**General comments and answers to specific information requests**

**Specific information requests:**

1. Which substances among the nine listed in Entry 31 of REACH Annex XVII have been used in the EU to treat wood in the last decades <https://echa.europa.eu/documents/10162/a27e80a3-3798-3c76-01a0-32357cc09f6f> )? In which country? Please provide all available information, including examples of uses, and indicate when the use has taken place.
2. Creosote-treated wood (railway sleepers and transmission poles for telecommunication/electricity) can be reused for the same purpose as the original use (e.g. sleepers can be reused as sleepers). Are you aware of reuse of creosote-treated wood in your country or in other countries? Please also include information on the volume of reuse in specific countries and its expected future development.
3. Secondary use of creosote-treated wood can also take place in some countries (e.g. railway sleepers used for other purposes, such as agricultural fencing or residential landscaping). Is creosote-treated wood currently available in your country for secondary uses by consumers and/or professionals? Please provide examples of known secondary uses in your country. Where possible, please include any available information on their volume and indicate if information about the year/date the wood had been treated with creosote is usually available at the point of sale.
4. What is the volume of imports, in your country, of creosote treated wood (as railway sleepers and transmission poles) from other EU and non-EU countries? What is the volume of exports to other EU and non-EU countries? If possible, indicate how those volumes are expected to develop in the future.
5. Is imported creosote-treated wood being classified as hazardous waste in your country?
6. Please provide qualitative or quantitative information about the expected socio-economic impacts of the restriction proposal for the private/touristic railway networks, NRIMs (National Railway Infrastructure Managers) and other actors in the EU or at national level. This could include information on, for example: 1) installation and maintenance costs of different types of railway sleepers, 2) additional costs besides installation and maintenance costs, 3) indirect impacts from substitution and resulting extra costs (e.g. freight traffic ending on some sidings), 4) affordability and economic feasibility of substituting reused creosote-treated wooden sleepers with alternatives.
7. Chemical alternatives to creosote as well as alternative materials such as concrete, steel or plastic have been identified by the Biocidal Product Committee, (BPC) as potential alternatives to creosote-treated railway sleepers and transmission poles (<https://echa.europa.eu/documents/10162/fc41edcf-3732-2ba9-6a14-0fb9b423fd6c>). However, BPC also concluded that additional time is needed to enable the necessary progress on the availability and technical applicability of these alternatives. Please provide any additional information on the availability and costs of alternatives to a) reuse of creosote-treated railway sleepers and transmission poles, and b) secondary use of creosote-treated railway sleepers and transmission poles.

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| Ref. | | Date/Type/Org. | Comments |
| 3726 | | Date:  2023/01/12 16:57  Type:  MemberState  Country:  Sweden  Attachment: | General Comments:  Please, see the attachment. |
| 3753 | | Date:  2023/01/24 23:59  Content:  Scope or restriction option analysis  Type:  BehalfOfAnOrganisation  Org. type:  National NGO  Org. name:  UNECTO - UNION NATIONALE DES CHEMINS DE FER TOURISTIQUES  Org. country:  France | Answer to specific info request 2:  creosote-treated wood for railway sleepers from the national railway can be reused as secondary use for the same purpose as the original use on all tracks of the railway network inctuding all secondary lines of touristic railway networks with no restriction. |
| Answer to specific info request 6:  socio-economic interest is major for the touristic railway networks. The second use of wood sleepers allows to maintain the secondary lines operated by little structures often managed be volunteers 1) From the economic point of view, secondary use of wood sleepers from the national railway on the touristic railways is the cheapest way for maintaining theses lines with reasonable cost. 2) Reusing wood sleepers costs 3 to 5 € only for transport instead of buying new sleepers which can cost up to 30 -35 € each. In the same way this reuse save the cost of destruction and preserve the forest. 3) As these sleepers are considered as waste, the tractability should be guaranteed for the complete life cycle by all the operators as professional users. 4) The annual second use of wood sleepers is a quite a little quantity : +/- 20 000 |
| 3767 | | Date:  2023/01/25 11:49  Content:  Scope or restriction option analysis  Hazard or exposure  Environmental emissions  Type:  BehalfOfAnOrganisation  Org. type:  Industry or trade association  Org. name:  Coal Chemicals Europe, a Cefic Sector Group  Org. country:  Belgium  Attachment: | Answer to specific info request 1:  Creosote, the wood preservative with CAS No 8001-58-9 (EC-No 232-287-5), is the only substance in the restriction proposal legally allowed to be used for wood treatment in Europe. However, REACH Annex XVII Entry 31 and the current restriction proposal lists eight additional substances . CCE members argue that these eight substances should be removed from the restriction proposal and from REACH Annex XVII. The restriction target can be achieved in a more efficient manner as explained in our submission (see attached document). |
