



Request for an ECHA opinion - Mandate

"Eligibility of certain food and feed active substance for inclusion into Annex I to the BPR"

1. Background

- (1) Article 28(1) of Regulation (EU) No 528/2012 (the BPR) empowers the Commission to adopt delegated acts in order to include active substances into Annex I to the BPR after receiving the opinion of ECHA, provided that there is evidence that they do not give rise to concern according to the conditions set out in Article 28(2).
- (2) Under Article 15(b), Regulation (EU) No 1062/2014 (the Review Regulation) provided companies with an opportunity to support those active substances that benefitted from the food and feed derogation provided for by Article 6 of Regulation (EC) No 1451/2007. A declaration of interest to notify had to be submitted to ECHA by 30 October 2015. ECHA finalised the review of these declarations last year and concluded on their acceptability or refusal, which has been communicated to the related submitters. These conclusions have been made publicly available on the ECHA website on the accepted ones¹.
- (3) During its assessment of the declarations of interest to notify, ECHA was able to identify active substances that might be suitable candidates for inclusion into Annex I to the BPR, as they would not give rise to concern in accordance with Article 28(2) of the BPR. The concerned substances are food and feed used as attractant or repellent active substances like honey, fructose or malt extract. For these active substances, notifications must be submitted to ECHA by future participants by 24 February 2017.
- (4) At the 66th meeting of representatives of Member States Competent Authorities for the implementation of Regulation (EU) No 528/2012 of September 2016, a discussion took place with member States to define the best approach to take on these substances to alleviate as much as possible the administrative burden for all parties, looking at the nature of these substances².

¹ https://echa.europa.eu/view-article/-/journal_content/title/notify-the-use-of-food-and-feed-as-repellents-or-attractants

² [CA-Sept16-Doc.5.3 - Proposal for food&feed under Art 15\(b\) of RR.doc](#)

- (5) During that meeting, it was agreed that the Commission will request a formal opinion to ECHA on the matter, in order to be able to proceed with their inclusion into Annex I to the BPR.
- (6) Pursuant to Article 75(1)(g) of Regulation (EU) No 528/2012, ECHA is requested to formulate an opinion addressing the following questions.

2. The questions referred to ECHA

- (7) Taking into consideration this background information, pursuant to Article 75(1)(g) of the BPR, ECHA is requested to formulate an opinion on the following questions, for each food of feed active substances for which ECHA accepted a declaration of interest to notify :
 - (a) Does the active substance give rise to concern in accordance with Article 28(2) of the BPR, and is it eligible for inclusion into Annex I?
 - (b) If the substance is eligible for inclusion into Annex I, is the active substance of natural origin?
 - (c) If the substance is eligible for inclusion into Annex I, is the active substance authorised as food additives according to Regulation (EC) N°1333/2008?

Elements that will be provided by ECHA to answer questions b and c will be useful to decide in which category the active substance may be included in Annex I, as such type of substances could be good candidates to be listed in category 1, 4 or 7.

3. Elements to be considered by ECHA when addressing those questions

- (8) When addressing these questions, it will be important that ECHA provides appropriate identifiers (name of the active substance, EC number, CAS number, or other appropriate identifier), as much as possible, so that it is clear which active substances will be listed into Annex I, and therefore which active substances can companies use in their biocidal products.
- (9) To define if the active substance gives rise to concern, ECHA shall use any information available in the declarations of interest to notify, information submitted in notifications by companies, the Classification and Labelling Inventory, other bibliographic information easily accessible to ECHA, and its expert judgement. Considering the nature of the active substances in question (ie. food and feed active substances), it is not expected that ECHA performs extensive searches beyond these information. ECHA has nevertheless to be confident in the conclusions when delivering its opinion.

4. Deadline for the ECHA opinion

31 October 2017