EU ECOLABEL FOR INDOOR AND OUTDOOR PAINTS AND VARNISHES

BEUC and EEB comments on the criteria proposal to be voted on 22 November

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Ref.: X/2013/074 - 13/11/2013

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Summary

The European Commission has presented a proposal establishing ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes for vote by Member States on 22nd of November. This position paper includes final comments from EEB and BEUC to the criteria proposed[1].

EEB and BEUC strongly supports the proposal from several Member States to regulate the use of nanomaterials in the EU Ecolabel for paints and varnishes, based on the approach followed by the NF Environment label and the Nordic Swan.

EEB and BEUC welcome the increase on the ambition level for some of the VOC values and the inclusion of SVOC, thereby improving the current criteria from 2009. NGOs fully support the French proposal to integrate an additional requirement on indoor air quality.

EEB and BEUC demand additional restrictions for hazardous chemicals including biocides, isothiazolinone compounds, perfluorinated compounds and phthalates.

EEB and BEUC appreciate that the derogation list intends to be very specific as regards the derogated hazards. However, NGOs miss a clear analysis regarding the relevance and the choice of the hazard classes that are derogated for each functional group.

[1] http://susproc.jrc.ec.europa.eu/paints/stakeholders.html

Nanomaterials

Considering existing concerns on potential hazardous properties of nanomaterials, methodology gaps to assess their safety, regulatory loopholes and the large use of nanoparticles in paints, EEB and BEUC strongly call for restricting the use of nanomaterials until a proper toxicological and ecotoxicological assessment framework for nanomaterials is in place and the manufacturer can prove that the substances have been adequately assessed and are safe for the environment and health.

The requirements to regulate nanomaterials in the EU Ecolabel could be based in the approach followed by the NF Environment Label and the Nordic Swan. According to the contribution from the ADEME, the NF label for paints is very successful and the restriction of nanomaterials is not a barrier.

Fluorinated surfactants

The restriction of fluorinated surfactants should also be extended to shorter chain lengths.

According to contacts with license holders of the current EU Ecolabel, fluorinated surfactants can be replaced with other easily biodegradable surfactants without impairing the quality of the paint.

Persistency is still of concern also for chain lengths shorter than six carbons for the fluorinated surfactants, even if they do not show the same bioaccumulation properties as the long chained, such as PFOS.[2] There is still not much known about how perfluorinated substances are transported in the environment, but all PFCs indicate some degree of toxicity[3]. Although a further need for more in-depth studies is acknowledged, there are sufficient indications to avoid the use of these substances in EU Ecolabelled paints. An example that not only long chain perfluorinated compounds are problematic is a German study of people drinking PFC contaminated water. This study showed that 33% of investigated children had perfluorobutanesulfonate (PFBS) in their blood.[4]

EEB and BEUC recommend that the surfactants used in the paints should pass the same criteria as for the detergents regulation EC 648/2004 demanding low toxicity and easy biodegradability.

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[2] Danish Ministry of the Environment, Environmental Protection Agency. Survey of PFOS, PFOA and other perfluoroalkyl and polyfluoroalkyl substances Part of the LOUS Review Environmental Project No. 1475, 2013

[3] Report: Per- and polyfluorinated substances in the Nordic Countries. Use, occurrence and toxicology. http://www.norden.org/en/publications/publikationer/2013-542

[4] Hölzer et al. Biomonitoring of Perfluorinated Compounds in Children and Adults Exposed to Perfluorooctanoate-Contaminated Drinking Water, Environ Health Perspect. 2008 May; 116(5): 651–657.

VOC and indoor air quality

EEB and BEUC welcome the improvement in some of the requirements for VOCs and the addition of SVOC.

EEB and BEUC call for the integration of a requirement on indoor air pollution, as this is an important issue for consumers which cover additional aspects than VOC and SVOC. We consider that the methodology as proposed by the French Competent Body is not based on a French standard but on the series ISO 16000 which could have been used as a reference for this document (as done in the Ecolabel for bed mattresses) without waiting until the next revision of the criteria. Consumers´ organisations apply this standard when testing indoor air pollution in paints. The results of different tests show that most paints perform very badly after one day, as they emit a considerable amount of VOC, concluding that also water based paints lead to VOC emissions. After one week the emissions decrease considerable for most products, but there are still concerns for some paints. Some products also exceeded the limit under which formaldehyde emissions can be considered as acceptable.

If it is not supported to include the requirement on indoor air quality in this decision, EEB and BEUC recommend that at least it is included in the statement accompany the decision that the next revision shall consider the integration of such criterion.

Biocides

The criterion on biocides needs to take into account the biodegradability and toxicity to other organisms than those targeted. A biocide should be specific for its aim, but not harm other organisms in the environment. We support that different criteria for indoor and outdoor paints where indoor paints do not need film preservatives. There should be very good documentation on why alternatives are not used.

Concerning the very wide and increased use of isothiazolinone compounds in various products, EEB and BEUC strongly recommend to strictly limit their use due to their problematic environmental and sensitizing properties. The proposal limiting CMIT/BIT to 15 ppm, included in the document before, should be reintroduced.

Derogation framework

The EEB and BEUC appreciate that the criteria proposal tries to be very specific when it comes to the derogated chemicals.

