

**COMMISSION IMPLEMENTING DECISION (EU) 2021/107****of 28 January 2021****concerning the extension of the action taken by the Swedish Chemicals Agency permitting the making available on the market and use of the biocidal product Biobor JF in accordance with Article 55(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2021) 401)***(Only the Swedish text is authentic)**

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 55(1), third subparagraph, thereof,

Whereas:

- (1) On 4 May 2020 the Swedish Chemicals Agency ('the competent authority') adopted a decision in accordance with Article 55(1) first subparagraph of Regulation (EU) No 528/2012 to permit the making available on the market and use of the biocidal product Biobor JF for the antimicrobial treatment of fuel tanks and fuel systems of aircraft until 30 October 2020 ('the action'). The competent authority informed the Commission and the competent authorities of the other Member States about the action and the justification for it, in accordance with Article 55(1), second subparagraph, of that Regulation.
- (2) According to the information provided by the competent authority, the action was necessary in order to protect public health. The microbiological contamination of aircraft fuel tanks and fuel systems can lead to malfunctions of the aircraft engine and endanger its airworthiness, thus endangering the safety of passengers and crew. The Covid-19 pandemic and the ensuing flight restrictions led to numerous aircraft being temporarily parked. The immobility of aircraft is an aggravating factor of microbiological contamination.
- (3) Biobor JF contains 2,2'-(1-methyltrimethylenedioxy)bis-(4-methyl-1,3,2-dioxaborinane) (CAS number 2665-13-6) and 2,2'-oxybis (4,4,6-trimethyl-1,3,2-dioxaborinane) (CAS number 14697-50-8), active substances for use in biocidal products of product-type 6 as preservatives for products during storage as defined in Annex V to Regulation (EU) No 528/2012. As those active substances are not listed in Annex II to Commission Delegated Regulation (EU) No 1062/2014 <sup>(2)</sup>, they are not included in the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012. Article 89 of that Regulation therefore does not apply to them and they have to be assessed and approved before biocidal products containing them can be authorised also at national level.
- (4) On 8 October 2020, the Commission received a reasoned request from the competent authority to extend the action in accordance with Article 55(1), third subparagraph, of Regulation (EU) No 528/2012. The reasoned request was made on the basis of concerns that air transport safety might continue to be endangered by microbiological contamination of aircraft fuel tanks and fuel systems after 30 October 2020 and the argument that Biobor JF is essential in order to control such microbiological contamination.
- (5) According to the information provided by the competent authority, the only alternative biocidal product recommended by aircraft and engine manufacturers for the treatment of microbiological contamination (Kathon™ FP 1.5) was withdrawn from the market in March 2020 due to severe engine behaviour anomalies noticed after the treatment with that product.

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

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

- (6) As indicated by the competent authority, the alternative procedure for treating an existing microbiological contamination is manual removal in-tank, following defueling and purging of the aircraft. Those operations would have to be carried out regularly, together with microbiological testing of purged samples. The manual cleaning of contaminated tanks would expose workers to toxic gases and is unacceptable on that basis. Furthermore, the procedures would also be disproportionately burdensome, since it is still unclear when the need to keep aircraft parked for extended periods will come to an end.
- (7) According to the information provided by the competent authority, the manufacturer of Biobor JF has taken steps towards the regular authorisation of the product and an application for approval of the active substances it contains is expected to be submitted in the near future. The approval of the active substances and subsequent authorisation of the biocidal product would be a permanent solution for the future, but a significant amount of time will be needed for the completion of these procedures.
- (8) As the lack of control of microbiological contamination of aircraft fuel tanks and fuels systems might endanger the air transport safety and that danger cannot be adequately contained by using another biocidal product or by other means, it is appropriate to allow the competent authority to extend the action.
- (9) Considering that the action has expired on 30 October 2020, this Decision should have retroactive effect.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

*Article 1*

The Swedish Chemicals Agency may extend the action to permit the making available on the market and use of the biocidal product Biobor JF for the antimicrobial treatment of fuel tanks and fuel systems of aircraft until 4 May 2022.

*Article 2*

This Decision is addressed to the Swedish Chemicals Agency.

It shall apply from 31 October 2020.

Done at Brussels, 28 January 2021.

*For the Commission*  
Stella KYRIAKIDES  
*Member of the Commission*

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