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COMMISSION DECISION

of 5 December 2008

concerning the non-inclusion of certain active substances 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(2008) 7637)

(Text with EEA relevance)

(2008/934/EC)

(OJ L 333, 11.12.2008, p. 11)

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(2008/934/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 451/2000 [2] and (EC) No 1490/2002 [3] lay down the detailed rules for the implementation of the third 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 the substances enumerated in the Annex to this Decision.

(3) Within two months from receipt of the draft assessment report the notifiers concerned voluntarily withdrew, in accordance with Article 11e of Regulation (EC) No 1490/2002, their support for the inclusion of those substances.

(4) The Commission has examined the draft assessment reports, the recommendations from the rapporteur Member States and the comments from other Member States and has come to the conclusion that Articles 11b and 11f do not apply. Consequently, Article 11e applies.

(5) The substances listed in the Annex to this Decision should therefore not be included in Annex I to Directive 91/414/EEC.

[1] OJ L 230, 19.8.1991, p. 1.
[2] OJ L 55, 29.2.2000, p. 25.
[3] OJ L 224, 21.8.2002, p. 23.

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(6) As the non-inclusion of these substances is not based on the presence of clear indications of harmful effects as laid down in Annex VI to Regulation (EC) No 1490/2002, Member States should have the possibility to maintain authorisations until 31 December 2010, in accordance with Article 12(3) of Regulation (EC) No 1490/2002.

(7) 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 the listed substances should be limited to 12 months in order to allow existing stocks to be used in one further growing season.

(8) This Decision does not prejudice the submission of a new application under 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 accordance with the accelerated procedure provided for in Articles 13 to 22 of that Regulation.

(9) That procedure allows notifiers whose substance has not been included based on their withdrawal, to make a new application submitting only the additional data necessary to address the specific issues that led to the adoption of the non-inclusion Decision. The notifier has received the draft assessment report which identifies those data.

(10) 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

The substances listed in the Annex to this Decision shall not be included as active substances in Annex I to Directive 91/414/EEC.

Article 2

Member States shall withdraw authorisations for plant protection products containing one or several of the substances listed in the Annex by 31 December 2010 at the latest.

[1] OJ L 15, 18.1.2008, p. 5.

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However, the latest date for Member States to withdraw such authorisations shall be 31 December 2011 where an application has been submitted in accordance with the accelerated procedure provided for in Articles 14 to 19 of Regulation (EC) No 33/2008.

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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 expire on 31 December 2011 at the latest.

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However, any such period of grace shall expire on 31 December 2012 at the latest where an application has been submitted in accordance with the accelerated procedure provided for in Articles 14 to 19 of Regulation (EC) No 33/2008.

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Article 4

This Decision is addressed to the Member States.

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ANNEX

List of active substances referred to in Article 1

Active substance	Draft assessment report communicated to the notifier on
Acetochlor	14 December 2005
Acrinathrin	8 October 2007
Asulam	28 July 2006
Bitertanol	23 March 2006
Bupirimate	7 August 2007
Carbetamide	31 August 2006
Carboxin	28 July 2006
Chloropicrin	19 April 2006
Clethodim	19 April 2006
Cycloxydim	28 February 2007
Cyproconazole	15 September 2006
Dazomet	8 October 2007
Diclofop-methyl	10 September 2007
Diethofencarb	24 October 2007
Dithianon	5 February 2007
Dodine	29 March 2007
Ethalfluralin	4 October 2007
Etridiazole	7 August 2007
Fenazaquin	23 June 2006
Fenbuconazole	12 May 2006
Fenbutatin oxide	20 April 2007
Fenoxycarb	4 October 2007
Fluazifop-P	10 September 2007
Flufenoxuron	8 November 2007
Fluometuron	31 August 2007
Fluquinconazole	22 December 2005
Flurochloridone	27 October 2006
Flutriafol	9 November 2006
Guazatine	8 November 2007
Hexythiazox	18 May 2006

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Active substance	Draft assessment report communicated to the notifier on
Hymexazol	8 October 2007
Isoxaben	9 November 2006
Metaldehyde	1 September 2006
Metosulam	8 October 2007
Myclobutanil	29 March 2006
Oryzalin	4 October 2007
Oxyfluorfen	4 October 2007
Paclobutrazol	7 December 2006
Pencycuron	1 June 2006
Prochloraz	18 June 2007
Propargite	8 October 2007
Pyridaben	7 August 2007
Quinmerac	6 July 2007
Sintofen	8 November 2007
Tau-fluvalinate	18 June 2007
Tebufenozide	9 June 2006
Tefluthrin	4 May 2007
Terbuthylazine	8 October 2007
Thiobencarb	21 July 2006