



The Consumer Voice in Europe

EU ECOLABEL FOR RINSE-OFF COSMETIC PRODUCTS

BEUC and EEB position on proposal to be voted on 20th of June 2013

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Summary

At the beginning of February 2012 the Joint Research Centre of the European Commission published background documents for the Ecolabel criteria development process for soaps, shampoos and hair conditioners¹. Recently the JRC presented draft criteria for rinse-off cosmetics (as the product group has been renamed). The criteria are proposed for discussion at the EU Ecolabelling Board on 18th of June and for vote by Member States (Regulatory Committee) on 20th of June. BEUC and EEB welcome the draft criteria document prepared by the JRC proposing new ecological criteria for rinse-off cosmetics. Nevertheless, in our opinion some important criteria are not sufficiently ambitious to cover the best environmentally performing products on the market and some requirements should be reviewed to ensure the exclusion of dangerous chemicals (as requested by the EU Ecolabel Regulation). There are some criteria that need further investigation and several new environmental criteria should be included. In this position paper, we outline our proposals on how to raise the level of ambition for the future Ecolabel criteria.

¹ http://susproc.jrc.ec.europa.eu/soaps_and_shampoos/stakeholders.html

1. Scope

EEB and BEUC strongly disapprove that disinfectants and anti-bacterial products are no longer excluded from the scope. From the latest version of the criteria proposal an important sentence has been deleted: “the product group shall not cover products that are specifically marketed for disinfecting or anti-bacterial use”. According to the technical report accompanying the criteria proposal (May 2013)², this reference has been suppressed because these products are not covered by the Regulation (EC) No 1223/2009 on cosmetic products. However, there are many soaps with disinfecting properties and products that are marketed with claims referring to anti-bacterial properties that are covered by the Cosmetics Regulation³.

EEB and BEUC call on the European Commission to:

Reintroduce the reference for the exclusion of products that are specifically marketed for disinfecting or anti-bacterial use or marketed with claims referring to anti-bacterial properties.

Reintroduce under criterion for preservatives the deleted reference: 3e iii) It is prohibited to claim or suggest on the packaging or by any other communication that the product has an antimicrobial or disinfecting effect.

2. Criterion for Critical Dilution Volume

Recognising aquatic toxicity as one of the major environmental impacts of these products, it is important to set the most restrictive possible values for the critical dilution volume⁴. In this regard, the limits proposed are far from adequate and will not help to differentiate the best products on the market. Based on the experience of the Nordic Swan criteria and the investigation of a sample of EU Ecolabel products, it was concluded in the JRC technical report that achieving more restrictive CDV values is possible (see table below). EEB and BEUC disagree with the limits proposed as they do not reflect the current potential to reduce the aquatic toxicity impact of this product. In our opinion, justifying a less ambitious proposal with the risk of losing potential applicants is not justified. We emphasize that the Nordic Swan has a lot of licenses and the CDV limits are stricter. In addition, based on the Nordic Swan experience, it is not substantiated why the CDV value of shaving foams should be set as such a high level.

² http://susproc.jrc.ec.europa.eu/soaps_and_shampoos/docs/Rinse-off%20cosmetics-TECHNICAL%20REPORT_after%20ISC%20consultation_20.05.2013.pdf

³ EEB and BEUC have found examples of hand wash soaps claiming ingredients removing bacteria, natural antibacterial agents, etc, that we think could qualify for the Ecolabel if the scope is not appropriately amended to clarify that this should not be the case.

⁴ The CDV represents a risk-based parameter whose calculation method (as given in criterion 1) combines the amount of the substances used, their (aerobic) biodegradability and their aquatic toxicity.

Table 1. CDV Values of EU Ecolabel and Nordic Swan compared with the average values

	Proposed Ecolabel (I/g Content)	EU values Active	Average values of sample investigated ⁵	Nordic Swan (I/g active ingredient)
Shampoo, shower preparations and liquid soaps	18000		Average: 14717 Range: 7342-19909	13000
Solid saps	3300			3000
Hair conditioner	25000			13000
Shaving foams, shaving gels, shaving creams	20000			13000
Shaving solid soaps	3300			3000

EEB and BEUC consider it as important to cover rubbing and abrasives agents. In the technical report it is currently not clear to us why they are explicitly exempted for the calculation of the active content (art. 2), and therefore ask the Commission to provide a justification. In addition, EEB and BEUC would like to stress that it is important to integrate these substances in the calculation of the CDV value.

