DIRECTIVES

COMMISSION DIRECTIVE 2010/85/EU

of 2 December 2010


(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 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 included zinc phosphide.


(3) Pursuant to Article 6(2) of Directive 91/414/EEC the original notifier (hereinafter ‘the applicant’) submitted a new application requesting the application of the accelerated procedure 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).

(4) The application was submitted to Germany, which had been designated rapporteur Member State by Regulation (EC) No 2229/2004. The time period for the accelerated procedure was respected. The specification of the active substance and the supported uses are the same as were the subject of Decision 2008/941/EC. That application also complies with the remaining substantive and procedural requirements of Article 15 of Regulation (EC) No 33/2008.

(5) Germany evaluated the additional 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 20 July 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 zinc phosphide to the Commission on 2 July 2010 (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 zinc phosphide.

(6) It has appeared from the various examinations made that plant protection products containing zinc phosphide 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 have been examined and detailed in the Commission review report. It is therefore appropriate to include zinc phosphide in Annex I, in order to ensure that in all Member States the authorisations of plant protection products containing this active substance can be granted in accordance with the provisions of that Directive.

THE COMMISSION HAS, THEREFORE, DECIDED:

A reasonable period should be allowed to elapse before an active substance is included in Annex I in order to permit Member States and the interested parties to prepare themselves to meet the new requirements which will result from the inclusion.

Without prejudice to the obligations defined by Directive 91/414/EEC as a consequence of including an active substance in Annex I, Member States should be allowed a period of 6 months after inclusion to review existing authorisations for plant protection products containing zinc phosphide to ensure that the requirements laid down by Directive 91/414/EEC, in particular in its Article 13 and the relevant conditions set out in Annex I, are satisfied. Member States should vary, replace or withdraw, as appropriate, existing authorisations, in accordance with the provisions of Directive 91/414/EEC. By derogation from the above deadline, a longer period should be provided for the submission and assessment of the complete Annex III dossier of each plant protection product for each intended use in accordance with the uniform principles laid down in Directive 91/414/EEC.

The experience gained from previous inclusions in Annex I to Directive 91/414/EEC of active substances assessed in the framework of Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market (1) has shown that difficulties can arise in interpreting the duties of holders of existing authorisations in relation to access to data. In order to avoid further difficulties it therefore appears necessary to clarify the duties of the Member States, especially the duty to verify that the holder of an authorisation demonstrates access to a dossier satisfying the requirements of Annex II to that Directive. However, this clarification does not impose any new obligations on Member States or holders of authorisations compared to the directives which have been adopted until now amending Annex I.

It is therefore appropriate to amend Directive 91/414/EEC accordingly.

Decision 2008/941/EC concerning the non-inclusion of certain active substances in Annex I to Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing these substances provides for the non-inclusion of zinc phosphide and the withdrawal of authorisation of plant protection products containing that substance by 31 December 2011. It is necessary to delete the line concerning zinc phosphide in the Annex to that Decision.

It is therefore appropriate to amend Decision 2008/941/EC accordingly.

Following that determination Member States shall:

(a) in the case of a product containing zinc phosphide as the only active substance, where necessary, amend or withdraw the authorisation by 30 April 2015 at the latest; or

(b) in the case of a product containing zinc phosphide as one of several active substances, where necessary, amend or withdraw the authorisation by 30 April 2015 or by the date fixed for such an amendment or withdrawal in the respective Directive or Directives which added the relevant substance or substances to Annex I to Directive 91/414/EEC, whichever is the latest.

Article 5
This Directive shall enter into force on 1 May 2011.

Article 6
This Directive is addressed to the Member States.

Done at Brussels, 2 December 2010.

For the Commission
The President
José Manuel BARROSO
The following entry shall be added at the end of the table in Annex I to Directive 91/414/EC:

<table>
<thead>
<tr>
<th>No</th>
<th>Common Name, Identification Numbers</th>
<th>IUPAC Name</th>
<th>Purity (*)</th>
<th>Entry into force</th>
<th>Expiration of inclusion</th>
<th>Specific provisions</th>
</tr>
</thead>
</table>
| 319 | Zinc phosphide CAS No: 1314-84-7 CIPAC No: 69 | Trizinc diphosphide | ≥ 800 g/kg | 1 May 2011 | 30 April 2021 | PART A  
Only uses as rodenticide in the form of ready-to-use baits placed in bait stations or target locations may be authorised.  
PART B  
For the implementation of the uniform principles of Annex VI, the conclusions of the review report on zinc phosphide, 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 should pay particular attention to:  
— the protection of non-target organisms. Risk mitigation measures should be applied as appropriate in particular to avoid the spread of baits where only part of the content has been consumed. |

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