

COMMISSION

COMMISSION DECISION

of 20 September 2007

concerning the non-inclusion of 1,3-dichloropropene in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance

(notified under document number C(2007) 4281)

(Text with EEA relevance)

(2007/619/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 of 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 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 includes 1,3-dichloropropene.

(3) For 1,3-dichloropropene the effects on human health and the environment have been assessed in accordance with the provisions laid down in Regulations (EC) No 451/2000 and (EC) No 703/2001 for a range of uses proposed by the notifiers. 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 8(1) of Regulation (EC) No 451/2000. For 1,3-dichloropropene the rapporteur Member State was Spain and all relevant information was submitted on 14 January 2004.

(4) The assessment report has been peer reviewed by the Member States and the EFSA, and presented to the Commission on 12 May 2006 in the format of the EFSA Conclusion regarding the peer review of the pesticide risk assessment of the active substance 1,3-dichloropropene⁽⁴⁾. This report has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 15 May 2007 in the format of the Commission review report for 1,3-dichloropropene.

(5) During the evaluation of this active substance, a number of areas of concern have been identified. This was in particular the case concerning the release in the environment of large amounts of known and unknown polychlorinated impurities, for which no information on persistency, toxicological behaviour, uptake from crops, accumulation, metabolic fate and residue level are available. As a result of that, the consumer exposure has not been demonstrated to be acceptable and there is a possible risk of groundwater contamination, for birds, mammals, aquatic organisms and other non-target organisms.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/52/EC (OJ L 214, 17.8.2007, p. 3).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 98, 7.4.2001, p. 6.

⁽⁴⁾ EFSA Scientific Report (2006) 72, 1-99, conclusion regarding the peer review of pesticide risk assessment of 1,3-dichloropropene.

- (6) The Commission invited the notifier to submit its comments on the results of the peer review 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 advanced, the above concerns remained unsolved, and assessments made on the basis of the information submitted and evaluated during the EFSA expert meetings have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing 1,3-dichloropropene satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC.
- (7) 1,3-dichloropropene should therefore not be included in Annex I to Directive 91/414/EEC.
- (8) Measures should be taken to ensure that existing authorisations for plant protection products containing 1,3-dichloropropene are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (9) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing 1,3-dichloropropene allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season, which ensures that plant protection products containing 1,3-dichloropropene remain available to farmers for 18 months from the adoption of this Decision.
- (10) 1,3-dichloropropene is being used to replace methyl bromide. Methyl bromide is subject to phasing-out under the Montreal Protocol on substances that deplete the ozone layer due to its high ozone depletion potential and its use is covered by strict quotas to satisfy 'critical uses'. The withdrawal of 1,3-dichloropropene is therefore likely to lead to new requests for quotas of methyl bromide. In order to achieve the objectives of the Montreal Protocol, the time limit for the withdrawal of authorisations of plant protection products containing 1,3-dichloropropene should be reviewed within 18 months in order to assess the concrete impact of its withdrawal on the use of methyl bromide.
- (11) During the withdrawal period, the Member States should adopt mitigation measures to deal with any danger to human or animal health, or the environment.
- (12) This decision does not prejudice the submission of an application for 1,3-dichloropropene according to the provisions of Article 6(2) of Directive 91/414/EEC in view of a possible inclusion in its Annex I.
- (13) 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

1,3-dichloropropene shall not be included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

- (a) authorisations for plant protection products containing 1,3-dichloropropene are withdrawn by 20 March 2008;
- (b) no authorisations for plant protection products containing 1,3-dichloropropene are granted or renewed from the date of publication of this Decision.

Article 3

- (a) Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC shall expire no later than 20 March 2009.
- (b) The period referred to in paragraph (a) shall be reviewed and may be extended for a further period not exceeding 18 months in light of any further information that could become available on substances that deplete the ozone layer. This review shall consider the possible influence of the withdrawal of existing authorisations of plant protection products containing 1,3-dichloropropene on the critical uses for methyl bromide foreseen by the Montreal Protocol.

Article 4

During the period of grace referred to in Article 3, the Member States shall ensure that:

- particular attention is paid to the dietary exposure of consumers to 1,3-dichloropropene and its metabolites in view of future revisions of Community maximum residue levels,
- plant protection products containing 1,3-dichloropropene are applied only by professional users,

— risk mitigation measures are imposed to ensure the protection of groundwater under vulnerable conditions and monitoring programmes are initiated to verify potential groundwater contamination in vulnerable zones.

This Decision is addressed to the Member States.

Done at Brussels, 20 September 2007.

For the Commission
Markos KYPRIANOU
Member of the Commission