| 3797 | | Date:  2023/01/25 20:29  Content:  Scope or restriction option analysis  Information on benefits  Other socio economic analysis (SEA) issues  Type:  BehalfOfAnOrganisation  Org. type:  Industry or trade association  Org. name:  SNCF Reseau  Org. country:  France | General Comments:  SNCF RESEAU, the French rail network manager, is fundamentally committed to the ecological transition. Our investment programme makes us a major economic player in the French regions. Our action aims, among other things, to reduce our ecological footprint and to integrate the principles of the circular economy into our industrial processes on a national scale and in the heart of the French territories.  Wooden sleepers are a bio-sourced product that we want to support. We are recognized for our involvement in the research of new creosote substitutes. We are planning our exit from creosote.  Nevertheless, we will have to deal with creosote-treated sleepers for a long time to come. To do this we have 2 levers: . prolonging their railway life through reuse . find the best energy recovery to contribute to the decarbonisation of the territories  We deposit between 600 and 700,000 sleepers per year. The potential of re-usable sleepers for railway purposes is estimated at around 80,000 pieces, of which 50,000 pieces are re-used for our maintenance needs on the network. We still have a potential of 30,000 that could be used for tourist networks, autonomous ports and industrial with rail connections. For these last entities, whose economy is sometimes fragile, the investment budget for new sleepers would be equivalent to €1.2 million. Those 30,000 sleepers are currently burned.  In order to respect the principles of circular economies and the prioritisation of waste management, to support territorial economic dynamics, to favour rail transport and to preserve regional planning,  we are not in favour of a restriction on the re-use of sleepers solely on behalf of their owners.  On the other hand, concerning the secondary uses, we understand the proposed restrictions to avoid a dispersion of products to non informed people. However, this provision cuts us off from reuse on our own account and on our own properties, for example in the support of embankments.  For reasons of circular economy, we request an exemption for the in-house re-use of our sleepers |
| Answer to specific info request 3:  Since France banned the secondary use of treated sleepers we are losing €7m/year. |
| Answer to specific info request 6:  we surely have information on those topics but I don't understand the questions |
| Answer to specific info request 7:  a) purchase of new sleepers 40€/u for the most common ones b) it depends on the use considered: from pine fencing to concrete retaining walls for example. |
| 3819 | | Date:  2023/03/01 15:34  Type:  BehalfOfAnOrganisation  Org. type:  Company  Org. name:  DB Netz AG  Org. country:  Germany | Answer to specific info request 1:  Kreosot zur Behandlung von Holzschwellen. (WEI C). |
| Answer to specific info request 2:  Ausgebaute, mit Kreosot behandelte Holzschwellen werden bei der DB Netz AG nicht wieder verwendet. Solche Schwellen werden entsorgt. (Thermische Verwertung). |
| Answer to specific info request 3:  Es gibt keine sekundäre Verwendung von mit Kreosot getränkten Holzschwellen. |
| Answer to specific info request 4:  Mit Kreosot behandelte Holzschwellen werden nicht eingeführt. Die DB Netz AG imprägniert Rohholzschwellen selbst. |
| Answer to specific info request 5:  Es wird kein mit Kreosot behandeltes Holz für die DB Netz AG importiert (Siehe auch Frage 4). |
| Answer to specific info request 6:  Aus unserer Sicht hat der Beschränkungsvorschlag keinen Einfluss auf die aktuelle Einbausituation von mit Kreosot imprägnierten Holzschwellen und somit keine sozioökonomische Auswirkung auf die DB Netz AG. |
| 3823 | | Date:  2023/03/15 14:59  Content:  Scope or restriction option analysis  Type:  MemberState  Country:  Norway | General Comments:  We would like to thank France for this restriction proposal and for the opportunity to comment it. We support the restriction and agree that it is necessary to restrict the use, re-use and secondary use of creosote treated wood. We welcome a stricter and clearer regulation of these products as it has been difficult to give good advice to both professionals and the general public concerning the legality of using creosote treated wood. We have already sent in information to France concerning reuse and secondary use of creosote treated wood in Norway, when France sent out a questionnaire concerning this in 2021. We therefore do not have any new information on this now. We do, however, have some comments to the restriction proposal which mainly have to do with the scope and the wording of the proposed amended entry 31 in annex XVII to the REACH regulation.  In bullet point 2 of the amended text it is stated: "Wood treated with such substances and placed on the market in accordance with paragraph 1:..". We propose to delete the last part of the sentence ("in accordance with paragraph 1") since this would mean that only wood treated with creosote in accordance with the BPR would be restricted. Other wood, treated with creosote but not in accordance with the BPR, would be outside the scope of the restriction. This would be a problem for wood treated before 2003 for example.  In bullet point 2: the expressions "reuse" and "secondary use" are used. These are well defined and explained in the proposal but may need explanation in the legal text also.  In bullet point 3 it is stated ".. same original user." We are wondering whether that is quite clear and unequivocal? Other places in the proposal other expressions are used, such as "..same economic actor" or "natural or legal person".  In bullet point 5 we propose to insert a specific date for when the restriction is adopted. The wording would then be for instance "The restriction shall apply from xx.xx.202x." instead of "the restriction shall apply 12 months after its entry into force." |
| Answer to specific info request 5:  Yes, creosote-treated wood is classified as hazardous waste in Norway. |
