



2024/20

3.1.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/20

of 12 December 2023

concerning the non-renewal of the approval of the active substance S-metolachlor, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 20(1) and Article 78(2) thereof,

Whereas:

- (1) Commission Directive 2005/3/EC ⁽²⁾ included S-metolachlor as an active substance in Annex I to Council Directive 91/414/EEC ⁽³⁾.
- (2) According to Article 78(3) of Regulation (EC) No 1107/2009, active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁴⁾.
- (3) The approval of the active substance S-metolachlor, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 15 November 2024.
- (4) Applications for the renewal of the approval of S-metolachlor were submitted to Germany, the rapporteur Member State and France, to the co-rapporteur Member State, in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽⁵⁾ within the time period provided for in that Article.
- (5) The applicants submitted the supplementary dossiers required to the rapporteur Member State, the co-rapporteur Member State, the Commission and the European Food Safety Authority ('the Authority'), in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The applications were found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a draft renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the Authority and the Commission on 6 September 2018.
- (7) The Authority made the supplementary summary dossier available to the public. The Authority also circulated the draft renewal assessment report to the applicants and to the Member States for comments and launched a public consultation on it. The Authority forwarded the comments received to the Commission.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Directive 2005/3/EC of 19 January 2005 amending Council Directive 91/414/EEC to include imazosulfuron, laminarin, methoxyfenozide and s-metolachlor as active substances (OJ L 20, 22.1.2005, p. 19).

⁽³⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

- (8) On 29 September 2022, given that all areas of the assessment, except for endocrine disrupting properties, had been completed and that several critical areas of concern had been identified, the Commission invited the Authority to provide the results of the risk assessment of the active substance S-metolachlor, including its conclusion as to whether S-metolachlor can be expected to meet the approval criteria set out in Article 4 of Regulation (EC) No 1107/2009 excluding the full assessment of endocrine disrupting properties.
- (9) On 3 February 2023, the Authority communicated to the Commission its conclusion ⁽⁹⁾ on whether S-metolachlor can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009.
- (10) The Authority identified several critical areas of concerns. First of all, it concluded that there is a potential for S-metolachlor and its relevant herbicidally active metabolites to be present in groundwater above the parametric drinking water limit of 0,1 µg/L, based on monitoring data and that, in addition, these metabolites are predicted to be above 0,1 µg/L in all scenarios for all representative uses based on groundwater modelling. Furthermore, the Authority found a high potential for groundwater exposure above the parametric drinking water limit of 0,1 µg/L for metabolites which are toxicologically relevant due to concerns or data gaps concerning genotoxicity and/or carcinogenicity. Finally, the Authority also identified a high risk to earthworm-eating mammals from secondary poisoning.
- (11) Pursuant to Article 14 of Implementing Regulation (EU) No 844/2012, the Commission presented a draft renewal report and a draft of this Regulation to the Standing Committee on Plants, Animals, Food and Feed, for examination in May 2023. The draft renewal report was finalised by the Standing Committee on 12 July 2023.
- (12) The Commission invited the applicants to submit their comments on the conclusions of the Authority. Furthermore, in accordance with Article 14(1), third paragraph, of Implementing Regulation (EU) No 844/2012, the Commission invited the applicant to submit comments on the draft renewal report. The applicants submitted their comments which have been carefully examined.
- (13) However, despite the arguments put forward by the applicants, the concerns regarding the active substance could not be eliminated.
- (14) Consequently, it has not been established with respect to one or more representative uses of at least one plant protection product containing S-metolachlor that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate not to renew the approval of that active substance.
- (15) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (16) Member States should be given sufficient time to withdraw authorisations for plant protection products containing S-metolachlor.
- (17) For plant protection products containing S-metolachlor, where Member States grant any grace period in accordance with Article 46 of Regulation (EC) No 1107/2009, that period should at the latest, expire on 23 July 2024.

⁽⁹⁾ Peer review of the pesticide risk assessment of the active substance S-metolachlor excluding the assessment of the endocrine disrupting properties. (*EFSA Journal* 2023;21(2):7852; <https://doi.org/10.2903/j.efsa.2023.7852>).

- (18) Commission Implementing Regulation (EU) 2023/918 ⁽⁷⁾ extended the approval period of S-metolachlor to 15 November 2024 in order to allow the renewal process to be completed before the expiry of the approval period of that substance. However, given that a decision on the non-renewal of the approval has been taken ahead of the expiry of that extended approval period, this Regulation should start to apply earlier than that date.
- (19) This Regulation does not prevent the submission of a further application for the approval of S-metolachlor pursuant to Article 7 of Regulation (EC) No 1107/2009.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Non-renewal of the approval of the active substance

The approval of the active substance S-metolachlor is not renewed.

Article 2

Amendment to Implementing Regulation (EU) No 540/2011

In Part A of the Annex to Implementing Regulation (EU) No 540/2011, row 97 on S-metolachlor, is deleted.

Article 3

Transitional measures

Member States shall withdraw authorisations for plant protection products containing S-metolachlor as an active substance by 23 April 2024.

Article 4

Grace period

Any grace period granted by Member States in accordance with Article 46 of Regulation (EC) No 1107/2009 shall expire by 23 July 2024.

Article 5

Entry into force

This Regulation shall enter into force on twentieth day following that of its publication in the *Official Journal of the European Union*.

⁽⁷⁾ Commission Implementing Regulation (EU) 2023/918 of 4 May 2023 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances aclonifen, ametoctradin, beflubutamid, benthialicarb, boscalid, captan, clethodim, cycloxydim, cyflumetofen, dazomet, diclofop, dimethomorph, ethephon, fenazaquin, fluopicolide, fluoxastrobin, flurochloridone, folpet, formetanate, *Helicoverpa armigera* nucleopolyhedrovirus, hymexazol, indolylbutyric acid, mandipropamid, metalaxyl, metaldehyde, metam, metazachlor, metribuzin, milbemectin, paclobutrazol, penoxsulam, phenmedipham, pirimiphos-methyl, propamocarb, proquinazid, prothioconazole, S-Metolachlor, *Spodoptera littoralis* nucleopolyhedrovirus, *Trichoderma asperellum* strain T34 and *Trichoderma atroviride* strain I-1237 (OJ L 119, 5.5.2023, p. 160).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 December 2023.

For the Commission
The President
Ursula VON DER LEYEN
