COMMISSION DECISION

of 28 May 2014

amending Decisions 2011/263/EU, 2011/264/EU, 2011/382/EU, 2011/383/EU, 2012/720/EU and 2012/721/EU in order to take account of developments in the classification of substances

(notified under document C(2014) 3468)

(Text with EEA relevance)

(2014/313/EU)

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 Eco-Labelling Board,

Whereas:

(1) In accordance with Article 6(6) of Regulation (EC) No 66/2010 the EU Ecolabel may not be awarded to goods containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([2]) or to goods containing substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([3]). In accordance with Article 6(7) of Regulation (EC) No 66/2010, for specific categories of goods containing those substances, where it is not technically feasible to substitute those goods as such or via the use of alternative materials or designs, or in the case of products which have a significantly higher overall environmental performance compared with other goods of the same category, the Commission may adopt measures to grant derogations from Article 6(6) of that Regulation.

(2) Commission Decisions 2011/263/EU ([4]), 2011/264/EU ([5]), 2011/382/EU ([6]), 2011/383/EU ([7]), 2012/720/EU ([8]) and 2012/721/EU ([9]) established the ecological criteria for the award of the EU Ecolabel for detergents for dishwashers, laundry detergents, hand dishwashing detergents, all-purpose cleaners and sanitary cleaners, industrial and institutional automatic dishwasher detergents and industrial and institutional laundry detergents. Subsequent to the adoption of those Decisions, Regulation (EC) No 1272/2008 was amended by Commission Regulation (EU) No 286/2011 ([10]). The amendments to Regulation (EC) No 1272/2008 became applicable in respect of substances from 1 December 2012 and will become applicable in respect of mixtures from 1 June 2015. Regulation (EU) No 286/2011 added new classification criteria for long-term aquatic hazard based on chronic aquatic

([1]) OJ L 27, 30.1.2010, p. 1.
([2]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 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 (OJ L 353, 31.12.2008, p. 1).
([3]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).
([4]) Commission Decision 2011/263/EU of 28 April 2011 on establishing the ecological criteria for the award of the EU Ecolabel to detergents for dishwashers (OJ L 111, 30.4.2011, p. 22).
([5]) Commission Decision 2011/264/EU of 28 April 2011 on establishing the ecological criteria for the award of the EU Ecolabel for laundry detergents (OJ L 111, 30.4.2011, p. 34).
([6]) Commission Decision 2011/382/EU of 24 June 2011 on establishing the ecological criteria for the award of the EU Ecolabel to hand dishwashing detergents (OJ L 169, 29.6.2011, p. 40).
([7]) Commission Decision 2011/383/EU of 28 June 2011 on establishing the ecological criteria for the award of the EU Ecolabel to all-purpose cleaners and sanitary cleaners (OJ L 169, 29.6.2011, p. 52).
([8]) Commission Decision 2012/720/EU of 14 November 2012 establishing the ecological criteria for the award of the EU Ecolabel for Industrial and Institutional Automatic Dishwasher Detergents (OJ L 326, 24.11.2012, p. 25).
([9]) Commission Decision 2012/721/EU of 14 November 2012 establishing the ecological criteria for the award of the EU Ecolabel for Industrial and Institutional Laundry Detergents (OJ L 326, 24.11.2012, p. 38).
([10]) Commission Regulation (EU) No 286/2011 of 10 March 2011 amending, for the purposes of its adaptation to technical and scientific progress, Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 83, 30.3.2011, p. 1).

toxicity and biodegradability data. On the basis of the new criteria, the majority of readily-degradable surfactants currently used in detergents and cleaning products has become classified as Chronic category 3 (H412) and in some cases, specifically relevant to hand dishwashing detergents, as Chronic category 2 (H411), and therefore are banned from use in products bearing the EU Ecolabel. This would make it difficult for the established ecological criteria for the award of the EU Ecolabel for detergents for dishwashers, laundry detergents, hand dishwashing detergents, all-purpose cleaners and sanitary cleaners, industrial and institutional automatic dishwasher detergents and industrial and institutional laundry detergents to correspond indicatively to the best 10-20 % of detergents and cleaning products available on the Union market in terms of environmental performance throughout their life-cycle, as there is no evidence that alternative surfactants are available. Assessment and verification text is updated, in order to provide guidance to help applicants to prove compliance with the new requirement.

