DIRECTIVES

COMMISSION DIRECTIVE 2010/81/EU

of 25 November 2010

amending Council Directive 91/414/EEC as regards an extension of the use of the active substance 2-phenylphenol

(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 2009/160/EU ([2]) 2-phenylphenol was included as active substance in Annex I to Directive 91/414/CEE, with the specific provision that Member States may only authorise indoor uses as a post-harvest fungicide in closed drench chambers.

(2) On 18 June 2010 the notifier submitted information on other application techniques, such as wax treatment, dipping treatment and foam curtain treatment, in order to remove the restriction to closed drench chambers.

(3) Spain, which had been designated rapporteur Member State by Commission Regulation (EC) No 2229/2004 ([3]), evaluated the additional information and submitted to the Commission on 30 July 2010 an addendum to the draft assessment report on 2-phenylphenol, 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 28 October 2010 in the format of the Commission review report for 2-phenylphenol.

(4) The new information on the application techniques submitted by the notifier and the new assessment carried out by the rapporteur Member State indicate that plant protection products containing 2-phenylphenol 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 indoor uses as a post-harvest fungicide which were examined and detailed in the Commission review report. Consequently, it is no longer necessary to restrict the use of 2-phenylphenol to closed drench chambers, as laid down in Directive 91/414/EEC as amended by Directive 2009/160/EU.

(5) 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 to confirm the residue levels occurring as a result of application techniques other than those in drench chambers.

(6) Furthermore, it is also appropriate to require Member States to pay particular attention to the protection of operators and workers and ensure that conditions of use prescribe the application of adequate personal protective equipment.

(7) It is therefore appropriate to amend Directive 91/414/EEC accordingly.

(8) 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.

([1]) OJ L 230, 19.8.1991, p. 1.
([2]) OJ L 338, 19.12.2009, p. 83.
([3]) OJ L 379, 24.12.2004, p. 13.

Article 2

Member States shall adopt and publish by 31 December 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 January 2011.

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, 25 November 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

In Annex I to Directive 91/414/EEC, row 305 is replaced by the following:

No	Common Name, Identification Numbers	IUPAC Name	Purity (*)	Entry into force	Expiration of inclusion	Specific provisions
'305	2-Phenylphenol (including its salts such as the sodium salt) CAS No 90-43-7 CIPAC No 246	*biphenyl-2-ol*	≥ 998 g/kg	1 January 2010	31 December 2019	PART A Only uses as a post-harvest fungicide for indoor use may be authorised. PART B For the implementation of the uniform principles of Annex VI, the conclusions of the review report on 2-phenylphenol, and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health on 27 November 2009, as amended in the Standing Committee on the Food Chain and Animal Health on 28 October 2010, shall be taken into account. In this overall assessment Member States must pay particular attention: — to the protection of operators and workers and ensure that conditions of use prescribe the application of adequate personal protective equipment, — to put in place appropriate waste management practices to handle the waste solution remaining after application, including the cleaning water of the drenching and other application systems. Member States permitting the release of wastewater into the sewage system, shall ensure that a local risk assessment is carried out. The Member States concerned shall ensure that the notifier submits to the Commission: — further information on the potential for skin depigmentation for workers and consumers due to possible exposure to the metabolite 2-phenylhydroquinone (PHQ) on citrus peel, — further information to confirm that the analytical method applied in residue trials correctly quantifies the residues of 2-phenylphenol, PHQ and their conjugates. They shall ensure that the notifier provides such information to the Commission by 31 December 2011. Furthermore, the Member States concerned shall ensure that the notifier submits to the Commission further information to confirm the residue levels occurring as a result of application techniques other than those in drench chambers. They shall ensure that the notifier provides such information to the Commission by 31 December 2012.'

(*) Further details on identity and specification of active substance are provided in the review report.