

19th September 2019

Public consultation /the proposed restriction on the placing market of intentionally added microplastics

1. Annual reporting about releasing amount to the environment.
 - In order to protect confidential business information (CBI), ECHA should only publish total sums (for example, amount by Member State and different kinds of polymers) and should not publish the individual entries by companies.
 - In order to make the report easily manageable both for ECHA and the reporter (or notifier), only very general polymer classes should be reported, for example, by a pick list of common polymers like PET, PP, PPS, POM, etc. and finally "other". As long as the total amount of "other" is small in comparison to the standard polymers from the pick-list, then there will be no need to investigate further.
 - If ECHA applies the above method, notifiers could use the terminology or category used in suppliers' safety data sheet (section 3). Suppliers could give their customers an indication of which type to pick, if that is not evident from the safety data sheet. (In the case that "other" needs further investigation because the amount is significant, it could be done on the basis of customs tariff codes, which would not be a problem for importers.)
 - Reporting tools like IUCLID or REACH IT should be accepted as existing and popularly used tools. ECHA should clearly specify how and what we should report: Please clarify if ECHA considers tonnage bands to control microplastics release and if companies have to report microplastic releases in specific tonnage bands like the REACH substance registrations.
 - We also foresee possible difficulties of this reporting obligations to be imposed on importers especially on a trader, and therefore ask ECHA to reconsider this scheme and reassess the quality of information to be obtained.

(Justification)

- There are cases in which non-EU manufacturers do not wish to disclose information on the identify of polymers. This would not be the case if an importer did REACH registration of monomers in polymers (microplastics) for its non-EU trade partner. However, in many cases, REACH registration was/is made by Only Representatives for non-EU companies, so that non-EU companies could protect CBI. If there will be reporting obligations in the future,

flexible reporting scheme (ex. Only Representative can fulfil reporting obligation) should be considered in order to ensure innovation and competition in the EU market.

- In case of importers, the reporting obligation on the environmental release would likewise be inappropriate, because in most cases importers would not know how microplastics would be used at their customers or further in the downstream, and it would be huge administrative burden. Or, in some cases, it would disclose CBI to the competitors. Though we do notice that 'any importer or downstream user' should make a report on the use of microplastics, it is uncertain that in reality such counting in the supply chain would be accurate enough; in some cases, use of a microplastic product could be reported in duplicate (both by importer and by downstream user), and in other cases it could not be reported at all (reported by neither of them).

2. Correction of Q&A dated 10th July 2019.

<https://echa.europa.eu/documents/10162/916aaf98-f51b-3df6-a11c-2a514ccd81da>

- Paragraph 7 says any “manufacturer”... responsible for placing on the market of a substance or mixture containing a microplastic derogated from paragraph 1 on the basis of paragraph 4(a) ... shall ensure that the label and or SDS ... provides any relevant instructions... (Labelling and instruction obligation)

Paragraph 8 says any “importer or downstream user” placing a microplastic derogated from paragraph 1 on the market on the basis of 4(b), 5(b) or 5(c) ... shall send to ECHA e) the identity of the polymer, f) a description of the use, and the quantity of the microplastic g) used and h) released to the environment. (Reporting obligation)

It is clear that upstream “manufacturer” of microplastic should owe only the “Labelling and instruction” obligation, not the “Reporting” obligation.

In Q&A the answer to question #6.7 says “...but also where a substance or mixture containing microplastic is processed at an industrial site before being supplied further down in the supply chain either to another industrial site or a customer”.

This is not incongruent with Paragraph 7, and therefore should be deleted.

(Justification)

Both in the paragraph 7 and 8, it is clearly stated the obligation will occur when placing on the market. The “raw materials” usage at “higher up the supply chain”, or “upstream polymer producers' using polymers as their pre-production” should be before placing on the market.

- The following case should be before placing on the market.
 - In case a manufacturer produces resin-A at its own production site, and consumes such resin-A as raw material for producing resin-B at the same industrial site.

- No Reporting obligations occur when a polymer (under the definition of microplastic) is used for own industrial use, which is clear in the paragraph 7, and no obligation is shown in Box 1 chart for “Own industrial use” – Obligation of the EU Manufacturers of substance in the Q&A.

In Q&A, the answer to question #4.5 says “It would therefore apply to industrial end use (e.g. use of coatings containing microplastics at industrial site, or use of pellets to produce articles), but also where a substance or mixture containing microplastics is further processed at an industrial site (e.g. formulation) before being supplied further down in the supply chain either to another industrial site or a consumer.”

This is not incongruent with Paragraph 7, therefore should be deleted.

(Justification)

Both in the paragraph 7 and 8, it is clearly stated the obligation will occur when placing on the market. The “raw materials” usage at “higher up the supply chain”, or “upstream polymer producers’ using polymers as their pre-production” should be before placing on the market.

3. Film” material

Film material, which does not consist of “solid, polymer-containing particle”, should be exempted from the scope of “microplastic” restriction, in the first place.

It should also clearly be stated that the “water soluble” film material, which is a material not consisting of “particles” and which is permanently modified and no longer retains its state and morphology when it’s used in the “water” (irreversible modification), should be exempted from any restriction.

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