(3) The consequences of introduction of new classification criteria were not known during the review of the criteria for the award of the EU Ecolabel for detergents for dishwashers, laundry detergents, hand dishwashing detergents, all-purpose cleaners and sanitary cleaners set out in Decisions 2011/263/EU, 2011/264/EU, 2011/382/EU and 2011/383/EU and during the development of criteria for the award of the EU Ecolabel for industrial and institutional automatic dishwasher detergents and industrial and institutional laundry detergents and the considerations of derogations for surfactants set out in Decisions 2012/720/EU and 2012/721/EU.

(4) This amendment is applied retroactively from 1 December 2012, in order to ensure continuity of the validity of EU Ecolabel criteria for detergents for dishwashers, laundry detergents, hand dishwashing detergents, all-purpose cleaners and sanitary cleaners, industrial and institutional automatic dishwasher detergents and industrial and institutional laundry detergents.

(5) Decisions 2011/263/EU, 2011/264/EU, 2011/382/EU, 2011/383/EU, 2012/720/EU and 2012/721/EU should therefore be amended accordingly.

(6) 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

The Annex to Decision 2011/263/EU is amended as set out in Annex I to this Decision.

Article 2

The Annex to Decision 2011/264/EU is amended as set out in Annex II to this Decision.

Article 3

The Annex to Decision 2011/382/EU is amended as set out in Annex III to this Decision.

Article 4

The Annex to Decision 2011/383/EU is amended as set out in Annex IV to this Decision.

Article 5

The Annex to Decision 2012/720/EU is amended as set out in Annex V to this Decision.

Article 6

The Annex to Decision 2012/721/EU is amended as set out in Annex VI to this Decision.

Article 7

This Decision shall apply in respect of substances from 1 December 2012.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 28 May 2014.

For the Commission
Janez POTOČNIK
Member of the Commission

ANNEX I

The Annex to Decision 2011/263/EU is amended as follows:

(1) in Criterion 2, point (b), fifth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 25 % in the final product	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product (*)	H412: Harmful to aquatic life with long-lasting effects	R52-53
Biocides used for preservation purposes (**)	H410: Very toxic to aquatic life with long-lasting effects	R50-53
	H411: Toxic to aquatic life with long-lasting effects	R51-53
	H412: Harmful to aquatic life with long-lasting effects	R52-53
Fragrances	H412: Harmful to aquatic life with long-lasting effects	R52-53
Enzymes (***)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
NTA as an impurity in MGDA and GLDA (****)	H351: Suspected of causing cancer	R40

(*) This derogation is applicable provided that they are ready degradable and anaerobically degradable.
(**) Referred to in Criterion 2(e). This derogation is applicable provided that biocides' bioaccumulation potentials are characterised by log Pow (log octanol/water partition coefficient) < 3,0 or an experimentally determined bioconcentration factor (BCF) ≤ 100.
(***) Including stabilisers and other auxiliary substances in the preparations.
(****) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %';

(2) in Criterion 2, point (b) the following paragraph is added to the *Assessment and verification* text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.

ANNEX II

The Annex to Decision 2011/264/EU is amended as follows:

(1) in Criterion 4, point (b), fifth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 25 % in the final product	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product (*)	H412: Harmful to aquatic life with long-lasting effects	R52-53
Biocides used for preservation purposes (**)	H410: Very toxic to aquatic life with long-lasting effects	R50-53
	H411: Toxic to aquatic life with long-lasting effects	R51-53
	H412: Harmful to aquatic life with long-lasting effects	R52-53
Fragrances	H412: Harmful to aquatic life with long-lasting effects	R52-53
Enzymes (***)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
Bleach catalysts (***)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
NTA as an impurity in MGDA and GLDA (****)	H351: Suspected of causing cancer	R40
Optical brighteners (only for heavy duty laundry detergent)	H413: May cause long lasting effects to aquatic life	R53

(*) This derogation is applicable provided that they are ready degradable and anaerobically degradable.
(**) Referred to in Criterion 4(e). This derogation is applicable provided that biocides' bioaccumulation potentials are characterised by log Pow (log octanol/water partition coefficient) < 3,0 or an experimentally determined bioconcentration factor (BCF) ≤ 100.
(***) Including stabilisers and other auxiliary substances in the preparations.
(****) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.';

(2) in Criterion 4, point (b) the following paragraph is added to the *Assessment and verification* text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.

