

COMMISSION DIRECTIVE 2010/86/EU**of 2 December 2010****amending Council Directive 91/414/EEC to include haloxyfop-P as an active substance****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Article 6(1) thereof,

Whereas:

- (1) Commission Regulations (EC) No 451/2000 ⁽²⁾ and (EC) No 703/2001 ⁽³⁾ lay down the detailed rules for the implementation of the second 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 included haloxyfop-R. By Commission Decision 2007/437/EC ⁽⁴⁾ it was decided not to include haloxyfop-R in Annex I to Directive 91/414/EEC.
- (2) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier, hereinafter 'the applicant', submitted a new application requesting the accelerated procedure to be applied, as provided for in Articles 14 to 19 of 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 ⁽⁵⁾.
- (3) The application was submitted to Denmark, which had been designated rapporteur Member State by Regulation (EC) No 451/2000. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as those that were the subject of Decision 2007/437/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008. In that application the ISO name, 'haloxyfop-P', is used to refer to the active substance rather than the previously used term, 'haloxyfop-R'.
- (4) Denmark evaluated the new information and data submitted by the applicant and prepared an additional report. It communicated that report to the European Food Safety Authority (hereinafter 'the Authority') and to the Commission on 3 April 2009. The Authority communicated the additional report to the other Member States and the applicant for comments and forwarded the comments it had received to the Commission. In accordance with Article 20(1) of Regulation (EC) No 33/2008 and at the request of the Commission, the Authority presented its conclusion on haloxyfop-P to the Commission on 9 October 2009 ⁽⁶⁾. The draft assessment report, the additional report and the conclusion of the Authority were reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 28 October 2010 in the format of the Commission review report for haloxyfop-P.
- (5) The additional report by the rapporteur Member State and the new conclusion by the EFSA concentrate on the concerns that lead to the non-inclusion. Those concerns were in particular the potential contamination of groundwater - and possibly drinking water - by a number of metabolites and the risk to mammals.
- (6) The new data submitted by the applicant show the following. The metabolites concerned are neither of toxicological, nor of biological relevance and they present a low risk from an ecotoxicological point of view.
- (7) Consequently, the additional data and information provided by the applicant permit to eliminate the specific concerns that led to the non-inclusion. No other open scientific questions have arisen.
- (8) It has appeared from the various examinations made that plant protection products containing haloxyfop-P may be expected to satisfy, in general, the requirements laid down in Article 5(1) (a) and (b) of Directive 91/414/EEC, in particular with regard to the uses which were examined and detailed in the Commission review report. It is therefore appropriate to include haloxyfop-P in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance may be granted in accordance with the provisions of that Directive.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.⁽²⁾ OJ L 55, 29.2.2000, p. 25.⁽³⁾ OJ L 98, 7.4.2001, p. 6.⁽⁴⁾ OJ L 163, 23.6.2007, p. 22.⁽⁵⁾ OJ L 15, 18.1.2008, p. 5.⁽⁶⁾ *European Food Safety Authority: Conclusion on the peer review of the pesticide risk assessment of the active substance haloxyfop-P (haloxyfop-R)* EFSA Journal 2009; 7(11): 1348. [102 pp.]. doi:10.2903/j.efsa.2009.1348. Available online: www.efsa.europa.eu

- (9) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points. Article 6(1) of Directive 91/414/EC provides that the inclusion of a substance in Annex I may be subject to conditions. Therefore, it is appropriate to require that the applicant submit information confirming the groundwater exposure assessment as regards the active substance and its soil metabolites DE-535 phenol, DE-535 pyridinol and DE-535 pyridinone.
- (10) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (11) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 91/414/EEC is amended as set out in the Annex to this Directive.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this

Directive by 30 June 2011 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on 1 January 2011.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 2 December 2010.

For the Commission
The President

José Manuel BARROSO

ANNEX

The following entry shall be added at the end of the table in Annex I to Directive 91/414/EEC:

No	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Entry into force	Expiration of inclusion	Specific provisions
314	Haloxyfop-P CAS No: Acid: 95977-29-0 Ester: 72619-32-0 CIPAC No: Acid: 526 Ester: 526.201	Acid: (R)-2-[4-(3-chloro-5-trifluoromethyl-2-pyridyloxy)phenoxy]propanoic acid Ester: Methyl (R)-2-[4-[3-chloro-5-(trifluoromethyl)-2-pyridyloxy]phenoxy]propionate	≥ 940 g/kg <i>(Haloxyfop-P-methyl ester)</i>	1 January 2011	31 December 2020	PART A Only uses as herbicide may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on haloxyfop-P, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 28 October 2010 shall be taken into account. In this overall assessment Member States shall pay particular attention to: <ul style="list-style-type: none"> — operator safety: conditions of use shall prescribe the use of adequate personal protective equipment; — protection of aquatic organisms: conditions of authorisation shall include risk mitigation measures, where appropriate, such as adequate buffer zones; — consumer safety as regards the occurrence in groundwater of metabolites DE-535 pyridinol and DE-535 pyridinone. The Member States concerned shall ensure that the applicant presents to the Commission, by 31 December 2012 at the latest, information confirming the groundwater exposure assessment as regards the active substance and its soil metabolites DE-535 phenol, DE-535 pyridinol and DE-535 pyridinone.'

(*) Further details on identity and specification of active substance are provided in the review report.