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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009) XXX final

Draft

COMMISSION DECISION

of [...]

concerning the non-inclusion of diazinon in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market¹, and in particular the second subparagraph of Article 16(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1451/2007 of 4 December 2007 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market² establishes a list of active substances to be assessed, with a view to their possible inclusion in Annex I, IA or IB to Directive 98/8/EC.
- (2) Diazinon is included in that list for use in product-type 18, insecticides, acaricides and products to control other arthropods, as defined in Annex V to Directive 98/8/EC.
- (3) The deadline for the submission of a complete dossier for active substances for use in product-type 18 was 30 April 2006. No complete dossier was however received within this time period.
- (4) The Commission informed the Member States accordingly. On 14 June 2006, the Commission also made that information public by electronic means.
- (5) Within the period of three months from that publication, a company indicated an interest in taking over the role of participant for diazinon for use in product-type 18.
- (6) Commission Decision 2007/794/EC of 29 November 2007³ fixed the new deadline for the submission of a dossier to 30 April 2008.

¹ OJ L 123, 24.4.1998, p. 1.

² OJ L 325, 11.12.2007, p. 3.

³ OJ L 320, 6.12.2007, p. 35.

- (7) Within this new deadline, before submitting its dossier, the applicant consulted Portugal, the Rapporteur Member State designated for the evaluation of diazinon, to enquire whether its reference product, a flea collar, was to be considered as a biocidal product or a veterinary medicinal product.
- (8) Portugal, after consultation with the Commission and the other Member States, advised the applicant that most Member States would not consider a flea collar such as the one placed on the market by the applicant as a biocidal but as a veterinary medicinal product, as defined in Article 1(2) of Directive 2001/82/EC.
- (9) In view of this advice the applicant did not submit a dossier for the inclusion of diazinon in Annex I, IA or IB to Directive 98/8/EC for product-type 18. Pursuant to Article 12(4) of Regulation (EC) No 1451/2007, the role of participant for diazinon for product-type 18 may no longer be taken over.
- (10) Since the applicant did not submit a dossier within the prescribed period, diazinon should not be included for product-type 18 in Annexes I, IA or IB to Directive 98/8/EC.
- (11) It is necessary to establish a longer period for the phasing-out of flea collars placed on the market of certain Member States as biocidal products to allow for their authorisation as veterinary medicinal products in accordance with Directive 2001/82/EC.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products.

HAS ADOPTED THIS DECISION:

Article 1

Diazinon (CAS number 333-41-5, EC number 206-373-8) shall not be included in Annexes I, IA or IB to Directive 98/8/EC for product type 18.

Article 2

Flea collars placed on the market as biocidal products and containing diazinon for use in product type 18 shall no longer be placed on the market with effect from 1 March 2013.

Other biocidal products containing diazinon for use in product type 18 shall no longer be placed on the market with effect from 1 March 2011.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, [...]

For the Commission
Stavros Dimas
Member of the Commission