However, it is striking to see in the background document the significant amount of substances for which derogation requests had been submitted and for which other manufacturers indicated that they used alternative substances. We regret that additional information on the alternatives seem to not have been provided to the JRC, however it is of concern that the background report argues "that it is beyond the scope of this project to determine if those requests [to not grant specific hazardous chemicals derogation] are valid or more benign alternatives are available. This could be interpreted in such a way that the derogation of hazardous chemicals has been done without assessing the existence of better alternatives. It can also give the impression that all the problematic properties for the specific functions

have been derogated, in which case the Ecolabel will not be a driving force to improve the environmental profile of the paints. Following that, NGOs miss a clear justification in the background documentation regarding the choice and the specific selection of the hazard classes that are derogated for each functional group.

EEB and BEUC can support that substances with similar functions are derogated on the same basis, but given that there was a lack of information on the alternatives, it would have been preferable in that case not to derogate whole groups of substances but to do it on a case-by-case basis. It should be considered to grant the derogation to the least hazardous ingredients (see Appendix 1 with an example on selection for driers).

Individual substances should be granted derogation only if a manufacturer of the paint provides documentation of other tested substances and why they are not sufficient. If other manufacturers can produce similar products without the substance, derogation should not be granted. In the next revision all the derogated substances have to be investigated again to see if the derogation can be ended.

In particular, it has to be clearly explained why some problematic hazards such as H373 (R48/20, R48/21, R48/22) need to be derogated. The current criteria from 2009 do not accept R23 (H331), R24 (H311) and R48. However, the proposed derogation framework allows their use for certain functions. As an example, H373 has been derogated to allow its use as driers, however after screening the list of substances for which derogation requests where submitted there are many examples that do not have this classification (see example in Appendix).

Finally, taking into account that the current criteria (from 2009) limit the total amount of R50/53 (H410), R51/53 (H411) and R52/53 (H412), but that the proposed derogation framework establishes maximum concentration per functional group it is not clear whether the final amount of these substances (in the worst case scenario) is above or below the 2009 threshold and therefore whether the proposal is an improvement or a step backwards in this regard.

Phthalates

EEB and BEUC strongly support a complete exclusion of phthalates.

Development of criterion on binders needed

At the start of the revision process, greenhouse gas emissions were discussed as a criterion. EEB and BEUC welcomed this requirement as a first step towards a criterion on the binders. NGOs regret that the proposed criterion on greenhouse gas emissions has been withdrawn. According to the LCAs cited in the background report "the TiO2, binder and solvent contributed most to the environmental impact of the paint".

EEB and BEUC recommend that this issue is reconsidered in the next revision to ensure that the criteria promote the best alternatives from an environmental point of view.

Appendix to the comments on the derogation list

BEUC and EEB would prefer to grant derogations to the least hazardous additives. If we take the drying auxiliaries mentioned with substance names (see table below), as an example of how the least hazardous of the substances asking for derogation could be chosen, only lithium neodecanoate would be granted derogation as it only bears the classification H315 (causes skin irritation) and H412 (harmful to aquatic life with long lasting effects). Compared to other driers asking for derogation, which may bear a lot of more hazard statements and even be carcinogenic (H351), reprotoxic (H361) and very toxic to aquatic life with long-lasting effects (H410) (example of Cobalt bis(2-ethylhexanoate)). With the results from this list, derogations for drying agents would be given only to substances with the hazards statement H412. Instead the current derogation list for driers allow a larger number of hazard statements including H373 and H317 which are problematic.

It could be argued that this approach may be restrictive as regards the range of driers that would be allowed for use. However, in this assessment one should also include substances for which derogation requests have not been submitted. In order to use this method, also substances within the functionality group may have even better characteristics (less hazard statements) and these need to be compared with those seeking derogation. In that case it will not be certain that any derogation is needed.

Illustrative example: <u>without an impact assessment we would in principle favor derogating only H412.</u>

Chemicals substance	CAS number	Hazard statement
Cobalt bis(2-ethylhexanoate)	136-52-7	302, 314, 317, 318, 334, 351, 361, 370, 372, 400, 410
Fatty acids, tall-oil, cobalt salts	61789-52-4	302, 315, 317, 411
Neodecanoic acid	26896-20-8	302, 319, 412
Cobalt carboxylate	68409-81-4	302, 315, 317, 411
Substance Name : Hexanoic acid, 2-ethyl-, zinc salt,BASIC	85203-81-2	315, 319, 336, 561, 373, 400
2-butanone oxime ethyl methyl ketoxime / ethyl methyl ketone oxime	96-29-7	312, 317, 318, 351
lithium neodecanoate	**27253-30-1**	**315, 412**
Iron(1+), chloro[dimethyl-9,9-dihydroxy-3-methyl-2,4-di-(2-pyridyl-kN)-7-[(2-pyridinyl-kN)methyl]-3,7-diazabicyclo[3.3.1]nonane-1,5-dicarboxylate-kN3, kN7]-, chloride(1-)	478945-46-9	301, 317, 373, 412

In addition, cobalt driers should not be permitted as cobalt salts are listed on the candidate list. Companies should be encouraged to choose better alternatives and use the precautionary principle in this case and substitute these substances. Cobalt criers were studied already in 2003 by the Danish EPA, see Environmental project No 884/2003.

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