| 3948 | Date:  2023/04/27 12:13  Content:  Scope or restriction option analysis  Hazard or exposure  Type:  Member State  Country:  Germany  Attachment: | | DE CA comments to Annex XV restriction proposal with regard to creosote  General comments:  The DE CA thanks the FR CA for the restriction proposal and would like to comment four aspects: 1. Streamlining of BPR and REACH as proposed in the Annex XV dossier 2. No secondary use and second-hand market of creosote-treated wood including wood treated before December 2002 3. Provisions concerning classification of creosote treated wood as waste 4. Residue assessment  1. Streamlining of BPR and REACH as proposed in the Annex XV  The DE CA appreciates and supports the aim of the restriction proposal of the FR CA to streamline the legal provisions of the BPR and REACH concerning treated articles i.e. creosote treated wood. The dossier describes the intention to limit marketing of creosote treated wood for reuse to countries where biocidal uses have been approved.  In the view of the DE CA, the streamlining of BPR and REACH however does need some further specification for clarification in order to achieve that goal. The proposed restriction option 2 (RO2) in Table 1 focusses on the placing on the market of creosote treated wood, reuse and secondary use and the second-hand market. The suggested wording of the legal text in paragraph 1 of RO2 links explicitly to the provisions and derogations of the BPR. Therefore, streamlining is not complete and a regulatory gap remains leaving a loophole for a primary use of creosote treated wood. The BPR regulates the approval of the active substance creosote and the authorisation of biocidal products containing creosote. The authorisations of creosote biocidal products determine which kind of creosote treated wood may be produced in an EU member state. The BPR explicitly allows the regulation of making available on the market and the use of biocidal products - but not treated articles. This is only possible in the context of a restriction under REACH.  Within the recent re-approval of the active substance creosote it is intended to regulate the placing on the market of creosote treated wood which is an treated article. The further supply along the supply chain - defined in the BPR as "making available on the market" - is not regulated. This is also not possible, as the regulations of the BPR concerning treated articles, i.e. for creosote treated wood in that case, can explicitly only regulate the placing on the market. This follows from Art. 58(2) of the BPR.  Art. 58 of the BPR allows setting label requirements for the treated wood that usually need to be elaborated at the substance approval level. This was done in the frame of the re-approval of creosote. The ECHA-List (Lists of Member States where wood treated with creosote may be placed on the market for certain uses in accordance with Commission Implementing Regulation (EU) 2022/1950) defines in which member states creosote treated wood can be placed on the market as railway sleeper and/or as utility poles for electricity or telecommunication.  In concrete terms, the following situation arises against the background of the re-approval of creosote under the BPR and the proposed legal text of the Annex XV dossier: a regulatory gap remains (see Figure 1 in attachment “2023-04-27\_DE CA\_comments\_PC\_Figure\_1.docx”) which would need further specification or clarification in the suggested legal text in order to streamline BPR and REACH as intended in the Annex XV dossier: Member state 1 (MS1) indicated on the ECHA list that creosote treated wood is still required in its territory for railway sleepers. Creosote based biocidal products to produce railway sleepers have been authorised in MS1. Creosote treated railway sleepers can be produced and placed on the market in MS1 in line with the legal provisions of the BPR and the re-approval of creosote. Member state 2 (MS2) indicated on the ECHA list that creosote treated wood is required in its territory for utility poles. Creosote based biocidal products to produce creosote treated utility poles have been authorised in MS2. Creosote treated utility poles can be produced and placed on the market in MS2 in line with the legal provisions of the BPR and the re-approval of creosote. However, a company from MS2 might still buy creosote treated railway sleepers from MS1 and transport them to MS2. The “supplying or making available” occurs within the territory of MS1. As the European Economic Area is an internal market, the transport from MS1 to MS2 would not be considered an import. The company from MS2 may use the creosote treated railway sleepers within the territory of MS2 for example to construct a new railroad line. This primary (biocidal) use of treated railway sleepers within the territory of MS2 is neither restricted by the BPR or the ECHA list, nor by the proposed restriction option nor the existing restriction entry No.31 in Annex XVII of the REACH regulation.  In the understanding of the DE CA, the ECHA list aims to restrict directly the placing on the market of wood treated with creosote but restrict the use of creosote treated wood to the national territory of that MS. To achieve this goal and the intention of the restriction proposal, the primary use of creosote treated wood needs to be addressed/restricted as well in the proposed REACH restriction.  In any case, a specification is necessary to make the (subsequent) placing on the market of creosote treated wood for use on the "first market" in a member state dependent on the member state allowing the use of creosote containing biocidal products for wood treatment for this use. In this respect, the regulations from the re-approval of creosote would only have to be mirrored under REACH in the restriction text. If REACH then regulates the placing on the market, this would then also cover the further supply along the supply chain. Another possibility for specification concerning this issue would be to amend the already existing legal text of restriction entry No. 31 of Annex XVII by removing the exemptions for creosote treated wood for agricultural purposes and further uses. The exemptions of restriction entry No. 31 of Annex XVII were analysed in the Annex XV dossier but not put forward and further analysed as a restriction option.  