

**COMMISSION IMPLEMENTING DECISION (EU) 2017/2334**  
**of 14 December 2017**  
**postponing the expiry date of approval of creosote for use in biocidal products of product-type 8**  
**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to 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 <sup>(1)</sup>, and in particular Article 14(5) thereof,

After consulting the Standing Committee on Biocidal Products,

Whereas:

- (1) The active substance creosote was included into Annex I to Directive 98/8/EC of the European Parliament and of the Council <sup>(2)</sup> for use in biocidal products for product-type 8, and pursuant to Article 86 of Regulation (EU) No 528/2012 is therefore considered approved under that Regulation subject to the specifications and conditions set out in Annex I to that Directive.
- (2) The approval of creosote will expire on 30 April 2018. In accordance with Article 13(1) of Regulation (EU) No 528/2012, an application has been submitted for the renewal of the approval of this active substance on 27 October 2016.
- (3) The United Kingdom, as the evaluating competent authority, has informed the Commission services on 14 July 2017 that a full evaluation will have to be performed. A 365-day period is allowed to perform a full evaluation pursuant to Article 14(2) of Regulation (EU) No 528/2012. During this evaluation, the evaluating competent authority may, as appropriate, request the applicant to provide sufficient data to carry out the evaluation, in accordance with Article 8(2) of that Regulation. In such case, the 365-day period is suspended for a period that may not exceed 180 days in total unless it is justified by the nature of the data requested or by exceptional circumstances.
- (4) Within 270 days of receipt of a recommendation from the evaluating competent authority, the European Chemicals Agency ('the Agency') is to prepare and submit to the Commission an opinion on renewal of the approval of the active substance in accordance with Article 14(3) of that Regulation.
- (5) In addition, as creosote is classified as carcinogen category 1B and meets the criteria for being a persistent, bioaccumulative and toxic substance (PBT substance), or a very persistent and very bioaccumulative substance (vPvB substances) (PBT or vPvB) according to Annex XIII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(3)</sup>, it meets the exclusion criteria set out in points (a) and (e) of Article 5(1) of Regulation (EU) No 528/2012. Further examination will therefore be necessary to define whether at least one of the conditions of the first subparagraph of Article 5(2) of that Regulation is fulfilled, and whether the approval of creosote may therefore be renewed.
- (6) Consequently, for reasons beyond the control of the applicant, the approval of creosote is likely to expire before a decision has been taken on its renewal. It is therefore appropriate to postpone the expiry date of approval of creosote for a period of time sufficient to enable the examination of the application. Considering the periods of time allowed for the evaluation by the evaluating competent authority and for the preparation and submission of the opinion by the Agency, and the period of time necessary to decide if at least one of the conditions of the first subparagraph of Article 5(2) of that Regulation is fulfilled and whether the approval of creosote may therefore be renewed, it is appropriate to postpone the expiry date of approval of creosote to 31 October 2020.

<sup>(1)</sup> OJ L 167, 27.6.2012, p. 1.

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

- (7) Except for the expiry date of the approval, creosote should remain approved subject to the specifications and conditions set out in Annex I to Directive 98/8/EC,

HAS ADOPTED THIS DECISION:

*Article 1*

The expiry date of approval of creosote for use in biocidal products of product-type 8 is postponed to 31 October 2020.

*Article 2*

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 14 December 2017.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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