

Commission Implementing Regulation (EU) No 564/2013 of 18 June 2013 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products (Text with EEA relevance)

CHAPTER I

FEES

Article 1

Fees for work in relation to active substances

The Agency shall levy the fees provided for in Table 1 of Annex I for work required by Regulation (EU) No 528/2012 to be carried out in relation to approval and renewal of approval of active substances, as well as inclusion in Annex I to that Regulation.

Article 2

Fees for work in relation to Union authorisation of biocidal products

The Agency shall levy the fees provided for in Table 1 of Annex II for work required by Regulation (EU) No 528/2012 to be carried out in relation to Union authorisation of biocidal products.

Article 3

Other fees

1 The Agency shall levy the fees provided for in Annex III for work required by Regulation (EU) No 528/2012 to be carried out in relation to establishment of technical equivalence, applications for mutual recognition, requests for inclusion in the list of relevant persons, and requests for confidential treatment of information submitted to the Agency.

2 The Agency shall levy the annual fees provided for in Annex III for every biocidal product or biocidal product family authorised by the Union. The annual fee shall be due on the first and each subsequent anniversary of the entry into force of the authorisation. It shall relate to the preceding year.

Article 4

Fees for appeals against a decision of the Agency under Article 77 of Regulation (EU) No 528/2012

1 For any appeal against a decision of the Agency under Article 77 of Regulation (EU) No 528/2012, the Agency shall levy a fee as set out in Annex III.

2 An appeal shall not be considered to be received by the Board of Appeal until the relevant fee has been received by the Agency.

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3 If the appeal is considered inadmissible by the Board of Appeal, the fee shall not be refunded.

4 The Agency shall refund the fee levied in accordance with paragraph 1 if the Executive Director of the Agency rectifies a decision in accordance with Article 93(1) of Regulation (EU) No 1907/2006 of the European Parliament and of the Council⁽¹⁾, or if the appeal is decided in favour of the appellant.

Article 5

Reimbursement possibility for alternatives to approved active substances fulfilling one of the exclusion criteria

1 Upon submission of an application to the Agency for the approval of an active substance, which may be a suitable alternative, within the meaning of the second subparagraph of Article 5(2) of Regulation (EU) No 528/2012, to an approved active substance fulfilling one of the exclusion criteria pursuant to Article 5(1) of that Regulation, an applicant may request reimbursement of the fee to be paid to the Agency.

2 Upon receipt of the opinion from the Agency in accordance with Article 8(4) of Regulation (EU) No 528/2012, which shall also include a recommendation on whether the active substance is a suitable alternative within the meaning of the second subparagraph of Article 5(2) of Regulation (EU) No 528/2012, the Commission shall decide on the request.

3 Where the Commission decides that the active substance is a suitable alternative, the Agency shall inform the applicant thereof and fully reimburse the fee referred to in paragraph 1.

CHAPTER II

SUPPORT FOR SMEs

Article 6

Recognition of SME status

1 Before submission of an application to the Agency for approval, renewal or inclusion in Annex I to Regulation (EU) No 528/2012 of an active substance or for Union authorisation of a biocidal product or biocidal product family, submitted in accordance with Articles 7(1), 13(1), 28(4), 43(1) or 45(1) of that Regulation respectively, containing a claim for SME reduction, the prospective applicant shall submit to the Agency the relevant elements proving entitlement to such reduction by virtue of the status of SME in the meaning of Recommendation 2003/361/EC.

2 In the case of an application for approval, renewal or inclusion of an active substance in Annex I to Regulation (EU) No 528/2012, the question shall be determined by reference to the active substance manufacturer that is represented by the prospective applicant. In case of an application for product authorisation or renewal of product authorisation, the question shall be determined by reference to the prospective authorisation holder.

3 The Agency shall publish a list of the relevant elements to be submitted in accordance with paragraph 1.

4 Within 45 days of receipt of all the relevant elements referred to in paragraph 1, the Agency shall decide what SME status, if any, can be recognised.

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5 A recognition of an enterprise as an SME shall be valid for applications submitted under Regulation (EU) No 528/2012 for two years.

6 An appeal may be brought, in accordance with Article 77 of Regulation (EU) No 528/2012 against a decision taken by the Agency under paragraph 4.

Article 7

Fee Reductions

1 Reductions of fees payable to the Agency as set out in Table 2 of Annex I and Table 2 of Annex II shall be granted to SMEs established in the Union.

2 Reductions for applications for active substance approval, renewal of approval or inclusion in Annex I to Regulation (EU) No 528/2012 shall only be granted when the active substance is not a candidate for substitution.

3 Reductions for applications for biocidal product authorisation or renewal of authorisation shall only be granted when the product does not contain an active substance which is a candidate for substitution.

CHAPTER III

PAYMENTS

Article 8

Mode of payment

1 The fees provided for by this Regulation shall be paid in euro.

2 Payments shall be made only after the Agency has issued an invoice.

3 By derogation from paragraph 2, payments due under Article 4 shall be made at the time of the submission of the appeal.