With regard to streamlining, it should be noted that under the BPR only the creosote with EC No. 232-287-5 and CAS No. 8001-58-9 is re-approved. All other creosotes listed are not approved, non-marketable biocidal active substances and may not be used for wood treatment under the BPR anyway. To the knowledge of the DE CA „tar acids, coal, crude; crude phenols“ (CAS 65996-85-2) was an identified existing active substance, which was not notified for PT8 in the Biocidal Products Directive, but allowed to remain on the market in wood preservatives until the end of 2006. The term of treated articles had not been coined by then. In addition, none of the other creosotes has been identified or notified as existing active substance under the Biocides regime and therefore not marketable anymore since 2003.  2. No secondary use and second-hand market of creosote-treated wood including wood treated before December 2002  The Annex XV dossier intends to ban secondary use and the second-hand market of creosote-treated wood including creosote treated wood before December 2002. However, in view of the DE CA further clarification is needed. The Annex XV dossier did not clarify how wood treated with creosote before December 2002 that is still in use should be dealt with. There are indications that creosote treated wood (old railway sleepers) is installed at present as slope supports, fence posts or other construction elements. This installation might have occurred in accordance with the current restriction entry No. 31 of Annex XVII of the REACH regulation. A clarification is needed if this creosote treated wood in use can stay in use until its disposal of/until the end of its service life is reached (similar to provisions of restriction entry No. 6(2) or if the removal of creosote treated wood of existing installations is foreseen.  3. Provisions concerning classification of creosote treated wood as waste  The DE CA is of the opinion that a restriction under REACH cannot implement provisions for the classification of waste. Classification of waste is not harmoniously regulated and sovereignty of the EU Member States. According to Art. 2(2) waste as defined in Directive 2006/12/EC is exempted from the REACH regulation.  Following, the DE CA would like to provide some further information besides the aspects already addressed in the specific questions on how the Waste Directive (and its specific articles) is interpreted by the DE CA to define when old creosote-treated railway sleepers and transmission poles for telecommunication and electricity have to be considered as waste (e.g. at the moment when they are dismantled from the railway or at a later stage), on how creosote-treated wood should be disposed and on how that is controlled in DE.  The legal requirements for the recovery and disposal of waste wood are laid down in the Waste Wood Ordinance (AltholzV, available at http://www.gesetze-im-internet.de/altholzv/AltholzV.pdf, in German) and in the general requirements of the 2012 Circular Economy Act. Waste wood is classified in the waste wood categories A I – A IV and waste wood containing PCB, depending on the content of contaminants.  Waste wood treated with wood preservatives, such as railway sleepers or utility poles, are categorised as A IV. According to § 5 (1) in connection with Annex III AltholzV, creosote-treated wood waste should be assigned to the waste code 17 02 04\* (glass, plastic and wood containing or contaminated with hazardous substances). Therefore, it is subject to obligations to keep records and to provide proof.  In order to ensure safe wood waste recycling, the requirements of § 5 (1) in connection with Annex I AltholzV must be complied with. According to this, waste wood of category A IV, is only permitted to be used for the production of syngas or active carbon. Creosote-treated wood is not permitted, according to § 6 (1) AltholzV, to be used for the production of wood chips. The operator of a waste wood treatment installation must conduct internal monitoring and analyse samples in accordance with § 6 AltholzV.  Waste wood category A IV may be only thermally treated in installations in accordance to the 17th Federal Immission Control Ordinance (Ordinance on the incineration and co-incineration of waste). According to § 7 AltholzV, the operator of a waste wood treatment installation must test the crushed waste wood for energy recovery in batches to ensure that all wood has been properly assigned. The sampled batch may subsequently be taken for further energy recovery only if the proportion of waste wood from higher waste wood categories does not exceed 2 % in total.  The competent authorities for immission control and waste in DE must inspect the installations regularly.  4. Comments regarding the residue assessment  For the residue assessment, a residue study (Screening of PAH residues on fruit grown in orchards constructed with creosote-treated stakes (CCE, Creosote Council Europe)) was evaluated by the first authorising Member State Sweden during active substance approval. Eighteen different polycyclic aromatic hydrocarbons (PAHs) were analysed as marker substances for creosote in wood, soil and fruit samples.  Among the eighteen marker substances, by EFSA's CONTAM Panel considers eight as genotoxic/carcinogenic substances and six substances are classified as non-carcinogenic by IARC. Two of the eight genotoxic substances (chrysene, benz[a]anthracene) are present in creosote, which consists of over 100 substances (see Addendum to product assessment report (dated 1 July 2016), Swedish Chemicals Agency).  Although the study has some shortcomings (e.g. low number of apples/pears analysed; lack of clarity whether the creosote-treated wood piles correspond to the intended most critical application), the information from the study is considered relevant for the risk assessment. For example, increased PAH levels were measured in soil samples taken near creosote-treated wood piles.  