EUROPEAN
COMMISSION

Brussels, 13.9.2022
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COMMISSION IMPLEMENTING DECISION

of 13.9.2022

granting an authorisation under Regulation (EC) No 1907/2006 of the European Parliament and of the Council to Pfizer Manufacturing Belgium NV for a use of 4-(1,1,3,3-tetramethylbutyl)phenol, ethoxylated (4-tert-OPnEO)

(Only the English text is authentic)

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THE EUROPEAN COMMISSION,

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

Having regard to 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[1], and in particular Article 64(8) thereof,

Whereas:

(1) 4-(1,1,3,3-tetramethylbutyl)phenol, ethoxylated ('4-tert-OPnEO') is listed in Annex XIV to Regulation (EC) No 1907/2006 and uses of that substance are subject to the authorisation requirement in Article 56(1), point (a), of that Regulation.

(2) On 4 July 2019, Pfizer Manufacturing Belgium NV ('the applicant') submitted an application in accordance with Article 62 of Regulation (EC) No 1907/2006 for authorisation for a use of 4-tert-OPnEO. The use for which authorisation was sought is as a surfactant within a lubricant used in the manufacture of pharmaceutical drug products.

(3) On 28 September 2020, the Commission received the opinion on the application adopted by the Committee for Risk Assessment (RAC) and by the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency[2] and sent to it pursuant to Article 64(5), second subparagraph, of Regulation (EC) No 1907/2006.

(4) RAC concluded in its opinion that it is not possible to determine a predicted no-effect concentration for the endocrine disrupting properties for the environment of 4-tert-OPnEO in accordance with Section 6.4 of Annex I to Regulation (EC) No 1907/2006, and that therefore 4-tert-OPnEO is a substance for which it is not possible to determine a threshold for the purposes of Article 60(3), point (a), of that Regulation. As a result, Article 60(2) of Regulation (EC) No 1907/2006 does not apply to that substance and

[1] OJ L 396, 30.12.2006, p.1.

[2] https://echa.europa.eu/documents/10162/4d3bdbdd-0475-6311-d588-ba5ad873b940

authorisations may therefore only be granted with respect to that substance under paragraph 4 of that Article.

(5) RAC noted that the risk to the environment cannot be excluded for non-threshold substances, even at low exposure levels. Consequently, RAC takes the emissions of the substance as a proxy for the risk.

(6) In its opinion, RAC concluded that the risk management measures and operational conditions described in the application are not appropriate and effective to limit the risk to the environment. In particular, RAC noted the absence of collection of the wastewater containing 4-tert-OPnEO from the process and cleaning activities and the absence of solid evidence on the fate of 4-tert-OPnEO in the on-site wastewater treatment plant and in the exhaust air of the depyrogenation tunnel. Therefore, in order to ensure the effectiveness of the risk management measures and operational conditions, provide information on the trends in releases over the authorisation period and confirm that releases are reduced to as low a level as is technically and practically possible, RAC recommended monitoring programmes for wastewater and, if possible, for emissions to air. Having evaluated RAC's assessment, the Commission agrees with its conclusion and recommendations.

(7) In its opinion, SEAC concluded that it has no substantial reservations on the quantitative and the qualitative elements of the applicant's assessment of the socio-economic benefits and the risk to the environment associated with the continued use of the substance. Taking into account SEAC's assessment, the lack of scientific knowledge at present to quantify or monetise the risk to the environment associated with the use of the substance, the estimated remaining emissions of up to a few hundreds of grams of the substance per year, the estimated benefits due to avoided profit losses and avoided job losses at a minimum in the order of tens of millions of euros over the entire review period, the estimated cost of avoiding the remaining releases of the substance in the order of tens of millions of euros per kilogram, and the qualitatively assessed additional socio-economic benefits of the continued use due to the availability of a drug product used to treat growth disorders, as well as any relevant distributional impact, the Commission concludes that the applicant has demonstrated that the socio-economic benefits of the continued use of the substance outweigh the risk to human health and the environment arising from that use.

(8) A suitable alternative should be safer, available, and technically and economically feasible. Where suitable alternatives are available in the Union, but not technically or economically feasible for the applicant or its downstream users, an authorisation may be granted if the applicant for authorisation submits a substitution plan. An alternative that provides the functionality and level of technical performance necessary for the use applied for should be considered to be technically feasible.

(9) In its opinion, SEAC concluded that there were no suitable alternative substances or technologies available for the applicant by the sunset date. The Commission, having evaluated SEAC's assessment and all relevant information available, acknowledges that the identified alternative meets the process functionality requirements and is already implemented by the applicant at the same production site for siliconisation of cartridges for seven other pharmaceutical products, but that the applicant still needs process validation and stability testing in order to obtain the required regulatory approvals for the

marketing of a specific medicinal product. The Commission therefore considers that it cannot be confirmed yet that the identified alternative, which is already available and implemented, allows the functionality needed for the use applied for. Therefore, the Commission agrees with SEAC's conclusion that there are no suitable alternatives for the applicant for the use applied for, but concludes that suitable alternatives are available in the Union.

(10) In its opinion, SEAC concluded that the substitution plan submitted by the applicant is credible and consistent with the analysis of alternatives and the socio-economic analysis. The Commission, having evaluated SEAC's assessment, concurs with that conclusion. Therefore, the Commission considers that the applicant has discharged its burden of proof in demonstrating the absence of suitable alternative substances or technologies for the applicant.

(11) Therefore, having regard to the conditions laid down in Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the use of 4-tert-OPnEO described in the application, provided that the risk management measures and operational conditions described in the chemical safety report as well as the conditions set out in this Decision are fully applied.

