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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009)

final

Draft

COMMISSION DECISION

of

**concerning the non-inclusion of chlorthal-dimethyl in Annex I to Council Directive
91/414/EEC and the withdrawal of authorisations for plant protection products
containing that substance**

(Text with EEA relevance)

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COMMISSION DECISION

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market¹, and in particular the fourth subparagraph of Article 8(2) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provides that a Member State may, during a period of 12 years following the notification of that Directive, authorise the placing on the market of plant protection products containing active substances not listed in Annex I to that Directive that are already on the market two years after the date of notification, while those substances are gradually being examined within the framework of a programme of work.
- (2) Commission Regulations (EC) No 451/2000² and (EC) No 1490/2002³ lay down the detailed rules for the implementation of the third stage of the programme of work referred to in Article 8(2) of Directive 91/414/EEC and establish a list of active substances to be assessed with a view to their possible inclusion in Annex I to Directive 91/414/EEC. That list includes chlorthal-dimethyl.
- (3) For chlorthal-dimethyl the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 1490/2002 for a range of uses proposed by the notifier. Moreover, those Regulations designate the rapporteur Member States which have to submit the relevant assessment reports and recommendations to the European Food Safety Authority (EFSA) in accordance with Article 10 (1) of Regulation (EC) No 1490/2002. For chlorthal-dimethyl the rapporteur Member State was Greece and all

¹ OJ L 230, 19.8.1991, p. 1.

² OJ L 55, 29.2.2000, p. 25.

³ OJ L 224, 21.8.2002, p. 23.

relevant information was submitted on 31 October 2006. An addendum was submitted on 3 April 2008.

- (4) The assessment report has been peer reviewed by the Member States and the EFSA. In accordance with Article 11c of Regulation (EC) No 1490/2002 the peer review focused on the following points, the toxicity, the relevance of the metabolite MPA and its possible leaching to groundwater. The EFSA presented it to the Commission on 4 September 2008, re-issued on 26 November 2008, in the format of the EFSA conclusion regarding the focused peer review of the pesticide risk assessment of the active substance chlorthal-dimethyl⁴. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 12 June 2009 in the format of the Commission review report for chlorthal-dimethyl.
- (5) During the evaluation of this active substance it was found that its metabolite MPA leaches to groundwater. On the basis of the information available, it cannot be concluded that it may be expected that the plant protection products containing that active substance fulfil the conditions provided for in Article 5(1) of Directive 91/414/EEC, in particular as regards toxicological significance of that metabolite.
- (6) The Commission invited the notifier to submit its comments on the results of the peer review and on its intention or not to further support the substance. The notifier submitted its comments which have been carefully examined. However, despite the arguments put forward by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing chlorthal-dimethyl satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Chlorthal-dimethyl should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that authorisations granted for plant protection products containing chlorthal-dimethyl are withdrawn within a fixed period of time and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace granted by a Member State for the disposal, storage, placing on the market and use of existing stocks of plant protection products containing chlorthal-dimethyl should be limited to twelve months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing chlorthal-dimethyl remain available to farmers for 18 months from the adoption of this Decision.
- (10) This Decision does not prejudice the submission of an application for chlorthal-dimethyl according to the provisions of Article 6 (2) of Directive 91/414/EEC, the detailed implementation rules of which have been laid down in Commission

⁴ *EFSA Scientific Report (2008), 156. Conclusion regarding the focused peer review of the pesticide risk assessment of the active substance chlorthal-dimethyl finalised 4 September 2008 and re-issued on 26 November 2008.*

Regulation (EC) No 33/2008 of 17 January 2008 laying down detailed rules for the application of Council Directive 91/414/EEC as regards a regular and an accelerated procedure for the assessment of active substances which were part of the programme of work referred to in Article 8(2) of that Directive but have not been included into its Annex I⁵, in view of a possible inclusion in its Annex I.

- (11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Chlorthal-dimethyl shall not be included as active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

- (a) authorisations for plant protection products containing chlorthal-dimethyl are withdrawn by *[INSERT DATE 6 MONTHS FROM THE DATE OF ADOPTION OF THIS DECISION]*;
- (b) no authorisations for plant protection products containing chlorthal-dimethyl are granted or renewed from the date of publication of this Decision.

Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and shall expire on *[INSERT DATA 18 MONTHS FROM ADOPTION OF THIS DECISION]* at the latest.

Article 4

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Androulla VASSILIOU
Member of the Commission

⁵ OJ L 15, 18.1.2008, p. 5–12.