Furthermore, transfer of PAHs from creosote-treated wood to fruit - with and without direct contact to the wood - was detected. The residues measured varied depending on the PAH compound analysed and depending on the contact with the treated wood (fruits with contact: smaller then 0.0009 to 0.78 mg/kg; fruits without contact: smaller then 0.0001 to 0.11 mg/kg). In the reference plots without creosote-treated piles, the concentrations were smaller then 0.001 to 0.0044 mg/kg. Significantly higher (10 - 100-fold increased) PAH residues were detectable in apples and pears with direct contact to creosote-treated wood, e.g. for chrysene by a factor of 5, for pyrene by a factor of 100.  Low residues of the two carcinogenic substances chrysene (3 samples with residues up to 0.006 mg/kg) and benz[a]anthracene (1 sample with 0.00079 mg/kg) were detected in fruits with direct wood contact. In fruits without direct contact to the piles the residues were below the limit of determination. It is assumed that the data collected on apples and pears are also transferable to wine and hops, although residues from direct contact are not to be expected to the same extent.  Irrespective of the level of residues, for foodstuffs with genotoxic and carcinogenic residues without a threshold value, a risk to consumers cannot be ruled out. Therefore, any additional exposure of consumer caused by the use of biocidal products in food must be avoided.  Please also consider the public available BPC-opinion on creosote and the respective chapters: The DE CA has compiled some relevant sequences in an additional document “2023-04-27\_DE\_CA\_Comments\_Excerps of BPC opinion and open literature.docx” (see attachment with respective passages and numbers highlighted in yellow). |
| Answer to specific info request 1:  Creosote substances have been used for wood protection in Germany for more than a century [1] . Due to their intrinsic properties, placing on the market and use of wood preservatives including tar oils or their components as well as wood or wooden products treated with those wood preservatives were generally prohibited from 1992 on, but there were some exceptions: The so called tar oil ordinance (Teerölverordnung; 1991, only available in German) and the revised version of the Chemicals Prohibition Ordinance (Chemikalienverbotsverordnung; 1993, only available in German) regulated tar oils intensively. Exemptions were made concerning the concentration of benzo(a)pyrene in the wood preservatives. Thresholds were: I) Up to a maximum of 5 mg/kg of benzo(a)pyrene, II) More than 5 mg/kg up to a maximum of 50 mg/kg benzo(a)pyrene and III) More than 50 mg/kg but not more than 500 mg/kg of benzo(a)pyrene Wood preservatives: Wood preservatives that fell under the following exemptions were allowed to be manufactured, placed on the market, and used in enclosed facilities. I) Up to a maximum of 5 mg/kg (ppm) of benzo(a)pyrene, provided that the wood preservatives (a) are not placed on the market for sale to the private consumer (b) are not used indoors II) More than 5 mg/kg (ppm) up to a maximum of 50 mg/kg (ppm) benzo(a)pyrene (a) for pressure impregnation with final vacuum of products made of wood or wood-based materials (b) for other impregnation processes for partial impregnation of wood piles ensuring deep protection, in particular the hot-cold setting impregnation process, where at the end of the impregnation process the content of tar-oils on the surface of the wood piles is to be reduced (c) for the impregnation of products made of wood or wood-based materials by other processes ensuring an equally good or better protection of man and the environment. III) More than 50 mg/kg (ppm) but not more than 500 mg/kg (ppm) of benzo(a)pyrene (a) for pressure impregnation with final vacuum of railway sleepers and utility poles Impregnated wood or wooden products: Impregnated wood or wooden products that were produced with wood preservatives according to the above-mentioned restrictions were allowed to be placed on the market and used with the following additional restrictions: I) Up to a maximum of 5 mg/kg (ppm) of benzo(a)pyrene (a) not for sale to or use by the private consumer if treated by brushing, spraying or dipping. (b) not for indoor use II) More than 5 mg/kg (ppm) up to a maximum of 50 mg/kg (ppm) benzo(a)pyrene (a) not for indoor use, on children's playgrounds or for other purposes with regular human skin contact III) More than 50 mg/kg (ppm) but not more than 500 mg/kg (ppm) of benzo(a)pyrene (b) Railway sleepers only for use within tracks (c) Impregnated utility poles only for the export to countries with higher demands on wood protection due to climatic conditions. Furthermore, the second-hand market of creosote-treated wood or wooden products was regulated: Impregnated railway sleepers, utility poles and poles were allowed to be placed on the market and used if (a) The last impregnation was more than 15 years ago, (b) fresh cutting edges were permanently sealed or covered. (c) not for indoor use, on children's playgrounds or for other purposes with regular human skin contact (d) not for sale to or use by the private consumer In the 2003 revision of the Chemicals Prohibition Ordinance the restrictions for tar oils were specified in the following way: 1) All nine substances as listed in Entry 31 of REACH Annex XVII were listed as specific tar oils for which the restrictions apply (“especially…”, not exclusively). 2) Placing on the market of wood preservatives including tar oils or their components as well as wood or wooden products treated with those wood preservatives was prohibited. 3) The ban for placing on the market of wood preservatives was not applicable to wood preservatives for industrial application or commercial purposes for on-site re-treatment, both in a closed plant as long as the wood preservative contained less than 50 mg/kg benzo(a)pyrene and less than 3% of water-soluble phenols and the container size is minimum 20 litres. 