



ECOLABEL BOARD MEETING IN FEBRUARY 2011 - EEB AND BEUC POSITION ON ALL PURPOSE CLEANERS AND HAND DISHWASHING DETERGENTS

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1. Introduction

This position paper reflects the views of the European Environmental Bureau (EEB) and the European Consumers' Organisation (BEUC) on the draft Ecolabel criteria for All Purpose Cleaners (APC) and Hand Dishwashing Detergents (HDD)¹. These product groups will be discussed at the Ecolabel Board Meeting (EUEB) on 10 February and voted at the Regulatory Committee (RC) meeting on 11 February 2011.

The RC vote for these product groups was scheduled to take place in October 2010 but was postponed because of internal disagreements of the Commission concerning the proposed exclusion of nanomaterials. We regret this delay and urge the Commission to improve its internal coordination during Ecolabel criteria processes.

In general, we are concerned that the proposed criteria fail to single out the most environmentally friendly products on the market as required by the Ecolabel Regulation. We therefore hope that the Commission and Member States will take our following concerns and suggestions concerning surfactants, nanomaterials and toxicity to aquatic organisms into account.

2. Exemption for surfactants

Following the requirements of the Ecolabel Regulation, criterion 3c) of the draft proposal for both product groups provides a list of hazardous classifications which excludes substances according to their hazardous properties. In this way, substances of very high concern, CMR² substances as well as substances or mixtures classified as toxic or hazardous to the environment can not be used in ecolabelled APCs and HDDs.

The draft criteria further propose exempting several substances from these general requirements. For instance, the proposal suggests allowing surfactants that are classified as "*Very toxic to aquatic life*" (H400 or R50) in concentrations of less than 25% in the final product. As the water content of most cleaning products is well above 75%, this exemption will practically be applicable for all surfactants used in APCs and HDDs.

According to the CLP regulation, if a product contains more than 25% of ingredients classified as R50 (or the new term category acute 1) the product itself will be classified as R50 or H400. Consequently, the proposed exemption is very close to admitting products classified as Dangerous for the Environment (or "N") to be ecolabelled.

Thus, such an exemption is not acceptable. In addition, we believe that this exemption is not needed at all because of the availability of alternative surfactants. For instance, the Belgian detergent producer ECOVER does not use surfactants classified as R50/H400 in their consumer products. The surfactants used by this producer are only classified with the hazard statements H302, H315 and H318 which are not listed in criterion 3c. The Ecolabel Regulation only allows derogations to be granted "*in the event that it is not technically feasible to substitute them...*"³. We urge the Commission and Member States to respect the Regulation in this regard and to delete the proposed exemption for surfactants.

¹ Our comments concerning nanomaterials also cover the product group Lubricants. However, because we haven't been involved in the technical discussions we refrain from further commenting the draft criteria of this product group.

² Carcinogenic, Mutagenic or toxic to Reproduction.

³ Article 6.7. of Regulation (EC) No 66/2010.

3. Nanomaterials

According to the minutes of the EUEB meeting of June 2010, a *"majority of the Member States are in favour of excluding nanomaterials because of lack of evidence and verification methods of these materials"*. EEB and BEUC supported this ban because of the current lack of appropriate methodologies to assess their inherent properties and risks to the environment, consumers and workers. Nevertheless, the Commission unilaterally decided to delete criterion 4(f) that prohibited the use of nanomaterials.

Instead, the Commission proposed to delete any reference to *nanomaterials* and to regulate *nanofoms* under criterion 3 (c) on hazardous substances and mixtures.

Definition of nanomaterials

The reason given by the Commission for deleting any reference to *nanomaterials* was that *"there is currently an Open Consultation on a common definition of nanomaterials. Until there is no final agreement on such definition, it is not appropriate to introduce it in a legal text"*⁴. While we emphasise the need for coherence and a common definition, we suggest that a reference is made in the criteria document – for the time being - to the definition originally proposed by the Commission (i.e. the definition that was subject to public consultation). If possible, the two processes of developing Ecolabel criteria and a definition for regulatory purposes should still be brought into line as the public consultation on the definition was closed on 19 November 2010.

Finally, we do not understand why the term *nanomaterials* was replaced by *nanofoms*. Existing legislation (e.g. the revised Cosmetics Regulation) and current discussions on definitions all refer to *nanomaterials*. We suggest that the term *"nanofoms"* is replaced either by the term *"nanomaterials"* as currently used in other legislations or to *"materials in the nanofom"*, but not *"nanofoms"* alone.

How will the new requirement be interpreted?

