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Delegations will find attached document D042300/03.

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EUROPEAN
COMMISSION

Brussels, XXX
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COMMISSION DECISION

of XXX

amending Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes

(Text with EEA relevance)

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amending Decision 2014/312/EU establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel[1], and in particular Article 8(2) thereof,

After consulting the European Union Ecolabelling Board,

Whereas:

(1) Commission Decision 2014/312/EU established ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes[2]. After the adoption of Decision 2014/312/EU a registration was made as a joint submission to the European Chemicals Agency in accordance with Regulation (EC) No 1907/2006 by DPx Fine Chemicals Austria GmbH, LSR Associates Ltd and Novasol S.A. That registration dossier containing revised self-classifications for an important adhesion promoter and cross linker, Adipic acid dihydrazide (ADH). That submission indicated that ADH had been self-classified as hazardous to the aquatic environment (Chronic Category 2) with the associated hazard statement H411 (Toxic to aquatic life with long lasting effects). ADH is contained in polymer dispersions used frequently in water based paint and varnish formulations, prolonging the product life span. Paints with a prolonged lifetime have lower overall environmental impacts along their product life cycle due to reduced repaints. According to available information equally efficient and effective alternatives are not yet available on the market. It is therefore necessary to grant a derogation from criterion 5 of Decision 2014/312/EU for the use of ADH in Ecolabel awarded paints and varnishes in situations where it is not technically feasible to use alternative materials because the paint product would not provide the required level of functionality to the consumer.

(2) In addition, another substance Methanol has harmonised CLP classifications acute toxicity (Category 3) with the associated hazard statements H301 (Toxic if swallowed), H311 (Toxic in contact with skin) and H331 (Toxic if inhaled) and

[1] OJ L 27, 30.1.2010, p. 1.

[2] Commission Decision 2014/312/EU of 28 May 2014 establishing the ecological criteria for the award of the EU Ecolabel for indoor and outdoor paints and varnishes (OJ L 164, 3.6.2014, p. 45).

specific target organ toxicity after single exposure (Category 1) with the associated hazard statement H370 (Causes damage to organs) and is present as residual in polymer dispersions used in paints and varnishes. Methanol can originate as a reaction product or impurity from various raw materials within polymer dispersions and its content depends on the binder content in the paint. Therefore, in many cases it exceeds the current limit set for residuals in Decision 2014/312/EU. Those raw materials are used to achieve important paint properties, like for instance increased wet scrub performance, which is a requirement of the EU Ecolabel. Moreover, those properties contribute to increase the paint durability resulting in reduced overall environmental impacts along the paint life cycle due to less repaints. Those classifications of ADH and Methanol currently prevent a significant number of paints and varnishes that were awarded the EU Ecolabel pursuant to Commission Decision 2009/543/EC[3] and Commission Decision 2009/544/EC[4] from renewing their EU Ecolabel licence, according to market information submitted by EU Ecolabel license holders. It is therefore necessary to grant derogation from criterion 5 of Decision 2014/312/EU for the use of Methanol in Ecolabel awarded paints and varnishes in situations where it is not technically feasible to substitute functional raw materials which may give rise to the presence of methanol in the product.

(3) After the adoption of Decision 2014/312/EU an important dry film preservative for outdoor paints and varnishes, 3-iodo-2-propynyl butylcarbamate (IPBC), was given a harmonised CLP classification of hazardous to the aquatic environment (Acute Category 1) with the associated hazard statement H400 (Very toxic to aquatic life) and hazardous to the aquatic environment (Chronic Category 1) with the associated hazard statement H410 (Very toxic to aquatic life with long lasting effects). That preservative is used in outdoor products, especially in humid climate, to prevent the product from microbial growth. Its essential function and the absence of substitutes were known at the moment of the adoption of that decision, and its presence in EU Ecolabel paints was therefore permitted under a derogation. However, the new harmonised classification resulted in the final product being classified as hazardous for the aquatic environment (Chronic Category 3) with a labelling requirement to carry the associated hazard statement H412 (Harmful to aquatic life with long lasting effect) when IPBC is present above the concentration of 0.25 % w/w. Final product classification as hazardous to the aquatic environment is currently prohibited under Decision 2014/312/EU even if the maximum concentration limit for the use of IPBC is 0.65 %. In order to allow the use of IPBC in paint products at the required concentration up to 0.65 % it is necessary to allow the labelling of the final product with H412.

(4) For reasons of consistency and based on the definition specified in section (20) of Article 2 of Decision 2014/312/EU in which "transparent" and "semi-transparent" are synonyms, the text of criterion 3(a) and the associated reference in table 2 should be amended.

(5) Criterion 5 and Appendix entries 1(a), (b) and (c) of Decision 2014/312/EU placed restrictions on and laid down rules for the use of preservatives with reference to their status according to Regulation (EU) No 528/2012, which establishes the Union's system of approval for active substances in specific types of biocide products.

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[3] Commission Decision 2009/543/EC of 13 August 2008 establishing the ecological criteria for the award of the Community eco-label to outdoor paints and varnishes (OJ L 181, 14.7.2009, p. 27).

[4] Commission Decision 2009/544/EC of 13 August 2008 establishing the ecological criteria for the award of the Community eco-label to indoor paints and varnishes (OJ L 181, 14.7.2009, p. 39).

In order to ensure that these restrictions and rules are consistent and harmonised with Regulation (EU) No 528/2012 clarifications should be made in Decision 2014/312/EU to the following aspects: a) The definitions of 'in-can preservatives' and 'dry-film preservatives' should be with reference to Article 3(1)(c) of Regulation 528/2012; b) It should be clarified that in Appendix 1 the rules and conditions relating to in-can and dry film preservatives should apply to active substances which are under examination for approval or have been approved for use in specific biocide product-types, and to which approval conditions may apply; c) Reference to the Directive 98/8/EC within Appendix 1 should be deleted as this Directive has now been repealed; d) In the verification requirements laid down in Appendix 1(a), (b) and (c) the reference to Article 58(3) in Regulation (EU) No 528/2012 should be deleted because this refers to specific cases only.

(6) Decision 2014/312/EU should therefore be amended accordingly.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2014/312/EU is amended as follows:

(1) In Article 2, the definitions of 'in-can preservatives' and 'dry-film preservatives' in points (10) and (11) are replaced as follows:

(10)'In-can preservatives' are active substances within the meaning of Article 3(1)(c) of Regulation (EU) No 528/2012 that are for use in product-type 6 as described in Annex V to that Regulation. They are in particular used for the preservation of manufactured products during storage by the control of microbial deterioration to ensure their shelf life and used for the preservation of tints that will be dispensed from machines

(11) 'Dry-film preservatives' are active substances within the meaning of Article 3(1)(c) of Regulation (EU) No 528/2012 that are for use in product-type 7 as described in Annex V to that Regulation, in particular for the preservation of films or coatings by the control of microbial deterioration or algal growth in order to protect the initial properties of the surface of materials or objects;

(2) The Annex is amended as set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Karmenu VELLA
Member of the Commission