4) The restrictions for treated wood or wood materials did not apply for • treated wood only for commercial or industrial use as i.e. railway sleepers, utility poles, fences, tree props in agriculture, reb posts, sheet piling in harbours or waterways, as well as • used treated wood which had been treated with wood preservatives including tar oils before entry into force of this ordinance which were only to be used in railway sleepers or utility poles or for re-use in other commercial or industrial uses according to the original purpose. The following restrictions for placing on the market of treated wood or wood materials were mandatory: 1) No indoor use, regardless its purpose 2) Not for the manufacture of toys, for the use on playgrounds, in gardens and parks as well as other places where regular skin contact can take place. 3) Not for the use in garden furniture, 4) for containers of living plants, as packaging in contact with raw, intermediate of end-products for food or feed 5) Not as any other material which might contaminate the products as in 4) or which is used in their production or recycling. 2006: As identified existing active substance, which was not notified for PT 8 in the Biocidal Products Directive, „tar acids, coal, crude; crude phenols“ (CAS 65996-85-2) was allowed to remain on the market in wood preservatives until the end of 2006. The German Environmental Ministry organised a Round Table with relevant stakeholders in October 2013 (e.g. academia, impregnation plants, German railway (Deutsche Bahn), telecommunication/electricity providers, hop planters). The aim of this discussion was, among other topics, to compile the applications of creosote that still existed by then in Germany. Many users of impregnated wood already used alternatives to creosote; alternative products were widely tested. Still in use were creosote-treated railway sleepers and piles used for agricultural purposes. Creosote-impregnated wooden poles for telecommunication and energy supply, on the other hand, have not been newly installed in Germany for many years. Creosote-treated wood was no longer relevant in coastal protection and large ports by 2013, while its significance in small port facilities was unknown. Since 2016 in Germany biocidal creosote products have been only authorised to treat wooden railway sleepers. It should be noted that under the BPR only the creosote with EC No. 232-287-5 and CAS No. 8001-58-9 has been re-approved. All other creosotes listed are not approved, non-marketable biocidal active substances and may not be used for wood treatment under the BPR anymore To the knowledge of the DE CA „tar acids, coal, crude; crude phenols“ (CAS 65996-85-2) was an identified existing active substance, which was not notified for PT8 under the Biocidal Products Directive, but allowed to remain on the market in wood preservatives until the end of 2006. The term of treated articles have not been coined by then. However, none of the other creosotes has been identified or notified as existing active substance under the Biocides regime and are therefore not marketable anymore since 2003. References: [1] Friedrich Bub-Bodmar, Bernhard Tilger: Die Konservierung des Holzes in Theorie und Praxis: Zweiter Teil. Dogma, 2013, ISBN 978-3-95580-758-0, S. 769 (in German). |
| Answer to specific info request 3:  The DE CA would like to point out that only the use of creosote containing biocidal products for impregnation of railway sleepers were authorised in DE CA. However, concrete soil contamination were caused by imported hop poles impregnated with tar oil in the county of Bavaria. Besides, there seems to be some reports of counties in Germany where at present old railway sleepers are installed as slope supports, fence posts or other construction elements. |
| Answer to specific info request 5:  Unless the imported creosote-treated wood is waste, it is not classified as hazardous waste in Germany. Only if creosote-treated waste wood is being imported into Germany is it classified as hazardous waste. |
| Answer to specific info request 6:  Due to assessment of creosote under the BPR the German experts from UBA (Federal Environment Agency) had contact with DB Netz AG and the answers to question 6 and 7 are mainly based on the information exchange with these contacts. The DB Netz AG is responsible for the maintenance of the railway tracks in Germany that are used by the Deutsche Bahn AG. This represents roughly 70% of all the railway kilometres in Germany. The DB Netz AG has already tested alternatives for creosote-treated sleepers in the past. Tested alternatives included wooden sleepers treated with other biocidal wood preservatives, untreated wooden sleepers (oak) or plastic sleepers. Untreated wooden oak sleepers are used by DB Netz AG especially in open bridges. Plastic sleepers can either by produced from primary material (i.e. Fiber-Reinforced Foamed Urethane = FFU sleepers) or from recycled polymers (several models and producing companies). FFU sleepers have been proven to be a technically feasible substitute for impregnated wooden sleepers in all use situations (railtrack, track switch and bridge). Furthermore, FFU-sleepers have been authorised by the responsible agency in Germany (Eisenbahnbundesamt) to be used in all relevant use situations. An authorisation by the Eisenbahnbundesamt is required before the DB Netz AG can install a railway sleeper in the railway tracks for regular operation. However, FFU sleepers are costly and their availability might be limited as they are currently produced by only one company. Sleepers from recycled polymers are available on the German market from at least four independent companies. One plastic sleeper model has been authorised by the responsible agency in Germany (Eisenbahnbundesamt) to be used in the rail track. Four different polymer sleeper models have been authorised by the Eisenbahnbundesamt for field testing. Plastic sleepers have been included in the “Richtlinie 820.2010 Ausrüstungsstandard Schotteroberbau für Gleise und Weichen, Version 7.0“ from the DB Netz AG. Richtlinie 820.2010 is a set of rules that deals with the equipment components that are to be used for investment measures in the railway infrastructure (new construction or replacement). Only components that have been proven to be economically viable may be used, since the DB Netz AG works with public funds for such measures. In the case of the plastic