EUROPEAN
COMMISSION

Brussels, XXX
SANTE/11865/2017 Rev. 1
(POOL/E4/2017/11865/11865R1-EN.doc)
[…](2017) XXX draft

**COMMISSION IMPLEMENTING REGULATION (EU) …/...**

**of XXX**

**approving PHMB (1415; 4.7) as an existing active substance for use in biocidal products of product-types 2 and 4**

(Text with EEA relevance)

**COMMISSION IMPLEMENTING REGULATION (EU) …/...**

**of XXX**

**approving PHMB (1415; 4.7) as an existing active substance for use in biocidal products of product-types 2 and 4**

(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[1], and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

(1) Commission Delegated Regulation (EU) No 1062/2014[2] establishes a list of existing active substances to be evaluated for their possible approval for use in biocidal products. That list includes PHMB (1415; 4.7).

(2) PHMB (1415; 4.7) has been evaluated for use in products of product-type 2, disinfectants and algaecides not intended for direct application to humans or animals, and product-type 4, food and feed area, as described in Annex V to Regulation (EU) No 528/2012.

(3) France was designated as evaluating competent authority and submitted the assessment reports together with its recommendations on 13 December 2016.

(4) In accordance with Article 7(2) of Delegated Regulation (EU) No 1062/2014, the opinions of the European Chemicals Agency were formulated on 4 October 2017 by the Biocidal Products Committee, having regard to the conclusions of the evaluating competent authority.

(5) According to those opinions, biocidal products of product-types 2 and 4 containing PHMB (1415; 4.7) may be expected to satisfy the criteria of Article 19(1)(b) of Regulation (EU) No 528/2012, provided that certain specifications and conditions concerning their use are complied with.

(6) It is therefore appropriate to approve PHMB (1415; 4.7) for use in biocidal products of product-types 2 and 4, subject to compliance with certain specifications and conditions.

(7) The opinions conclude that PHMB (1415; 4.7) meets the criteria for being a very persistent (vP) and toxic (T) substance in accordance with Annex XIII to Regulation

[1] OJ L 167, 27.6.2012, p. 1.

[2] Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

(EC) No 1907/2006 of the European Parliament and of the Council[3]. PHMB (1415; 4.7) therefore meets the conditions set out in point (d) of Article 10(1) of Regulation (EU) No 528/2012 and should be considered a candidate for substitution.

(8) Pursuant to Article 10(4) of that Regulation, the approval of an active substance that is considered as a candidate for substitution should be for a period not exceeding 7 years.

(9) For the use in product-type 4, the evaluation did not address the incorporation of biocidal products containing PHMB (1415; 4.7) in materials and articles intended to come into contact directly or indirectly with food within the meaning of Article 1(1) of Regulation (EC) No 1935/2004 of the European Parliament and of the Council[4]. Such materials may require the establishment of specific limits on the migration into food, as referred to in Article 5(1)(e) of Regulation (EC) No 1935/2004. The approval should therefore not cover such use unless the Commission has established such limits or it has been established pursuant to that Regulation that such limits are not necessary.

(10) Since PHMB (1415; 4.7) meets the criteria for being very persistent (vP) according to Annex XIII to Regulation (EC) No 1907/2006, treated articles treated with or incorporating PHMB (1415; 4.7) should be appropriately labelled when placed on the market.

(11) A reasonable period should be allowed to elapse before an active substance is approved, in order to permit interested parties to take the preparatory measures necessary to meet the new requirements.

(12) 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*

PHMB (1415; 4.7) is approved as an active substance for use in biocidal products of product-types 2 and 4, 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.

[3] 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).

[4] Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

Done at Brussels,

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