EEB and BEUC call on the European Commission and Member States to:

- Strengthen the CDV values and align them with the Nordic Swan requirements.
- Lower the value for shaving products.
- Cover rubbing and abrasive agents in the CDV calculations.

3. Criteria on biodegradability to be strengthened

BEUC and EEB welcome the JRC`s proposal to require all surfactants to be biodegradable under aerobic and anaerobic conditions. Nevertheless, soaps, shampoos and hair conditioners contain many other substances such as emollients, humidifiers and conditioning agents which are very similar to surfactants. Those substances have a worse biodegradability and therefore they should also be addressed by applying the criteria used in the Nordic Swan. The technical report shows an average aNBDO value for liquid soap and shampoo of 15 for the Ecolabel products that have been analysed. This average value is in line with the Nordic Swan requirements. In addition, despite lack of information for shaving products, we find the value of 70 mg/g AC extremely high as compared with the others. Rationale for setting such high value is missing.

⁵ As part of the supporting process to develop this criterion Competent Bodies were asked to provide information on CDV values of current products. 57 Ecolabel products were analysed based on the feedback from CB.

Similar to aerobic biodegradability, stricter requirement for anaerobic biodegradability could be set based on the research documented in the technical background report and the Nordic Swan requirements.

We call on the European Commission and Member States to:

- Strengthen the aNBDO values and anNBDO values by aligning them with the Nordic Swan requirements. Set a lower value for shaving products.

4. Criterion 3 – Excluded or limited substances and mixtures

4.1 Exclusion of health and environmental hazardous ingredients (3 (a))

BEUC and EEB welcome the proposed list of substances to be excluded from the EU Ecolabel for soaps and shampoos. However, there are additional substances that should be considered for exclusion based on health and environmental concerns and application of the precautionary principle.

Endocrine disrupting chemicals (EDCs)

We would like to reiterate our calls to restrict chemicals which may disrupt the hormonal system (so-called EDCs). The background technical report argues that addressing EDCs at this point is seen as too premature as the priority list of chemicals developed within the EU-Strategy for Endocrine Disrupters will be amended. Instead, it suggests addressing this issue in the future revision of the EU Ecolabel criteria for rinse-off cosmetics (probably in four years). However, considering the critical concerns about these substances, that the precautionary principle applies here, that criteria will be presented very soon and in 2015 the Cosmetics Regulation will have to address EDCs, EEB and BEUC strongly support the integration of a list of EDCs that cannot be used in the EU Ecolabel for rinse-off cosmetics in the current draft. Reference can be made to the SIN list 2.1⁶ or TEDX list from 2011⁷. Alternatively reference to the EU priority list on endocrine disrupters which are of Category 1 and Category 2 should be made. This list has been developed on scientific basis, and the substances are included there not without a reason.

We call on the European Commission and Member States to:

Do not allow chemicals which may disrupt the hormonal system.

⁶ <http://www.chemsec.org/what-we-do/sin-list>

⁷ The TEDX List of Potential Endocrine Disruptors is a database of chemicals with the potential to affect the endocrine system. Every chemical on the TEDX List has one or more verified citations to published, accessible, primary scientific research demonstrating effects on the endocrine system. <http://www.endocrinedisruption.com/endocrine.TEDXList.overview.php>

Phthalates

EEB and BEUC are concerned that not all phthalates have been excluded for the use in Ecolabel rinse-off products. The phthalate DEP is used as a denaturant in alcohol which is widely used in cosmetics. As there are concerns about its EDC potential, this substance should also be addressed. DCHP should also be excluded as it can be found in perfumes and could potentially be used in rinse-off cosmetics. Lack of adequate toxicological data should not justify its inclusion. The precautionary principle should be applied.

EEB and BEUC call on the European Commission and Member States to:

- Support the exclusion of all phthalates in the formulation of EU Ecolabel rinse-off cosmetics and its packaging.

Nanomaterials

We appreciate that nanosilver is excluded from the criteria. Nanomaterials such as nanosilver are already used in many different products including soaps because of their antibacterial properties. Silver has been classified as being toxic to the aquatic environment and little is known about the effect of silver in the nanoform. This lack of knowledge holds also true for other nano materials that may be found in rinse-off products. For instance nano-copper (both catalytic and anti-bacterial) can be used as ingredient in some shampoos⁸. Given the existing concerns on potential hazardous properties of nanomaterials and methodology gaps to assess their safety we call on the EU Commission to exclude all nanomaterials in the EU Ecolabel based on the precautionary principle.

We call on the European Commission and Member States to:

Ban nanomaterials in Ecolabel products based on the precautionary principle.