sleepers, an evaluation of economic efficiency was carried out in comparison to impregnated wooden sleepers, which showed a positive result for the plastic sleepers. This evaluation considered the whole lifecycle costs (cost for the materials, installation and maintenance costs etc.) Consequently, a substitution of creosote-treated wooden sleepers with plastic sleepers within the railway infrastructure run by the DB Netz AG seems to be economically feasible. However, the situation for private/touristic railway networks in Germany might be different. We have no information on the expected socio-economic impacts on these companies. Private/touristic railway companies may use railway sleepers without an authorisation by the Eisenbahnbundesamt and the technical requirements for the sleepers might be different. This has led to installation of a variety of polymeric sleepers at the railway tracks of these companies. Attached please find a report on a project for the production of railway sleepers from recycled polymers. It is available in German language only and demonstrates an efficient way to produce railway sleepers from recycled polymers (available at https://www.umweltinnovationsprogramm.de/projekte/kreosotfreie-kunststoffrecyclatschwellen ). |
| Answer to specific info request 7:  The DE CA has no information on the extend on reuse of creosote-treated railway sleepers in Germany. FFU sleepers (Fiber-Reinforced Foamed Urethane = FFU) have been proven to be a technically feasible substitute for impregnated wooden sleepers in all use situations (railtrack, track switch and bridge). However, FFU sleepers are costly and their availability might currently be limited. Sleepers from recycled polymers are available at the German market from at least four independent companies. One plastic sleeper model has been authorised by the responsible agency in Germany (Eisenbahnbundesamt) to be used in the rail track. Four different polymer sleeper models have been authorised by the Eisenbahnbundesamt for field testing. The availability of sleepers from recycled polymers will probably increase within the near future. Sleepers from recycled polymers are less expensive than FFU sleepers. No information on reuse of creosote-treated transmission poles in Germany is known to us. Secondary use of creosote-treated railway sleepers and transmission poles might occur at times, but a prohibition of secondary use is not expected to have any unfavourable socio-economic impact. |
| **4295** | | **Date:**  2023/05/26 09:15  **Type:**  BehalfOfAnOrganisation  **Org. type:**  Company  **Org. name:**  SBB Schweizerisches Bundesbahn  **Org. country:**  Switzerland | **Answer to specific info request 2:**  SBB reuses some yokes and turnouts with wooden sleepers for temporary sidings on construction sites. The annual volume of reused wooden railway sleepers is roughly 50-60 tonnes per year and is expected to stay in that range in the future. A small number of used railway sleepers in good condition is exported to EU countries for processing and subsequent resale and reuse e.g., in industrial tracks (400-500 tonnes per year). |
| **Answer to specific info request 3:**  Not allowed for secondary use. |
| **Answer to specific info request 4:**  Import: about 10’000 sleepers per year from France, oak and beech , only typ WEI C. It is planned to reduce importation in the near future. Export : On average about 17’000 kilotonnes a year are exported to EU countries for incineration or reuse. |
| **Answer to specific info request 5:**  yes |
| **Answer to specific info request 6:**  As an economical and functional alternative to creosote has not been yet confirmed (field test still on-going), we handle creosote problem with following strategy: - Use concrete and steel sleeper, where technically feasible. - For wooden sleepers exclusively use of creosote WEI Typ C, with limited retention rate. - Use of post-treatment of wood sleepers in track (for example FUME®-Treatment), to postpone renewal of railway. - Protection of personnel: no direct contact with treated wood. If creosote is banned before an affordable alternative is found, we will have as impact, depending of strategie chosen: - Strategie “use of polymeric composite as 1:1 Alternative”: if impact of environnement is worse than expected, treatment of water and ballast could be in critical mass. - Strategie “use of wood with limited 10y life expectancy”: double of installation costs for wood track, about 5 MioCHF/year |
| **Answer to specific info request 7:**  Creosoted wood can be used through pyrolysis for hydrogen (and biochar) production. This solution is feasible, because creosote ist mainly hydrocarbur derivative. Alternative traetment, such as based on copper oil, may be problematic due to residual presence of copper in biochar. on the other hand, this kind of treatment is allowed for re-use and secondary use. |
| 4641 | | Date:  2023/06/21 17:38  Content:  Scope or restriction option analysis  Type:  MemberState  Country:  Netherlands | General Comments:  We thank France for the restriction proposal for creosote. We agree it is necessary to restrict the bringing on the market of creosote treated articles for use, re-use and secondary use of creosote treated wood. However, we have a point for reflection with respect to the re-use of treated articles within the same company or organization. Our first interpretation is that in the current restriction proposal, if treated articles are removed from their spot, they are considered chemical waste and should be incinerated. We wonder whether this is in line with the goals of circularity and as such, whether it would be better to allow the option for the current owner of the treated articles to re-use (re-install) them. We see a possibility to allow this for railway sleepers and in the context of poles and pillars (e.g. fences, use in fruit growing). |
