

COMMISSION DECISION
of 10 July 2014
concerning the placing on the market for essential use of biocidal products containing copper

(notified under document C(2014) 4611)

(Only the Croatian, English, Greek and Spanish texts are authentic)

(2014/459/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Commission Regulation (EC) No 1451/2007 of 4 December 2007 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market ⁽¹⁾, and in particular Article 5(3) thereof,

Whereas:

- (1) Pursuant to Article 4 of Commission Regulation (EC) No 1896/2000 ⁽²⁾, copper was notified for use in product-type 11, as defined in Annex V to Directive 98/8/EC of the European Parliament and of the Council ⁽³⁾.
- (2) No complete dossier was submitted in support of the inclusion of copper in Annex I, IA or IB to Directive 98/8/EC within any of the relevant deadlines. Pursuant to Commission Decision 2012/78/EU ⁽⁴⁾ read in combination with Article 4(2) of Regulation (EC) No 1451/2007, copper is no longer to be placed on the market for use in product-type 11 as of 1 February 2013.
- (3) Pursuant to Article 5 of Regulation (EC) No 1451/2007, Croatia, Spain, Ireland and Greece have submitted separate applications to the Commission for permission to allow the placing on the market of biocidal products containing copper for a number of uses.
- (4) The Commission made the applications publicly available by electronic means.
- (5) It follows from some of the applications that biocidal products containing copper are used to prevent biofouling in the main water inlet for offshore oil and gas platforms as well as other marine and coastal installations, where that use is essential to avoid blocking the inlet of water used for, inter alia, processing, drinking water and bathing water production, and fire fighting, since blocking that inlet could be fatal for the health and safety of the staff at the installation.
- (6) Furthermore, it follows from some of the applications that biocidal products containing copper are used to prevent biofouling in the main water inlet of ships, where that use is essential to avoid blocking the inlet of water used throughout the entire pipework and waterway system of a ship. This includes the internals of all pipework, such as the fire-suppression system, vital to the safe operation of the ship.
- (7) No comments were received during the public consultation on those applications. The Member States having submitted the applications have argued that, in their territories, it is necessary to have an adequate range of technically and economically feasible alternatives available to prevent biofouling in order to reduce the risk of blocking the main water inlet for offshore installations, other marine and coastal installations, or of ships.
- (8) It therefore appears likely that not allowing the use of copper for preventing biofouling in the water inlet for offshore oil and gas platforms, other marine and coastal installations, or on ships, in those Member States would currently pose a serious risk for public health. In addition, the cost, logistical and practical feasibility of turning off or substituting current copper-based systems on ships may be prohibitive in many cases. If feasible, the substitution may take some time. The requested derogations for essential use are therefore currently necessary.

⁽¹⁾ OJ L 325, 11.12.2007, p. 3.

⁽²⁾ Commission Regulation (EC) No 1896/2000 of 7 September 2000 on the first phase of the programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council on biocidal products (OJ L 228, 8.9.2000, p. 6).

⁽³⁾ Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

⁽⁴⁾ Commission Decision 2012/78/EU of 9 February 2012 concerning the non-inclusion of certain substances in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market (OJ L 38, 11.2.2012, p. 48).

- (9) However, unless a complete application for approval of copper for use in product-type 11 is submitted without undue delay, users of biocidal products containing copper should implement alternative methods for the prevention of biofouling. It is therefore appropriate to require that, in such a case, users in those Member States are actively informed in due time to allow them to ensure that those alternative methods are effective before the biocidal products containing copper have to be withdrawn from the market,

HAS ADOPTED THIS DECISION:

Article 1

1. Subject to the conditions provided for by Article 5(3) of Regulation (EC) No 1451/2007, Croatia, Spain, Ireland and Greece may allow the placing on the market of biocidal products containing copper (EC No 231-159-6; CAS No 7440-50-8) for the uses indicated in the Annex to this Decision.
2. If dossiers for the approval of copper for product-type 11 relevant to those uses have been submitted and validated as complete by the evaluating Member State by 31 December 2014 at the latest, Croatia, Spain, Ireland and Greece may continue allowing that placing on the market until the deadlines provided for in Article 89 of Regulation (EU) No 528/2012 of the European Parliament and of the Council ⁽¹⁾ for cases where a substance is or is not approved.
3. In other cases than those referred to in paragraph 2, Croatia, Spain, Ireland and Greece may continue allowing that placing on the market until 31 December 2017 provided that those Member States ensure, as of 1 January 2015, that users are actively informed about the immediate need to effectively implement alternative methods for the relevant purposes.

Article 2

This Decision is addressed to Ireland, the Hellenic Republic, the Kingdom of Spain and the Republic of Croatia.

Done at Brussels, 10 July 2014.

For the Commission
Janez POTOČNIK
Member of the Commission

⁽¹⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

ANNEX

USES WHICH THE MEMBER STATES LISTED HEREUNDER MAY ALLOW, SUBJECT TO COMPLIANCE WITH THE CONDITIONS OF ARTICLE 1

No	Member State	Product-type 11
1	Croatia	For the prevention of biofouling of the water inlet/pumps and throughout the entire pipework and waterway system of a ship.
2	Spain	For the prevention of biofouling in the water inlet/pumps and throughout the entire pipework and waterway system of offshore oil and gas platforms, and other marine and coastal installations. For the prevention of biofouling of the water inlet/pumps and throughout the entire pipework and waterway system of a ship.
3	Ireland	For the prevention of biofouling in the water inlet/pumps and throughout the entire pipework and waterway system of offshore oil and gas platforms, and other marine and coastal installations. For the prevention of biofouling of the water inlet/pumps and throughout the entire pipework and waterway system of a ship.
4	Greece	For the prevention of biofouling of the water inlet/pumps and throughout the entire pipework and waterway system of a ship.