

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 17 August 2009

concerning the non-inclusion of petroleum oil CAS 92062-35-6 in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance

(notified under document C(2009) 6303)

(Text with EEA relevance)

(2009/616/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 Regulations (EC) No 1112/2002 ⁽²⁾ and (EC) No 2229/2004 ⁽³⁾ lay down the detailed rules for the implementation of the fourth 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 petroleum oil CAS 92062-35-6.

- (3) For petroleum oil CAS 92062-35-6 the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 1112/2002 and (EC) No 2229/2004 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 21(3) of Regulation (EC) No 2229/2004. For petroleum oil CAS 92062-35-6 the rapporteur Member State was Spain and all relevant information was submitted in March 2008.
- (4) The Commission examined petroleum oil CAS 92062-35-6 in accordance with Article 24(a) of Regulation (EC) No 2229/2004. A draft review report for that substance was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 12 March 2009 in the format of the Commission review report.
- (5) During the examination of petroleum oil CAS 92062-35-6 by the Committee, it was concluded, taking into account comments received from Member States, that it has to be considered that there are clear indications that it may be expected that that active substance has harmful effects on human health and in particular on consumers and operators, because the existing evidence is not sufficient to allow the establishment of an ADI, ARfD and an AOEL.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 168, 27.6.2002, p. 14.

⁽³⁾ OJ L 379, 24.12.2004, p. 13.

- (6) The Commission invited the notifier to submit its comments on the results of the examination of Petroleum oil CAS 92062-35-6 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 forwards by the notifier, the concerns identified could not be eliminated, and assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing Petroleum oil CAS 92062-35-6 satisfies in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) Petroleum oil CAS 92062-35-6 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 petroleum oil CAS 92062-35-6 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 petroleum oil CAS 92062-35-6 should be limited to 12 months in order to allow existing stocks to be used in one further growing season, which ensures that plant protection products containing petroleum oil CAS 92062-35-6 remain available to users for 18 months from the adoption of this Decision.
- (10) This Decision does not prejudice the submission of an application for petroleum oil CAS 92062-35-6 in accordance with Article 6(2) of Directive 91/414/EEC and Commission 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 I⁽¹⁾, 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

Petroleum oil CAS 92062-35-6 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 petroleum oil CAS 92062-35-6 are withdrawn by 17 February 2010;
- (b) no authorisations for plant protection products containing petroleum oil CAS 92062-35-6 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 17 February 2011 at the latest.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 17 August 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

⁽¹⁾ OJ L 15, 18.1.2008, p. 5.