4.2. Criterion 3 (b) Hazardous substances and mixtures – Proposed Derogations

EEB and BEUC strongly disagree with granting EU Ecolabel for products which are hazardous for the environment or dangerous for human health.

General exemption granted to substances and mixtures

EEB and BEUC do not support the addition of the following formulation exempting ingredients from the request to comply with the exclusion of hazardous and dangerous substances (H phrases and SVHC):

⁸ <http://nano.taenk.dk/>

"Substances or mixtures which change their properties through processing and thus become no longer bioavailable, or undergo chemical modification in a way that removes the previously identified hazard are exempted from criterion 3 (b)"

This requirement is not acceptable based on the life cycle approach of the EU Ecolabel. The use of ingredients that are dangerous for the health or the environment should be avoided as a starting point.

Derogation for surfactants

We urgently call on the Commission to ensure that all Ecolabel products including this product group do not contain substances classified as hazardous to the environment. The current criteria (from 2007) allow 25% of an Ecolabel product's substances to be hazardous, which is unacceptable from an environmental point of view and does not correspond to consumer expectations. Even if the current proposal decreases the content to 20%, we believe that this is insufficient and argue that no surfactants hazardous to the environment should be granted derogation.

EEB and BEUC are concerned that the derogation for surfactants has been granted without having a definite list of surfactants that will be affected by the new classification and a clear overview of how many surfactants from the DID-list would not be classified by H412. In the background documentation non-feasibility of the technical substitution of surfactants that will be classified as H412 has not been clearly demonstrated.

We call on the European Commission and Member States to:

- Reject the derogation for surfactants H412, and to further reconsider it once it is substantiated that there are no alternatives available.

4.3. Derogation for zinc pyrithione

The derogation for zinc pyrithione is not acceptable. Zinc pyrithione is very toxic to aquatic organisms and is forbidden to be used in antifouling paints for boats in the Swedish archipelago. To accept its use in Ecolabel products is not in line with consumer expectations. The argument that the substance is readily biodegradable is not sufficient as degradation products (2-pyridine sulphonic acid) have persistent properties. This degradation product can be found in effluent and sludge from waste water treatment plants in Sweden.

We understand the concern to cover anti-dandruff shampoos, however in our opinion, according to the information provided in the technical report, we do not find a meaningful derogation request. It is not clearly substantiated that none alternative for substitution of zinc pyrithione exist. We are fully aware that alternatives exist such as piroctone olamine and different salicylates. We also wonder if it is really the role of the Ecolabel to support products with medical claims. It is questionable if such products should really fall under the Cosmetics Regulation, but should rather be seen as pharmaceuticals.

We call on the European Commission and Member States to:

- To reject the derogation for zinc pyrithione.

4.4. Criterion 3 (d) Fragrances. SCCS opinion on fragrance allergens to be taken into account

We welcome the exclusion of fragrances for products designated to children. However, EEB and BEUC support a total exclusion of fragrances in all rinse-off Ecolabel cosmetic products.

If fragrances are not excluded, the EU Ecolabel should ensure the exclusion of those substances listed as contact allergens in humans in the opinion on fragrances of the Scientific Committee on Consumer Safety (June 2012). Although we welcome that the list of sensitizing substances included in Table 13-5 of this opinion cannot be used through the general exclusion of sensitizing substances (R42 and R43), we are very much concerned that an important number of the substances listed in this opinion has not been integrated⁹.

At the very least EEB and BEUC would like that the former criterion 3 (d) (iii) in the draft, as discussed at the 2nd AHWG meeting, is reinserted:

"Fragrances reported as established contact allergens in humans, as indicated in Table 13-1 of the Opinion on fragrance allergens in cosmetic products of the Scientific Committee on Consumer Safety (2011)⁴, shall not be present in quantities $\geq 0,010\%$ (≥ 100 ppm) per substance in the final product".

We call on the European Commission and Member States:

- To support fragrance-free Ecolabel rinse-off products.

If this approach is not followed, we strongly call for exclusion of those fragrances identified by the SCCS as established contact allergens in humans (At the very least in addition to Table 13-15, substances mentioned in Table 13-1 and Table 13-2 should also be excluded).

⁹ Table 13-1 established contact allergens in humans; Table 13-2: established contact allergens in animals; Table 13-3: combinations of limited clinical data together with SAR considerations have been applied to indicate likely fragrance allergens in man; Table 13-4: SAR has been applied to substances that lack human data to identify fragrance chemicals that have the structural potential to be contact allergens; Table 13-5: of those 82 substances identified as established contact allergens in humans (Table 13-1), 12 chemicals (listed in Table 13-5) and eight natural extracts are considered of special concern as they have given rise to at least 100 reported cases. These substances pose a particularly high risk of sensitisation to the consumer.

