

COMMISSION DECISION (EU) 2023/1540**of 25 July 2023****amending and correcting Decision (EU) 2021/1870 establishing EU Ecolabel criteria for cosmetic products and animal care products***(notified under document C(2023) 4845)***(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 (EU) 2021/1870 ⁽²⁾ established EU Ecolabel criteria and related assessment and verifications requirements for the product groups 'cosmetic products' and 'animal care products'.
- (2) Industry stakeholders and members of the EU Ecolabelling Board have indicated that some provisions of Decision (EU) 2021/1870 could be interpreted in different ways, which could lead to inconsistencies in the practical implementation of that Decision. To avoid such inconsistent application, and to ensure legal clarity and legal certainty, it is necessary to provide for clearer wording in those provisions.
- (3) The definition of 'active content' in the framework section of Annexes I and II to Decision (EU) 2021/1870 contains a mistake that should be corrected to clarify that it is organic rubbing/abrasive agents that are not to be included in the calculation of the active content of the cosmetic product or of the animal care products. Inorganic substances, including inorganic rubbing/abrasive agents, are in fact excluded by definition.
- (4) To ensure the correct application of sub-criterion 4(a)(iii) in Annex I to Decision (EU) 2021/1870- i.e. exemption of zinc compounds, classified as H410 according to Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽³⁾, in zinc ointment/cream- sub-criterion 4(a)(i) should be corrected to specify that substances that are exempted in sub-criterion 4(a)(iii) do not have to comply with the requirements set out in sub-criterion 4(a)(i).
- (5) In order to ensure the correct application of sub-criterion 4(b) in Annex I and of sub-criterion 3(b) in Annex II to Decision (EU) 2021/1870, those sub-criteria should be corrected to specify that substances listed in the sub-criteria can be present in the final product if occurring in the form of impurities. That is needed to make the requirements consistent with the information reported in Table 1 in Annex I to Decision (EU) 2021/1870 and in Table 1 in Annex II to that Decision as regards those sub-criteria.

⁽¹⁾ OJ L 27, 30.1.2010, p. 1.

⁽²⁾ Commission Decision (EU) 2021/1870 of 22 October 2021 establishing the EU Ecolabel criteria for cosmetic products and animal care products (OJ L 379, 26.10.2021, p. 8).

⁽³⁾ 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).

- (6) In order to ensure the correct application of sub-criterion 4(c) in Annex I and of sub-criterion 3(c) in Annex II to Decision (EU) 2021/1870, footnote 12 in Annex I and footnote 10 in Annex II should be corrected to spell out the correct link that applicants of the EU Ecolabel should use.
- (7) In order to clarify the interpretation of the introductory sentence of criterion 5 in Annex I and of criterion 4 in Annex II to Decision (EU) 2021/1870, that introductory sentence should be corrected to spell out that only liquid products need to comply with the requirement on the minimum volume of packaging allowed, as the unit in that sentence already suggests.
- (8) In order to ensure the correct application of sub-criterion 5(d) in Annex I and of sub-criterion 4(d) in Annex II to Decision (EU) 2021/1870, in line with the state-of-the-art of recycling technologies ⁽⁴⁾ and with the discussions held with stakeholders during the EU Ecolabel criteria revision process ⁽⁵⁾, Table 8 in Annex I and Table 7 in Annex II should be amended to specify that polypropylene (PP) labels and polyolefins sleeves used in a PP packaging and polyethylene (PE) labels and PE sleeves used in a high-density polyethylene packaging are allowed in EU Ecolabel products.
- (9) In order to ensure the correct verification of criterion 3 in Annex II to Decision (EU) 2021/1870, the assessment and verification section of that criterion should be corrected to ensure that applicants to the EU Ecolabel submit the Safety Data Sheet (SDS) of the final product, in addition to the SDSs of any substance and mixture in the final product, to prove the compliance with that criterion.
- (10) Decision (EU) 2021/1870 should therefore be amended and corrected accordingly. 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.
- (11) For reasons of legal certainty, a clear date of application of this Decision should be specified,

HAS ADOPTED THIS DECISION:

Article 1

Decision (EU) 2021/1870 is amended and corrected as follows:

Annex I is amended and corrected in accordance with Annex I to this Decision.