ANNEX III

The Annex to Decision 2011/382/EU is amended as follows:

(1) in Criterion 3, point (c), fourth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 25 % in the final product (*)	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product (**)	H412: Harmful to aquatic life with long-lasting effects	R52-53
Surfactants in total concentrations < 2,5 % in the final product (**)	H411: Toxic to aquatic life with long-lasting effects	R51-53
Fragrances	H412: Harmful to aquatic life with long-lasting effects	R52-53
Enzymes (***)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
NTA as an impurity in MGDA and GLDA (****)	H351: Suspected of causing cancer	R40

(*) The percentage must be divided by the M-factor established in accordance with the Regulation (EC) No 1272/2008.
(**) This derogation is applicable provided that they are ready degradable and anaerobically degradable.
(***) Including stabilisers and other auxiliary substances in the preparations.
(****) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.';

(2) in Criterion 3, point (c) the following paragraph is added to the *Assessment and verification* text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412 and/or H411, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.

ANNEX IV

The Annex to Decision 2011/383/EU is amended as follows:

(1) in Criterion 3, point (c), fourth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 25 % in the final product (*)	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product (**)	H412: Harmful to aquatic life with long-lasting effects	R52-53
Fragrances	H412: Harmful to aquatic life with long-lasting effects	R52-53
Enzymes (***)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
NTA as an impurity in MGDA and GLDA (****)	H351: Suspected of causing cancer	R40

(*) The percentage must be divided by the M-factor established in accordance with the Regulation (EC) No 1272/2008.
(**) This derogation is applicable provided that they are ready degradable and anaerobically degradable.
(***) Including stabilisers and other auxiliary substances in the preparations.
(****) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.';

(2) in Criterion 3, point (c) the following paragraph is added to the *Assessment and verification* text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.

ANNEX V

The Annex to Decision 2012/720/EU is amended as follows:

(1) in Criterion 3, point (b), sixth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 15 % in the final product	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product	H412: Harmful to aquatic life with long-lasting effects	R52-53
Biocides for preservation purpose (*) (only for liquids with pH between 2 and 12 and maximum 0,10 % w/w of active material)	H331: Toxic if inhaled	R23
	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
	H400: Very toxic to aquatic life	R50
Enzymes (**)	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
	H400: Very toxic to aquatic life	R50
NTA as an impurity in MGDA and GLDA (***)	H351: Suspected of causing cancer	R40

(*) Derogation is only for Criterion 3(b). Biocides shall comply with Criterion 3(d).
(**) Including stabilisers and other auxiliary substances in the preparations.
(***) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %';

(2) in Criterion 3, point (b) the following paragraph is added to the Assessment and verification text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.

ANNEX VI

The Annex to Decision 2012/721/EU is amended as follows:

(1) in Criterion 4, point (b), sixth paragraph, the table of derogations is replaced by the following table:

'Surfactants in total concentrations < 20 % in the final product	H400: Very toxic to aquatic life	R50
Surfactants in total concentrations < 25 % in the final product (*)	H412: Harmful to aquatic life with long-lasting effects	R52-53
Biocides for preservations purposes (**) (only for liquids with pH between 2 and 12 and maximum 0,10 % w/w of active material)	H331: Toxic if inhaled	R23
	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
	H400: Very toxic to aquatic life	R50
Enzymes (***)	H400: Very toxic to aquatic life	R50
	H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled	R42
	H317: May cause allergic skin reaction	R43
Bleach catalysts (***)	H400: Very toxic to aquatic life	R50
NTA as an impurity in MGDA and GLDA (****)	H351: Suspected of causing cancer	R40

(*) This derogation is applicable provided that surfactants comply with Criterion 3(a) and they are anaerobically degradable.
(**) Derogation is only for Criterion 4(b). Biocides shall comply with Criterion 4(e).
(***) Including stabilisers and other auxiliary substances in the preparations.
(****) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.';

(2) in Criterion 4, point (b) the following paragraph is added to the *Assessment and verification* text:

'For derogated surfactants meeting the criteria for classification with the hazard classes H412, the applicant shall provide documentation for their degradability making reference to the DID list. For surfactants not included in the DID list, reference shall be done to the relevant information from literature or other sources, or appropriate test results, as described in Appendix I.'.