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## COMMISSION DECISION

of 8 August 2008

amending Decision 2005/294/EC concerning a request for derogation under point 2(b) of Annex III to and Article 9 of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

(notified under document number C(2008) 4252)

(Only the Danish text is authentic)

(2008/664/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources<sup>(1)</sup>, and in particular the third subparagraph of paragraph 2 of Annex III thereof,

Whereas:

- (1) If the amount of manure that a Member State intends to apply per hectare each year is different from the one specified in the first sentence of the second subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC and in point (a) thereof, that amount has to be fixed so as not to prejudice the achievement of the objectives specified in Article 1 of that Directive and has to be justified on the basis of objective criteria, such as, in the present case, long growing seasons and crops with high nitrogen uptake.
- (2) On 18 November 2002, the Commission adopted Decision 2002/915/EC<sup>(2)</sup> allowing the application of livestock manure containing up to 230 kg of nitrogen per hectare per year on specific cattle holdings within the framework of the Danish action programme 1999-2003. The derogation was extended by Commission Decision 2005/294/EC<sup>(3)</sup> in connection with the Danish action programme 2004-2007.
- (3) On 17 April 2008, Denmark requested a new extension of the derogation. The request was accompanied by a detailed technical motivation.
- (4) Danish legislation transposing Directive 91/676/EEC can be considered to be in compliance with Directive and its provisions apply equally to the derogation.

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- (5) In December 2003 Denmark completed the evaluation of its Second Action Plan on aquatic environment which indicated the achievement of the reduction target for nitrate leaching of 48 % in the period 1985-2003.
- (6) The Danish Parliamentary agreement on the Third Action Plan for the Aquatic Environment 2005-2015 sets the objectives for a further reduction of nitrate leaching by 13 % and for a reduction of phosphate surplus by 50 % in the period 2005-2015. In 2007 the Government Platform agreed on the development of a Fourth Action Plan for the Aquatic Environment by 2009 that will serve as a health check of the Third Action Plan and will include adjustments to national legislation in order to ensure achievement of the objectives by 2015.
- (7) Denmark has established an action programme for the period 2008-2011 in conformity with Article 5 of Directive 91/676/EEC. The measures of the action programme form an integral part of the Third Action Plan for the Aquatic Environment.
- (8) Results of monitoring and controls show that, in period 2005-2006, 1 779 cattle holdings, 220 839 livestock units and 115 336 hectare, corresponding respectively to 3,4 %, 10,3 % and 4,2 % of the total in Denmark were encompassed by the derogation.
- (9) Calculations on nitrate leaching based on survey and nutrient analysis in agricultural catchments, show that, in the period 1990-2006, nitrate leaching has been reduced by 40 % in loamy soils and by 49 % in sandy soils. Since 2002-2003 leaching rates are almost constant.
- (10) Trend analysis of measured nitrate concentration in water leaving the root zones over the period 1990-2006, shows a reduction of 29 % and 45 % respectively for loamy and sandy soils. In 2006, nitrate average concentration in upper groundwater of the reference catchments was below 50 mg/l, both for sandy and loamy soils. Nitrate concentration in streams in the agricultural reference catchments decreased by 31 % in the period 1990-2006, with nitrate average concentrations lower than 20 mg/l for the sandy soils and around 30 mg/l for the loamy soils.
- (11) The Commission, after examination of Denmark's request and in the light of the experience gained from the derogation as provided in Decisions 2002/915/EC and 2005/294/EC considers that the amount of manure envisaged by Denmark, 230 kg of nitrogen per hectare per year, will not prejudice the achievement of the objectives of Directive 91/676/EEC, if the same strict conditions established by Decision 2005/294/EC are met.
- (12) Decision 2005/294/EC expired on 31 July 2008. For the purpose of ensuring that the cattle farmers concerned may continue to benefit from the derogation, it is appropriate to extend the validity of Decision 2005/294/EC. The reporting obligations set by Decision 2005/294/EC should also be adapted.
- (13) The articles provided for in this Decision are in accordance with the opinion of the Nitrates Committee set up pursuant to Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

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### *Article 1*

Decision 2005/294/EC is amended as follows:

1. In Article 8, paragraph 1 is replaced by the following:
  1. The results of the monitoring shall be transmitted every year to the Commission, with a concise report on evaluation practice (controls at cattle farm level) and water quality evolution (based on root zone leaching monitoring, surface/ground water quality and model-based calculations).
2. In Article 9, ‘31 July 2008’ is replaced by ‘31 July 2012’.

### *Article 2*

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 8 August 2008.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

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- (1) [OJ L 375, 31.12.1991, p. 1](#). Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).
- (2) [OJ L 319, 23.11.2002, p. 24](#)
- (3) [OJ L 94, 13.4.2005, p. 34](#).

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