EUROPEAN
COMMISSION

Brussels, XXX
SANTE/11611/2016 CIS
(POOL/E4/2016/11611/11611-EN
CIS.doc)
[…](2017) XXX draft

COMMISSION IMPLEMENTING REGULATION (EU) …/...

of XXX

renewing the approval of flocoumafen as an active substance for use in biocidal products of product-type 14

(Text with EEA relevance)

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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[1], and in particular Article 14(4)(a) thereof,

Whereas:

(1) The active substance flocoumafen is approved for use in biocidal products of product-type 14 as a rodenticide under Regulation (EU) No 528/2012.

(2) In accordance with Article 13(1) of Regulation (EU) No 528/2012, an application was submitted to the European Chemicals Agency ('the Agency') for the renewal of the approval of that active substance. This application was evaluated by the competent authority of the Netherlands as the evaluating competent authority.

(3) On 26 March 2016, the evaluating competent authority submitted its recommendation on the renewal of the approval of flocoumafen to the Agency.

(4) On 16 June 2016, the opinion of the Agency was formulated by its Biocidal Products Committee[2], having regard to the conclusions of the evaluating competent authority.

(5) According to that opinion, flocoumafen meets the criteria in Regulation (EC) No 1272/2008 of the European Parliament and of the Council[3] to be classified as toxic for reproduction category 1B. The substance also meets the criteria in Regulation (EC) No 1907/2006 of the European Parliament and of the Council[4] for being very persistent, very bioaccumulative and toxic. Flocoumafen therefore meets the exclusion criteria set out in points (c) and (e) of Article 5(1) of Regulation (EU) No 528/2012.

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1 OJ L 167, 27.6.2012, p. 1.

2 https://echa.europa.eu/regulations/biocidal-products-regulation/approval-of-active-substances/bpc-opinions-on-active-substance-approval

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).

4 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).

(6) In addition, the use of products containing flocoumafen raises concerns in relation to instances of primary and secondary poisoning, even where restrictive risk management measures are applied and therefore flocoumafen also satisfies the criterion to be a candidate for substitution in accordance with Article 10(1)(e) of that Regulation.

(7) Pursuant to Article 12 of Regulation (EU) No 528/2012, the approval of active substances meeting the exclusion criteria may only be renewed when at least one of the conditions for derogation set out in Article 5(2) of that Regulation continues to be satisfied.

(8) In accordance with Article 10(3) of Regulation (EU) No 528/2012, the Agency organised a public consultation in order to collect relevant information on flocoumafen, including information on available substitutes.

(9) The Commission also carried out a specific public consultation in order to gather information as to whether the conditions for derogation set out in Article 5(2) of Regulation (EU) No 528/2012 were satisfied. The Commission made the contributions to that consultation publicly available.

(10) The contributions to the two above-mentioned public consultations, as well as the information regarding the availability of alternatives to anticoagulant rodenticides included in Annex 1 to the Commission report on risk mitigation measures for anticoagulant rodenticides[5], were discussed with Member States in the Standing Committee on Biocidal Products.

(11) Rodents can carry pathogen organisms that are responsible for many zoonoses, which can pose serious dangers for human or animal health. Non-chemical controls or prevention methods for rodent control, such as mechanical, electrical or glue traps, may not be sufficiently efficient and may raise further questions as to whether they are humane or whether they cause unnecessary suffering to rodents. Alternative active substances approved for use as rodenticides may not be suitable for all user categories or efficient for all rodent species. As proper rodent control cannot rely on those non-chemical controls or prevention methods only, flocoumafen is considered essential to ensure appropriate rodent control in support of those alternatives. As a consequence the use of flocoumafen would be to prevent or control a serious danger to human and animal health in which rodents are involved. Therefore, the condition set out in Article 5(2)(b) is satisfied.

(12) Rodent control currently relies largely on the use of anticoagulant rodenticides, the non-approval of which could lead to insufficient rodent control. This may not only cause significant negative impacts on human or animal health or the environment, but also affect the public's perception of its safety with regard to exposure to rodents or the security of a number of economic activities that could be vulnerable to rodents, resulting in economic and social consequences. On the other hand, the risks to human health, animal health or the environment arising from use of products containing flocoumafen can be mitigated if they are used according to certain specifications and conditions. Therefore, the non-approval of flocoumafen as an active substance would have a disproportionate negative impact on society in comparison to the risks arising from the use of the substance. The condition set out in Article 5(2)(c) is thus also satisfied.

[5] Risk mitigation measures for anticoagulant rodenticides – Final Report. European Commission (2014), Brussels, Belgium. 100 pp. ISBN 978-92-79-44992-5.

(13) It is therefore appropriate to renew the approval of flocoumafen for use in biocidal products of product-type 14, subject to compliance with certain specifications and conditions.

(14) Flocoumafen is a candidate for substitution in accordance with points (a) and (e) of Article 10(1) of Regulation (EU) No 528/2012 and therefore the period of renewal set out in Article 10(4) of that Regulation should apply.

(15) As the examination of the applications for the renewal of the approval of flocoumafen, brodifacoum and warfarin for use in biocidal products of product-type 14 is now finalised, Implementing Decision (EU) 2016/135[6] is repealed by Implementing Regulation 2017/XXXX [*OJ please insert reference number and publication details of the Implementing Regulation renewing the approval of warfarin as an active substance for use in biocidal products of product-type 14*].

(16) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS REGULATION:

Article 1

The approval of flocoumafen as an active substance for use in biocidal products of product-type 14 is renewed, subject to the specifications and conditions set out in the Annex.

Article 2

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.

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER

[6] Commission Implementing Decision (EU) 2016/135 of 29 January 2016 postponing the expiry date of approval of flocoumafen, brodifacoum and warfarin for use in biocidal products for product-type 14 (OJ L 25, 2.2.2016, p. 65).