| 5167 | | Date:  2023/06/22 13:28  Content:  Request for exemption  Type:  BehalfOfAnOrganisation  Org. type:  Company  Org. name:  <redacted>  Org. country:  United Kingdom  Company name confidential:  Yes | General Comments:  Northern Ireland Electricity Networks Limited (NIE Networks) is the owner of the electricity transmission and distribution networks in Northern Ireland (NI) and is the electricity distribution network operator, serving over 910,000 customers connected to the network including homes, businesses and farms. Our role is – • to operate the network of overhead lines, underground cables and substations effectively to ‘keep the lights on’ for our customers; • to maintain the network so that it is in a condition to remain safe and reliable; • to fix the network if it gets damaged or if it is faulty; • to upgrade or extend the existing network to provide additional electricity supplies or capacity to our customers including the development of innovative solutions to manage the increasing level of renewables connections and the uptake of low carbon technologies – and to do this is an efficient, coordinated and economical manner; • to provide electricity meters and provide metering data to suppliers and market operators. This is a key role in enabling wholesale and retail market competition; and • to connect customers to the network, both for new electricity supplies and for new electricity generators. |
| Answer to specific info request 1:  NIE Networks is interested in the proposal to restrict the reuse and secondary use of poles treated with ‘(a) Creosote; wash oil CAS No 8001-58-9 EC No 232-287-5’. This is the preservative used for the treatment of wood poles currently being installed on our electricity network. We operate wholly within NI and the installation of wood poles treated with creosote occurs on a daily basis. |
| Answer to specific info request 2:  NIE Networks avails of the option to reuse wood poles treated with creosote in situations where the wood pole is replaced for construction purposes (as opposed to condition purposes) and still has extensive life remaining. The pole is reused as an electricity pole in another location on our network, as appropriate. Our annual volume of reused wooden poles is currently low; however, we are anticipating an increase in the levels of pole reuse as we are undertaking a major overhead line network rebuild. Our reuse of wooden poles treated with creosote is undertaken wholly within NI. |
| Answer to specific info request 3:  At present, creosote treated wood is currently available in NI for secondary use by consumers and/or professionals. This, however, only applies to wood poles treated with creosote before 31 December 2002. NIE Networks currently replaces approximately 11,000 creosote treated wood poles per year and a large number of these now redundant poles would be left with landowners at their request as a goodwill gesture for allowing work to be undertaken on their land. Wood poles treated with creosote after 31 December 2002 will be disposed of as hazardous waste. These waste poles are transported to GB for incineration. No other redundant wood poles are exported outside of NI. In relation to the last point in this question, the year of treatment is generally available at the point this pole is given to landowners. |
| Answer to specific info request 4:  NIE Networks currently import approximately 12,000 creosote treated wood poles per year from Sweden. It is expected that this number will rise in the near future. As regards exports, we anticipate sending approximately 3,000 creosote treated wood poles to GB for incineration annually. NIE Networks does not currently export any poles for reuse. |
| Answer to specific info request 5:  Creosote-treated wood poles that remain in use (either as a utility pole or for an authorised secondary use) are not classed as hazardous waste. However, those poles that are being disposed of are handled as hazardous waste. |
| Answer to specific info request 6:  A prohibition on reuse of electricity poles would have a significant impact on the NI electricity customer base. Currently, NIE Networks disposes of very few poles but this is beginning to increase as more poles treated with creosote post-2002 are removed from the network. NIE Networks is putting in place larger waste disposal contracts to deal with this increase, but it would not be feasible to immediately or in the short-term accommodate the disposal of all poles. As well as difficultly with the deliverability of this proposal, the cost of disposal would be a significant cost to the electricity customers of NI. As wood poles can be in-situ for up to 60 years, we believe that any increased environmental impact caused by reuse or secondary use is not significant enough to justify the potentially huge costs of disposal. Furthermore, disposal facilities are not available in NI so poles are being transported to GB for incineration, which has its own carbon footprint and environmental impact. As the introduction of new creosote-treated wood poles reduces and the number of post-2002 poles being removed increases, we believe that pole disposals and disposal facilities will become more widely available and may therefore become more feasible in future. |
| Answer to specific info request 7:  NIE Networks is currently exploring all alternative options available with a view to moving away from the use of creosote treated wood poles on its network ahead of the current derogation deadline of October 2029. NIE Networks are currently engaged in industry wide trials on the viability of creosote alternatives alongside the GB Distribution Network Operators (DNOs) and ESB Networks. These trials have not yet concluded and therefore we have not yet identified a solution that we consider an immediate viable alternative. Furthermore, NIE Networks are undertaking an accelerated aging trial on the various creosote alternative treatments with results of this trial not expected until 2027/28. The alternative to reuse of creosote treated wood poles would therefore currently be to purchase a new creosote-treated wood pole. The alternative to secondary uses of poles would be to dispose of the pole as hazardous waste, with deliverability and cost implications as identified in our response to question 6. |