technical documentation is permissible.

### ***(3) Question on importer versus brand owner***

In the case where a manufacturer from the far east does not have a representative in the EU. If a Danish importer imports a product from this manufacturer to the EU and places it on market under his (the importer's) own brand/name and CE-number, the importer has the responsibility as described in Article 4 of the Ecodesign Directive. If a different importer imports the technically identical product to the EU and places it on the EU market under a different name and CE-number, he also has the obligations of the importer in accordance with Article 4?

### ***(3) Answer on importer versus brand owner***

Article 4 of the Ecodesign Directive 2009/125/EC stipulates the responsibilities of the importer: Where the manufacturer is not established within the EEA and in the absence of an authorized representative, the importer has the obligation to ensure that the product from a third country placed on the single market and/or put into service complies with the Ecodesign Directive and the applicable implementing measure(s) and to keep and make available the EC declaration of conformity and the technical documentation. Thus, any importer (regardless if Danish or "different") should require formal assurance in writing from the manufacturer (in the "Far East") with regard to the compliance of the product, the EC declaration of conformity and the technical documentation. The EC declaration of conformity must contain the name of the manufacturer (from the "Far East") and a description of the product sufficient for its unambiguous identification (product name, type or model number, and any relevant supplementary information, such as lot, batch or serial number, sources and numbers of items).

However, placing on the market is considered not to take place where the product is transferred to a manufacturer for further measures (for example assembling, packaging, processing or labeling). Using own brands or different product names, type or model numbers should be considered as "labeling". In that case, the importer/brand owner (regardless if Danish or "different") will be considered to be the manufacturer, as the product will be made available on the market under his name or trademark. So he will have to fulfill all the obligations of the manufacturer, namely the responsibility for the conformity of the product to the applicable implementing measures, for affixing the CE marking and for issuing the EC declaration of conformity and technical documentation.

NB: There is no CE number, only a CE marking according to Annex III of the Ecodesign Directive.

### ***(4) Question on technical documentation***

Most documents that a market surveillance authority receives from companies when asked for the "technical documentation" are no more than test rapport. Several market surveillance authorities have the same experience. However, the technical documentation should comprise

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more and the market surveillance authority has informed the companies that were visited about the requirements (as mentioned in the directive and regulations).

### *(4) Answer on technical documentation*

A technical documentation should make possible an assessment of the conformity of the product with the requirements of the applicable implementing measure under the Ecodesign Directive 2009/125/EC and must be compiled by the manufacturer or his authorized representative. The technical documentation cannot be a test report only but must contain, in particular:

- a general description of the product and of its intended use;
- the results of relevant environmental assessment studies carried out by the manufacturer, and/or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions; (NB: only relevant for generic requirements)
- the ecological profile, where required by the implementing measure; (NB: not required so far by any implementing measure)
- a list of the appropriate standards referred to in Article 10 of the Ecodesign Directive, applied in full or in part, and a description of the solutions adopted to meet the requirements of the applicable implementing measure where the standards referred to in Article 10 have not been applied or where those standards do not cover entirely the requirements of the applicable implementing measure;
- a copy of the product information concerning the environmental design aspects of the product set out in the applicable implementing measure; and
- the results of measurements on the ecodesign requirements carried out, including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure.

**Commission Regulation (EC) No 642/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for televisions**

*(1) Question on second tuners (and label regulation 1062/2010)*

When does a TV have a second tuner? Do those have to be physically separate electronics or are they “two tuners” when one part of circuitry acts as a “double tuner” providing the same service (able to decode two streams of TV broadcast).

*(1) Answer on second tuners (and label regulation 1062/2010)*

Because of their functionality, double tuners should qualify for a higher basic power consumption of 24 Watts, as specified in the energy labelling Regulation 1062/2010

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## **Commission Regulation (EC) No 640/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for electric motors**

### ***(1) Question on motors out of scope by using a slight different temperature or elevation range***

What if a manufacturer claims his motor is not in scope by using a slightly broader temperature or elevation range? Example: A standard motor that would normally be in scope would be marketed for temperatures up to 45°C or elevations up to 1500 m. The Product is not different in any way. This issue has been brought up by manufacturers who see it being used by their competitors.

### ***(1) Answer on motors out of scope by using a slight different temperature or elevation range***

Indeed, only motors that are specifically designed to operate beyond these temperatures are excluded, otherwise the regulation would not make sense.

### ***(2) Question on the obligation to check the veracity of a supplier's CE-marking***

If I purchase a CE marked product from a supplier to integrate into my own product where the product from the supplier is not directly an energy-related product, but it could contain one (for example a compressor might include a motor in scope of 2005/32/EC). Do I have any obligation to check the veracity of the supplier's CE-marking, particularly with regard to ErP implementing measures? And would I have any responsibility for implementing measure criteria?

### ***(2) Answer on the obligation to check the veracity of a supplier's CE-marking***

A company incorporating a CE marked appliance (e.g. a motor) into its product (e.g. a chiller) may rely on the CE marking of that product (in combination with its declaration of conformity) to represent that the manufacturer, importer or authorised representative of the appliance (motor) has fulfilled all relevant CE marking obligations.