The current draft criteria proposal requires that *nanofoms* shall comply with the criterion on hazardous substances and mixtures that excludes substances or mixtures that are assigned one or more of the listed hazard statements or risk phrases (criterion 3c). Furthermore, it is proposed that the applicant shall demonstrate compliance with this criterion *"on the basis of information consisting as a minimum of that specified in Annex VII"* of the REACH Regulation⁵ and that this information *"shall be specific to the particular form of the substance, including nanofoms, used in the product"*.

At the moment, there is a lot of uncertainty on the risks that nanomaterials may present to human health and/or the environment and how to properly assess those risks. There are no agreed methodologies available to generate the information required under criterion 3c. Numerous studies highlight the fact that nanomaterials cannot be properly characterised with the data normally required by REACH⁶. Consequently, the proposed requirements would exclude nanomaterials until appropriate test methodologies are developed and broadly agreed (e.g. by the European Chemicals Agency) to prove compliance with criterion 3c).

⁴ Comment inserted by the Commission in the final draft criteria proposal for All Purpose Cleaners.

⁵ Regulation (EC) No 1907/2006.

⁶ RIVM (2009) Nanomaterials under REACH. Nanosilver as a case study.
<http://www.rivm.nl/bibliotheek/rapporten/601780003.pdf>

However, we are concerned that the proposed wording will lead to different interpretation by applicants and national Competent Bodies across the EU.

We therefore urge the Commission and Member States to re-integrate the exclusion of nanomaterials. Alternatively, a reference to the inappropriateness of current test methods to prove compliance with the chemicals requirements for nanomaterials could be added to the assessment and verification requirements. In this way, a common interpretation of this criterion in all Member States could be assured.

4. Toxicity to aquatic organisms – requirements worse than market average!

The background report states that *"the overall direction of the proposed revisions is to increase the effect of the critical dilution volume (CDVchronic). The CDVchronic is considered one of the most important single parameter to ensure that an ecolabelled product complies with high environmental standards"* as it combines *"the amounts used, the (aerobic) biodegradability, and the aquatic toxicity of the substances"*⁷.

The background report by the consultancy DHI further proposes that the existing mandatory requirement on the biodegradability of surfactants should be deleted. DHI argued that a certain amount of surfactants that are not biodegradable under anaerobic conditions should be allowed in order to allocate more weight to the CDVchronic parameter. This would make the latter a relatively bigger hurdle compared to the anaerobic biodegradability which is, according to DHI, a lesser environmental concern.

EEB and BEUC, like other members of the EUEB, have opposed the deletion of this mandatory requirement in the discussions and provided arguments for this opposition in previous position papers⁸. We reiterate our position that all surfactants used in ecolabelled products should be biodegradable under anaerobic conditions.

During the discussions at the EUEB meeting in October 2010, a decision was taken to follow the proposal of DHI and to relieve the above mentioned biodegradability requirement. It was also discussed that the deletion of this strict pass/fail criterion, the CDV limits could be lowered. During the discussion, DHI agreed that lower CDV levels than the ones currently proposed (see table below) would be more appropriate for the Ecolabel. We are very concerned that in the draft proposal sent out by the Commission, the CDV limits remain unchanged.

⁷ DHI (2010) Background Report. Revision of the EU Ecolabel criteria for all-purpose cleaners and sanitary cleaners, and hand-dishwashing detergents, p.1, Reference: DG ENV. G.2/SER/2008/0002np.

⁸ See joint EEB and BEUC comments from 8 March and 10 June 2010.

Product	Proposed CDV hurdle in litres	% passing CDV hurdle	EEB/BEUC proposal in litres	% passing CDV hurdle
All Purpose Cleaners	18 000	73,5	12 500	57
Sanitary Cleaners	80 000	71,3	56 000	50
Window Cleaners	4 800	75	4000	75
Hand Dishwashing Detergents	3 800	71,2	2650	47

CDV limits currently proposed and EEB/BEUC suggestions

In the appendix of the background report, data concerning CDV levels of products on the European market is provided. DHI stated repeatedly in the discussions that this data can be considered as representative for the European market without regional bias or disproportionate representation of ecolabelled products of the sample. Furthermore, the industry or Member States has provided no further data or information since the start of the criteria development and therefore the data collected by DHI has to be considered as the evidence base for taking a decision on the appropriate levels of CDV limits.

According to this data, most products (around 3/4) on the market would pass the proposed CDV limits. However, we insist on the fact that the Ecolabel is supposed to award only the best products on the European market. Taking into account that the criteria document also features a number of other requirements, we propose setting the CDV limits at market average levels (see table above).

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