Annex II is amended and corrected in accordance with Annex II to this Decision.

Article 2

This Decision is addressed to the Member States.

Article 3

This Decision shall apply from 26 July 2023.

⁽⁴⁾ <https://recyclclass.eu/guidelines/natural-pe-hd-containers-and-tubes/>
<https://recyclclass.eu/guidelines/natural-pp-containers-and-tubes/>

⁽⁵⁾ see Faraca, G., Vidal Abarca Garrido, C., Kaps, R.B., Fernandez Carretero, A. and Wolf, O., Revision of EU Ecolabel Criteria for Cosmetic Products and Animal Care Products (previously Rinse-off Cosmetic Products), EUR 30724 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76-38088-7 (online), doi:10.2760/014175 (online), JRC125388.

Done at Brussels, 25 July 2023.

For the Commission
Virginijus SINKEVIČIUS
Member of the Commission

ANNEX I

Annex I to Decision (EU) 2021/1870 is amended and corrected as follows:

(1) in the framework section, definition 1) is replaced by the following:

‘1) ‘active content’ (AC) means the sum of organic ingoing substances in the product, expressed in grams, calculated on the basis of the complete formulation of the final product, but without the water content of the ingredients and the organic rubbing/abrasive agents;’;

(2) criterion 4, ‘Excluded and restricted substances’, is corrected as follows:

(a) in point (4)(a)(i), the first paragraph is replaced by the following:

‘Unless stated otherwise in Table 5, or exempted in point (4)(a)(iii), the product shall not contain substances at or above the concentration of 0.0100 % weight by weight for rinse-off products and 0.0010% weight by weight for leave-on cosmetics that meet the criteria for classification with the hazard classes, categories and associated hazard statement codes listed in Table 4, in accordance with Regulation (EC) No 1272/2008.’;

(b) in point (4)(b), first paragraph, the words ‘, nor as impurities’ are deleted;

(c) in the Section ‘Assessment and Verification’, the content of footnote 12 is replaced by the following:

‘<https://www.echa.europa.eu/candidate-list-table>’;

(3) criterion 5, ‘Packaging’, is amended and corrected as follows:

(a) the first paragraph is replaced by the following:

‘The minimum volume for a liquid rinse-off product to be certified other than toothpaste shall be 150 ml.’;

(b) in Table 8, second row, second column, the sixth hyphen is replaced by the following:

‘– Any other plastic materials for sleeves/labels with a density < 1 g/cm³ used with a PP or HDPE packaging (except for PP labels and polyolefins sleeves used in combination with a PP packaging or PE labels and PE sleeves used in combination with a HDPE packaging)’.

ANNEX II

Annex II to Decision (EU) 2021/1870 is amended and corrected as follows:

- (1) in the framework section, definition 1) is replaced by the following:
 - '1) 'active content' (AC) means the sum of organic ingoing substances in the product, expressed in grams, calculated on the basis of the complete formulation of the final product, but without the water content of the ingredients and the organic rubbing/abrasive agents;'
 - (2) criterion 3, Excluded and restricted substances, is corrected as follows:
 - (a) point 3(b), first paragraph, is corrected as follows:
 - (i) in the first sentence, the words ', nor as impurities' are deleted;
 - (ii) in the second sentence, the words ', nor as impurities' are deleted;
 - (b) the section 'Assessment and Verification' is corrected as follows:
 - (i) in the second paragraph, point (i) is replaced by the following:

'(i) SDS of the final product and of any substance/mixture and its concentration in the final product';
 - (ii) the content of footnote 10 is replaced by the following:

'<https://www.echa.europa.eu/candidate-list-table>;
 - (3) criterion 4, Packaging, is amended and corrected as follows:
 - (a) the first paragraph is replaced by the following:

'The minimum volume for a liquid animal care product to be certified shall be 150 ml.';
 - (b) in Table 7, second row, second column, the sixth hyphen is replaced by the following:

'– Any other plastic materials for sleeves/labels with a density < 1 g/cm³ used with a PP or HDPE packaging (except for PP labels and polyolefins sleeves used in combination with a PP packaging or PE labels and PE sleeves used in combination with a HDPE packaging)'.
-