### ***(3) Question on motors completely integrated into another product***

Clarification is requested from the Commission on what is the meaning of "Motors completely integrated into a product (for example gear, pump, fan or compressor) of which the energy performance cannot be tested independently from the product" and does the Commission plan to publish guidance in relation to this regulation?

### ***(3) Answer on motors completely integrated into another product***

Indeed, Article 1 foresees that the Regulation shall not apply to motors that are built into another product of which the energy performance cannot be tested independently from that of the larger product (e.g. a motor integrated in a compressor). There are no plans for the Commission to publish guidance in relation to this regulation. CEMEP has produced a publicly guide on Regulation 640/2009.

**Commission Regulation (EC) No 278/2009 of 06 April 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for no-load condition electric power consumption and average active efficiency of external power supplies**

*(1) Question on trade-offs between no-load condition power consumption and average active efficiency*

In some cases a device is almost always on (telecommunications, alarm systems etc.) and its power supply therefore has to be as efficient as possible. Some manufacturers have the choice between a power supply that does just about reach the values in the regulation and another one that is significantly more efficient (94 v. 84%) but has more than 0.5W no-load power consumption. These manufacturers claim that their solution does in fact save energy as the no-load case seldom appears and the higher on-mode efficiency over-compensates any no-load losses.

*(1) Answer on trade-offs between no-load condition power consumption and average active efficiency*

The regulation considers no-load condition power consumption and average active efficiency without the possibility of having trade-offs between them. If justified, future revisions of the Regulation could address this point.

**Commission Regulation (EC) No 244/2009 of 18 March 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for non-directional household lamps**

***(1) Question on lamps marketed for different purposes (heating)***

Would a lamp that is marketed for a different purpose (heating) but is technically an incandescent lamp be in scope? See enforcement case and safeguard clause against “Heatballs”. The same lamp can be marketed as a special lamp (shock resistant) with correct information displayed.

We see such lamp as still being a lamp and it should be called a special lamp if it is needed on the market. In that case, even if the purpose “heating” is debatable it still has to be marked as not suitable for room illumination and has to carry the product information required for a lamp.

***(1) Answer on lamps marketed for different purposes (heating)***

This view is correct. Just because it is labelled to provide a different service, the same non-compliant product does not become compliant (e.g. a fridge is not exempted from minimum requirements for fridges if it is marketed as an “illuminated cupboard” with cooling as an unintended side-effect). So “heatballs” have to comply with Regulation 244/2009, as they are the same products as incandescent bulbs: the manufacturer himself recommends to use them in existing lampholders. However, in compliance with the Regulation, “heatballs” would still be allowed on the market if they displayed on the packaging that they are not suitable for room illumination, as it is the case for the other special purpose incandescent bulbs such as oven lamps or rough service lamps.

***(2) Question on flame bulbs with impact-resistant glass and spotlight bulbs***

Special purpose bulbs are exempt from the lighting regulation. However, under this heading “flame bulbs” with impact-resistant glass and “spotlight bulbs” of 100W are still sold in The Netherlands. Regulation 2009/244/EC defines special purpose lamp in Article 1, under 4 as follows: ‘special purpose lamp’ means a lamp not intended for household room illumination because of its technical parameters or because the related product information indicates that it is unsuitable for household room illumination. And in Article 3 under 3 the technical documentation file drawn up for the purposes of conformity assessment pursuant to Article 8 of Directive 2005/32/EC shall list the technical parameters (if any) that make the lamp design specific for the special purpose indicated on the packaging.

So the combination of these articles requires that the manufacturer provides a technical “explanation” if any why the lamp is a special purpose lamp. The words if any imply that even if there is no technical explanation, 100W lamps can still be sold, as long as it is indicated that they are special purpose lamps.

Question: do the various MSAs interpret this in the same manner?

***(2) Answer on flame bulbs with impact-resistant glass and spotlight bulbs***

Indeed, a “flame bulb” with impact-resistant glass has a technical parameter (impact-resistance of the glass) which makes the lamp design specific for the special purpose indicated

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on the packaging. Therefore the technical documentation file has to list that parameter, otherwise the bulb is not compliant with the Regulation.

Spotlight bulbs are directional lamps, and as such are entirely excluded from the scope of the non-directional lamps regulation by Article 1(b) and Article 2(5) (even the “special purpose claim” is not required, as it would not be justified for these lamps that are general lighting lamps). An upcoming ecodesign regulation will set requirements on directional lamps.

**Commission Regulation (EC) No 1275/2008 of 17 December 2008 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment**

*(1) Question on electricity consumption of stereo players with digital clocks*

In case there is a digital clock on a stereo player which is visible in the standby mode of that stereo player, may electricity consumption in standby mode exceed 1W?

A clock is considered to be information, so the energy consumption in standby mode may exceed 1W but shall not exceed 2W.

*(1) Answer on electricity consumption of stereo players with digital clocks*

This is an acceptable reading of the ecodesign requirements established in Regulation 1275/2008.

29 April 2011

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