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COMMISSION DECISION

of 31 March 2005

concerning the non-inclusion of cresylic acid, dichlorophen, imazamethabenz, kasugamycin and polyoxin in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances

(notified under document number C(2005) 975)

(Text with EEA relevance)

(2005/303/EC)

(OJ L 97, 15.4.2005, p. 38)

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(2005/303/EC)

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 market ⁽¹⁾, 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 Regulation (EC) No 451/2000 ⁽²⁾ and Commission Regulation (EC) No 1490/2002 ⁽³⁾ lay down the detailed rules for the implementation of the second and third stages of the programme of work referred to in Article 8(2) of Directive 91/414/EEC. For active substances for which a notifier fails to fulfil its obligations under these Regulations no completeness check or evaluation of the dossier shall be performed. For cresylic acid, dichlorophen, imazamethabenz, kasugamycin and polyoxin either no complete dossier has been submitted or the notifier has declared that no dossier will be submitted within the prescribed time limit. As a consequence, these active substances should not be included in Annex I to Directive 91/414/EEC and Member States should withdraw all authorisations for plant protection products containing these substances.
- (3) For the active substances for which there is only a short period of advance notice for the withdrawal of plant protection products containing such substances, it is reasonable to provide for a period of grace for disposal, storage, placing on the market and use of existing stocks for a period of no longer than 12 months to allow existing stocks to be used in no more than one further growing season. In cases where a longer advance notice period is provided, such period can be shortened to expire at the end of the growing season.
- (4) For dichlorophen, imazamethabenz, kasugamycin and polyoxin, information has been presented and evaluated by the Commission together with Member State experts which has shown a need for further use of the substance concerned. In such cases temporary measures should be provided for to enable the development of alternatives.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2004/58/EC (OJ L 120, 24.4.2004, p. 26).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 224, 21.8.2002, p. 23. Regulation as last amended by Regulation (EC) No 1744/2004 (OJ L 311, 8.10.2004, p. 23).

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- (5) 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

Cresylic acid, dichlorophen, imazamethabenz, kasugamycin and polyoxin shall not be included in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

1. Authorisations for plant protection products containing cresylic acid, dichlorophen, imazamethabenz, kasugamycin or polyoxin are withdrawn by 30 September 2005.
2. From 15 April 2005 no authorisations for plant protection products containing cresylic acid, dichlorophen, imazamethabenz, kasugamycin or polyoxin are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.
3. By derogation from point 1, Member States listed in column B of the Annex may maintain authorisations for plant protection products containing substances listed in column A for uses listed in column C of that Annex until 30 June 2007 at the latest, to permit the development of an efficient alternative for the substance concerned.

Member States making use of the derogation provided for in the first subparagraph shall ensure that the following conditions are complied with:

- (a) the continued use is only accepted so far as it has no harmful effects on human or animal health and no unacceptable influence on the environment;
 - (b) such plant protection products remaining on the market after 30 September 2005 are relabelled in order to match the restricted use conditions;
 - (c) all appropriate risk mitigation measures are imposed to reduce any possible risks;
 - (d) alternatives for such uses are being seriously sought.
4. The Member State concerned shall inform the Commission about the measures taken in application of point 3, and in particular about the actions taken pursuant to points (a) to (d), by 31 March 2005 at the latest.

Article 3

Any period of grace granted by Member States in accordance with Article 4(6) of Directive 91/414/EEC, shall be as short as possible.

Where authorisations shall be withdrawn in accordance with Article 2(1) by 30 September 2005 at the latest, the period shall expire on 30 September 2006 at the latest.

Where authorisations shall be withdrawn in accordance with Article 2(3) by 30 June 2007 at the latest, the period shall expire on 31 December 2007 at the latest.

Article 4

This Decision is addressed to the Member States.

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ANNEX

LIST OF AUTHORISATIONS REFERRED TO IN ARTICLE 2(2)

| Column A | Column B | Column C |
|-----------------------------|----------------|---|
| Active substance | Member State | Use |
| ▼ <u>M1</u> Dichlorophen | France | Moss control on amenity turf and hard surfaces, winter treatment in fruit trees |
| | Ireland | Moss control in amenity turf and golf greens |
| | United Kingdom | Liverworts and mosses on ornamentals; Control of fungi and other plant pathogens on glasshouses surfaces and in nurseries. Moss control on managed amenity turf and hard surfaces |
| Imazamethabenz | France | Cereals, minor crops for seed production |
| | Greece | Cereals |
| | Spain | Cereals |
| ▼ <u>B</u> Kasugamycin | Greece | Prevention of bacterial diseases on tobacco, tomatoes, cucumbers, citrus, beans and ornamentals |
| | Hungary | Pome fruits (apple, pear, quince), sweet pepper, hot pepper, tomato, cucumber |
| | Spain | Prevention of bacterial diseases on tomatoes, cucumbers, apple and pear trees, cypresses (also fungal diseases), strawberries and French beans |
| Polyoxin | Greece | Prevention of fungal diseases on strawberries |
| | Spain | Prevention of bacterial and fungal diseases on tomatoes, marrows and cucumbers, bushes and herbaceous ornamentals, cotton and raspberry bush |