4.5. Criterion 3 (e) Preservatives

EEB and BEUC welcome that this criterion remains as that from 2007 regarding the exclusion of preservatives that bio accumulate (values for $\log P_{ow}$ ¹⁰ and BCF¹¹). We would not support any proposal to lower the strictness of these values. We do not consider the proposal to apply CLP values to the EU Ecolabel criteria for soaps as feasible, since the CLP Regulation¹² was not aimed to establish safe limit values for the use of chemicals in consumer products. For example, in the case of triclosan, applying the CLP values would have allowed this substance in the EU Ecolabel despite its potential to contribute to the development of antimicrobial resistances and its endocrine disrupting potential.

In addition to bioaccumulation, EEB and BEUC believe that a criterion to ensure biodegradation of preservatives is missing.

We call on the European Commission and Member States:

- Not to weaken the ambition level of the proposed criterion on bioaccumulation.
- To integrate a requirement that preservatives shall be biodegradable.

BEUC and EEB support the exclusion of the proposed substances in criterion 3 (a) i.e. triclosan, parabens, formaldehyde and formaldehyde releasers. However, we disagree with the fact that methylchloroisothiazolinone, methylisothiazolinone and cetrimonium chloride have not been excluded. Those substances, according to Table 72 in the technical analysis, are the preservatives which are the most harmful to the environment. Together with triclosan, these substances have the highest ecotoxicity. We are puzzled that these substances are suggested for further use in Ecolabel products even when the technical analysis point them out as the most toxic. We strongly disagree with the deletion of the previous reference to the exclusion of preservatives that are endocrine disrupters.

Taking into account the proposed derogation for preservatives (h411, h412, h413) Chloromethylisothiazolinone (CMIT) and methylisothiazolinone (MIT) can be used. Ecolabel should avoid the use of these substances, which are associated with allergic reactions and sensitizing potential and for which consumer concerns have been raised. From the background information it is not clear that alternatives would not be available for all the range of pH and rinse-off products. Instead, it is argued that the CMIT/MIT cover a wide pH range. However, the pH range 2-10 is barely relevant for rinse-off cosmetics. While it is proposed to address this issue in future revision process, EEB and BEUC find that introducing requirements at this stage (as suggested in previous discussions) will help Competent Bodies gaining better understanding of the alternatives available and this will be useful for considering the complete exclusion of these substances in future.

¹⁰ Logarithm of the partitioning coefficient between octanol and water

¹¹ Bioconcentration factor

¹² Regulation No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006

We call on the European Commission and Member States:

- To introduce a requirement requesting the manufacturer to prove that no other preservative can be used as alternative to isothiazolinones for the specific formulation (as suggested in previous discussions).

- To reinsert the requirement that preservatives that are endocrine disrupters shall not be used.

5. Criterion 5 – Origin of palm oil

EEB and BEUC welcome the inclusion of requirements to promote the sustainable sourcing of palm oil. Nevertheless, sustainability requirements should not just apply to palm oil and its derivatives but to vegetable oils that might substitute palm oil in such cosmetics.

The explicit requirement of third party certification in respect of palm oil (e.g. RSPO) is a step forward to ensure that the palm oil has not led to deforestation. The requirement that the sustainable management criteria to be used have been set by multi-stakeholder organisations is also to be welcomed. However, there are concerns that certification options currently available do not offer a guarantee of sustainable production. In this regard, EEB and BEUC would like to support requirements that would promote organic farming by referring to official sets of regulations on agriculture and organic production (e.g. the European regulation (EC) No 834/2007 and its implementing regulations (EC) 889/2008 and 1235/2008, the US National Organic Program...). We call on the EC and Member States to request that all vegetable oils originate from organic agriculture or at least to introduce this aspect within the statement for points to be considered in the next revision.

Traceability is a key aspect of the certification schemes as it can allow the companies to know the country of origin of the palm oil they buy and which plantations the palm oil originates from. In this regard, EEB and BEUC can only support those types of certificate that allow traceable palm oil: “identity preserved” (IP) and “segregated” (S) palm oil.

Traceability is a key aspect of the certification schemes as it can allow the companies to know the country of origin of the palm oil they buy and which plantations the palm oil originates from. In this regard, EEB and BEUC can only support those types of certificate that allow traceable palm oil: “identity preserved” (IP) and “segregated” (S) palm oil.