(12) The Commission has based its assessment on all relevant scientific evidence currently available, as assessed by RAC and SEAC, and, after having carried out a detailed examination, based its conclusions on a sufficient amount of material and reliable information allowing it to conclude. Nevertheless, additional scientific evidence would allow the Commission to perform its assessment on a more robust or broad evidentiary base in the future. Hence, it is appropriate to require additional emission information be generated.

(13) SEAC recommended in its opinion that the review period referred to in Article 60(9), point (e), of Regulation (EC) No 1907/2006 should be set at nine years. The Commission agrees with that recommendation, taking into account the relevant elements from RAC's and SEAC's assessments, and, in particular, the low emissions, the socio-economic benefits, and the regulatory approvals required for major changes to the manufacturing process for medicinal products.

(14) The language used to describe the risk management measures and operational conditions in the application for authorisation may be different from the official language of the Member State where the use takes place. Therefore, in order to facilitate supervision and enforcement of compliance with the authorisation, it is appropriate to require the authorisation holder to submit, upon request, a brief summary of those risk management measures and operational conditions to the competent authority of that Member State in an official language of that Member State.

(15) This Decision does not affect the obligation of the authorisation holder to ensure that a use of a substance does not adversely affect human health or the environment, having regard to the principle set out in Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, this Decision does not affect the obligation of the authorisation holder under Article 60(10) of that Regulation to ensure that the exposure is reduced to as low a level as is technically and practically possible or the obligation of the employer to eliminate or

reduce to a minimum risks to the health and safety of workers at work involving hazardous chemical agents in accordance with Article 5(2) of Council Directive 98/24/EC[3]. This Decision does not affect the application of Union law in the area of health and safety at work, in particular Council Directives 89/391/EEC[4], 92/85/EEC[5], 94/33/EC[6], and 98/24/EC, or any national binding occupational limit values which may be stricter than the applicable limit values under Union law.

(16) This Decision does not affect any obligation to comply with emission limit values or other requirements set in accordance with Directive 2008/50/EC of the European Parliament and of the Council[7] or Directive 2010/75/EU of the European Parliament and of the Council[8], nor any obligation to comply with emission limit values set to achieve compliance with the environmental quality standards established by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council[9] or the environmental quality standards established in Directive 2008/105/EC of the European Parliament and of the Council[10]. Compliance with the provisions of this Decision does not necessarily imply compliance with emission limit values or environmental quality standards under any other provisions of Union law, which may include further or more onerous requirements.

(17) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

Article 1

An authorisation is hereby granted in accordance with Article 60(4) of Regulation (EC) No 1907/2006 for the following use of 4-(1,1,3,3-tetramethylbutyl)phenol, ethoxylated (4-tert-OPnEO):

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3 Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

4 Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

5 Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, p. 1).

6 Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12).

7 Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

8 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

9 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

10 Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

Authorisation number	Authorised use
REACH/22/27/0	As a surfactant within a lubricant used in the manufacture of pharmaceutical drug products

The authorisation is granted subject to the risk management measures and operational conditions described in the chemical safety report[11], as well as to the conditions set out in Article 2.

Article 2

1. The authorisation shall be subject to the conditions set out in paragraphs 2 to 7.
2. The authorisation holder shall carry out a monitoring programme measuring the concentration of 4-tert-OPnEO and its principal degradation products in the wastewater entering the on-site treatment plant and prior to release to the natural brook.
3. The authorisation holder shall carry out a monitoring programme measuring the concentration of 4-tert-OPnEO and its principal degradation products in the air originating from the depyrogenation tunnel.
4. The monitoring programmes referred to in paragraphs 2 and 3 shall:
   (a) be carried out when manufacturing occurs and while the plant is in operation. The frequency of the measurements shall be such as to capture variability in the concentrations of the substance and its principal degradation products in the wastewater and in the air due to changes or operational fluctuations in the process;
   (b) be based on an analytical method capable of adequately characterising the substance and its principal degradation products in wastewater and in the air with appropriately low limit of quantification;
   (c) be recorded as to include details of the sampling point, the analytical method, the concentrations detected and the corresponding environmental release values.
5. The authorisation holder shall use the information gathered in the measurements referred to in paragraphs 2 to 4 and related contextual information to review, at least annually, the appropriateness and effectiveness of the risk management measures and operational conditions and, if needed, to introduce measures to further reduce emissions of 4-tert-OPnEO to a level as low as technically and practically possible.
6. The authorisation holder shall carry out for the first time by 13 September 2023 and afterwards when new information becomes available, a study to assess the feasibility to implement additional risk management measures and operational conditions in order to further reduce the emissions of 4-tert-OPnEO to air and water, and subsequently act on the outcome of that study.

[11] https://ec.europa.eu/docsroom/documents/43212

7. The authorisation holder shall document and keep the information gathered from the monitoring programmes referred to in paragraphs 2 to 4, as well as the outcome and conclusions of the review, the feasibility study and of any action taken in accordance with paragraphs 5 and 6 and submit it, upon request, to the competent authority of the Member State where the authorised use takes place.

Article 3

1. The review period shall expire on 4 January 2030.

2. The authorisation shall cease to be valid on 4 January 2030 if the review report has not been submitted in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 4 July 2028.

Article 4

Where the authorisation holder submits a review report, it shall include the information referred to in Article 2(7).

Article 5

Upon request, the authorisation holder shall submit a brief summary of the applicable risk management measures and operational conditions described in the chemical safety report to the competent authority of the Member State where the authorised use takes place in an official language of that Member State.

Article 6

This Decision is addressed to Pfizer Manufacturing Belgium NV, Rijksweg 12, 2870 Puurs, Belgium.

Done at Brussels, 13.9.2022

For the Commission
Thierry BRETON
Member of the Commission