

Rescinding 105 CMR 680.000:
Phosphates in Household Cleansing Products

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I. Background

- In Massachusetts, the sale, distribution, and use of household cleansing products containing more than a “trace quantity” of phosphates is restricted under MGL c. 111, § 5R.
- This restriction was intended to reduce biomass accumulation in ponds and rivers.
- DPH promulgated regulations implementing restrictions on phosphates under 105 CMR 680.000 in 1994.



I. Background (cont'd)

- MGL c. 111, § 5R allows DPH to request information from manufacturers of household cleansing products (e.g., lists of major ingredients and the amount of phosphates in their products).
- Certain industrial uses of phosphates are exempt from the restrictions (e.g., agricultural processes).
- Both the statute and the regulation allow manufacturers to apply to DPH to be exempted from the restrictions.



II. Reasons to Rescind Regulation

- 1) 105 CMR 680.000 is duplicative of the statute and has been largely unused.
- 2) Rescinding the regulation will not diminish DPH's existing authority to enforce restrictions on phosphates through the statute.
- 3) In order to comply with restrictions enacted by several states, many manufacturers have reformulated cleansing products sold in the United States to be phosphate-free or contain much lower levels of phosphates.

II. Reasons to Rescind Regulation (cont'd)

1) 105 CMR 680.000 is duplicative of the statute and has been largely unused.

- 105 CMR 680.000 duplicates the restrictions on phosphorous compounds found in the statute.
- The regulation also elaborates on information that the Commissioner of Public Health may request from manufacturers, but does not enhance any DPH authority beyond what is already provided by the statute.
- Since the regulation was promulgated over 20 years ago, there is no record of any enforcement activity related to this regulation, nor of any manufacturer applying to DPH for exemption from the regulation.

II. Reasons to Rescind Regulation (cont'd)

2) Rescinding the regulation will not diminish DPH's existing authority to enforce restrictions on phosphates through the statute.

- MGL c. 111, § 5R clearly defines the restriction on cleansing products containing phosphates and specifies industrial use exemptions.
- The statute outlines how a manufacturer may apply to DPH to be exempted from the restrictions.
- The statute also includes enforcement measures, such as fines and the option for DPH to seize cleansing agents that violate the phosphate restrictions.

II. Reasons to Rescind Regulation (cont'd)

3) In order to comply with restrictions enacted by several states, many manufacturers have reformulated cleansing products sold in the United States to be phosphate-free or contain much lower levels of phosphates.

- By the mid-2000's, sixteen states had set limits heavily restricting the use of phosphates in household cleansing products.
- In response to state restrictions, large-scale manufacturers reformulated their products for markets across the country.
- In 2010, the American Cleaning Institute, which represents most of the soap and detergent makers in the U.S., announced a voluntary ban on phosphates in household dishwasher detergents.

III. Next Steps

- Following this initial presentation, a public hearing and comment period will be held.
- Approval of the proposed rescission, along with a review of public comments, would be requested at a subsequent meeting of the Public Health Council.
- Following final approval, this regulation would be rescinded.

Questions?