EEB and BEUC do not support the acceptance of book and claim systems for the EU Ecolabel, as they do not offer a guarantee to consumers that the product they are buying is actually certified and that it is not destroying forests and potentially triggering conflicts in local communities. Book and claim systems only guarantee that the manufacturer of the cosmetic pays a certain sum per tonne palm oil to a producer/plantation who is producing RSPO-certified palm oil in order to get the «Green Palm-certificates» accompanying every tonne of certified palm oil. One of the most important reasons that more manufacturers buy Book & Claim is that it is much cheaper to buy green certificates than to buy palm oil which is actually certified.

According to RSPO, the demand for identity preserved and segregated palm oil is currently not big enough and an increased demand will foster higher availability of certificates. It would be justified for the EU Ecolabel to promote the use of those certificates that offer better guarantees to the consumer on the origin of the palm oil, even if they may be more expensive than book and claim. Therefore, EEB and BEUC suggest that for chemical derivatives of palm oil the standards required are not lowered, and that only IP and S certifications would be acceptable. Mass Balance would be a compromise option versus book and claims certificates if IP or S are not available.

We call on the European Commission and Member States:

- To introduce requirements to ensure the sustainable sourcing of all vegetable oils.
- To support only those types of certificate that allow traceable palm oil. Mass balance would be a compromise option versus book and claims certificates if IP or S are not available.

6. Packaging

BEUC and EEB have supported extending the scope of this product group to shaving foams, as they are products for everyday use and therefore offer a big potential for Ecolabel. However, it is important to set additional criteria concerning the packaging. Today, those products are still sold in aerosol containers. The propellant gases used (e.g. propane and butane) contribute to the formation of low level ozone, acid rain and green house gas emissions. As indicated in the technical report, there are alternatives to aerosol packaging¹³ available. Even if they may not be widely available in the market, setting Ecolabel requirements in this area would be justified. Substances causing the green house effect as well as low level ozone pollution should be avoided as far as possible. In humans, the ozone can cause lung tissue damage and create high incidences of asthma and allergenic reactions¹⁴.

Secondly, the presence of Substances of Very High Concern (SVHCs) in the packaging material would not be acceptable from a consumer and environmental point of view and would also not be in line with the philosophy of the Ecolabel Regulation. Excluding PVC and polycarbonates containing bisphenol A (BPA) is an important point as well. PVC is sometimes used in packaging for products destined for use by children (see some examples in Annex).

Finally, BEUC and EEB support including a criterion on recycling and refilling systems and on use of 100% metal recycled containers.

We call on the European Commission and Member States to:

¹³ One alternative could be product AirOPack. More information can be found at the following website:

<http://www.premiumbeautynews.com/en/AirOpack-a-green-alternative-to,2123?checklang=1>

¹⁴ European Environment Agency,

<http://www.eea.europa.eu/themes/air/multimedia/creation-of-low-level-ozone/view>



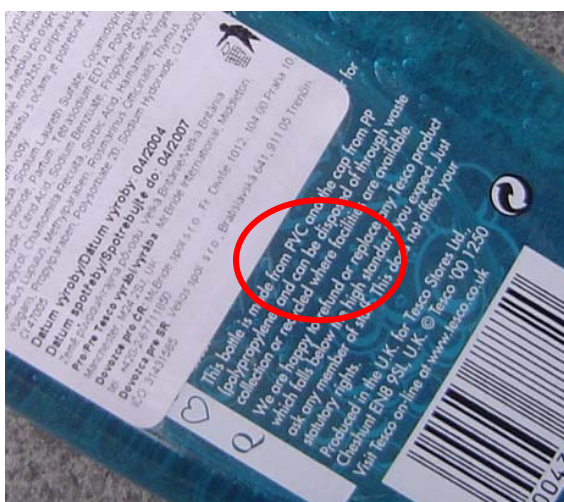
- Foresee specific criteria on packaging for shaving foam and gel, by excluding hydrocarbon propellant gases contributing to climate change and low level ozone pollution.
- Exclude the use of SVHC, PVC and Bisphenol A in packaging.
- Include criterion on recycling and refilling systems.
- Request 100% recycled metal for aerosol packaging.

END

Annex



Potential example of PVC¹⁵ used in shampoo packaging; source: Flickr, author: bfishadow.



Shower Gel packed in PVC. Bought in Bratislava (Slovakia) in 02/2005.

¹⁵ This product has been tested for the presence of PVC. Nevertheless, similar products contain PVC.