

COMMISSION DIRECTIVE 2010/34/EU**of 31 May 2010****amending Annex I to Council Directive 91/414/EEC as regards an extension of the use of the active substance penconazole****(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) By Commission Directive 2009/77/EC ⁽²⁾ penconazole was included as active substance in Annex I to Directive 91/414/EEC, with the specific provision that Member States may only authorise uses in greenhouses and that the notifier is to submit further information on the fate and behaviour of the soil metabolite U1 by 31 December 2011.
- (2) On 6 May 2009 the notifier submitted the required information to Germany, which had been designated rapporteur Member State by Commission Regulation (EC) No 451/2000 ⁽³⁾. Germany evaluated the additional information and submitted to the Commission on 6 November 2009 an addendum to the draft assessment report on penconazole, which was circulated for comments to the other Member States and to the European Food Safety Authority (EFSA). In the comments received no major concerns were raised and the other Member States and EFSA did not raise any point which would exclude the extension of the use. The draft assessment report together with that addendum was reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health and finalised on 11 May 2010 in the format of the Commission review report for penconazole.
- (3) The new information on the fate and behaviour of the metabolite U1 submitted by the notifier and the new assessment carried out by the rapporteur Member State indicate that plant protection products containing penconazole 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 intended uses as set out in the original dossier which were examined and detailed in the Commission review report. Consequently, it is no longer necessary to restrict the use of penconazole to greenhouses, as laid down in Directive 91/414/EEC as amended by Directive 2009/77/EC.
- (4) Without prejudice to that conclusion, it is appropriate to obtain further information on certain specific points.

Article 6(1) of Directive 91/414/EEC provides that inclusion of a substance in Annex I may be subject to conditions. Therefore, it is appropriate to require that the notifier submit further information on the fate and behaviour of the soil metabolite CGA179944 in acidic soils.

- (5) It is therefore appropriate to amend Directive 91/414/EEC accordingly.
- (6) 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 adopt and publish by 30 June 2010 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 July 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall 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 the day following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 31 May 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 172, 2.7.2009, p. 23.

⁽³⁾ OJ L 55, 29.2.2000, p. 25.

ANNEX

In Annex I to Directive 91/414/EEC, the column 'Specific provisions' of row 292 is amended as follows:

1. Part A is replaced by the following:

'PART A

Only uses as fungicides may be authorised.';

2. in the fourth paragraph of Part B the first sentence:

'The Member States concerned shall request the submission of further information on the fate and behaviour of the soil metabolite U1.',

is replaced by:

'The Member States concerned shall request the submission of further information on the fate and behaviour of the soil metabolite CGA179944 in acidic soils.'