4 Payments shall be made by means of a transfer to the bank account of the Agency.

Article 9

Identification of the payment

1 Every payment, with the exception of payments referred to in Article 8(3), shall indicate in the reference field the invoice number.

2 Payments referred to in Article 8(3) shall indicate, in the reference field, the identity of the appellant(s) and, if available, the number of the decision that is being appealed against.

3 If the purpose of the payment cannot be established, the Agency shall set a deadline by which the paying party must notify it in writing of the purpose of the payment. If the Agency does not receive a notification of the purpose of the payment before expiry of that deadline, the payment shall be considered invalid and the amount concerned shall be refunded to the paying party.

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Article 10

Date of payment

1 Unless otherwise provided, fees shall be paid within 30 days from the date on which the invoice is notified by the Agency.

2 The date on which the full amount of the payment is deposited in a bank account held by the Agency shall be considered to be the date on which the payment has been made.

3 The payment shall be considered to have been made in time where sufficient documentary evidence is produced to show that the paying party ordered the transfer to the bank account indicated on the invoice before expiry of the relevant deadline. A confirmation of the transfer order issued by a financial institution shall be regarded as sufficient evidence.

Article 11

Insufficient payment

1 A deadline for payment shall be considered to have been observed only if the full amount of the fee has been paid in due time.

2 When an invoice relates to a group of transactions, the Agency may attribute any under-payment to any of the relevant transactions. The criteria for the attribution of payments shall be laid down by the Management Board of the Agency.

Article 12

Refund of amounts paid in excess

1 The arrangements for the refund to the paying party of amounts paid in excess of a fee shall be fixed by the Executive Director of the Agency and published on the website of the Agency.

However, where an amount paid in excess is below EUR 200 and the party concerned has not expressly requested a refund, the amount paid in excess shall not be refunded.

2 It shall not be possible to count any amount paid in excess and not refunded as being made towards future payments to the Agency.

Article 13

Refunds of amounts in case of applications rejected before or during validation or withdrawn during the assessment

1 The Agency shall reimburse 90 % of the fee collected where an application for active substance approval or biocidal product authorisation, submitted in accordance with respectively Article 7(1) or 43(1) of Regulation (EU) No 528/2012, or an application for a minor or major change of a product, is rejected before or during the validation phase.

2 The Agency shall reimburse 75 % of the fee collected where an application for active substance approval or biocidal product authorisation, submitted in accordance with respectively

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Article 7(1) or 43(1) of Regulation (EU) No 528/2012, or an application for a major change of a product, is withdrawn before the evaluating Competent Authority has transmitted its assessment report to the Agency.

The fee collected shall not be reimbursed where an application is withdrawn after the evaluating Competent Authority has transmitted its assessment report to the Agency.

3 The arrangements for the refund of the remaining amount to the paying party shall be fixed by the Executive Director of the Agency and published on the website of the Agency.

CHAPTER IV

FINAL PROVISIONS

Article 14

Reimbursement of rapporteurs

Members of the Biocidal Product Committee acting as rapporteurs shall be reimbursed through the fees paid in accordance with Article 80(2) to the Member States' competent authorities acting as evaluating competent authority.

Article 15

Charges

1 Subject to a favourable opinion from the Commission, the Agency may establish by decision of its Management Board charges for administrative or technical services that it provides in accordance with Regulation (EU) No 528/2012 at the request of a party in order to facilitate its implementation. The Executive Director of the Agency may decide not to levy a charge on international organisations or countries that request assistance from the Agency.

2 The charges shall be set at such a level as to cover the costs of the services delivered by the Agency and shall not exceed what is necessary to cover those costs.

3 The charge shall be paid within 30 calendar days from the date on which the invoice is notified by the Agency.

Article 16

Provisional estimate

The Management Board of the Agency shall, when producing an estimate of the overall expenditure and income for the following financial year in accordance with Article 96(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁽²⁾, include a specific provisional estimate of income from fees and charges from activities entrusted to the Agency in accordance with Regulation (EU) No 528/2012 which is separate from income from any subsidy from the Union.

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Article 17

Review

The Commission shall review the fees and charges provided for in this Regulation annually by reference to the inflation rate as measured by means of the European Index of Consumer Prices as published by Eurostat. A first review shall be carried out at the latest by 1 January 2015.

The Commission shall also keep this Regulation under continual review in the light of significant information becoming available in relation to the underlying assumptions for anticipated income and expenditure of the Agency. At the latest by 1 January 2015, the Commission shall review this Regulation with a view to amend it, if appropriate, taking into account in particular the resources required by the Agency and those required by the competent authorities of the Member States for services of a similar nature. The review shall take into consideration the impacts on the SMEs, and review the fee reduction rates allowable to SMEs where appropriate.

Article 18

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) [OJ L 396, 30.12.2006, p. 1.](#)
- (2) [OJ L 396, 30.12.2006, p. 1.](#)

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)