

**COMMISSION DECISION****of 23 November 2012****concerning the non-inclusion of bifenthrin for product type 18 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***(notified under document C(2012) 8442)***(Text with EEA relevance)**

(2012/728/EU)

THE EUROPEAN COMMISSION,

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

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 market<sup>(1)</sup>, 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 market<sup>(2)</sup> 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. That list includes bifenthrin.
- (2) Pursuant to Regulation (EC) No 1451/2007, bifenthrin has been evaluated in accordance with Article 11(2) of Directive 98/8/EC for use in product type 18, insecticides, acaricides and products to control other arthropods, as defined in Annex V to that Directive.
- (3) France was designated as Rapporteur Member State and submitted the competent authority report, together with a recommendation, to the Commission on 2 November 2009 in accordance with Article 14(4) and (6) of Regulation (EC) No 1451/2007.
- (4) The competent authority report was reviewed by the Member States and the Commission. In accordance with Article 15(4) of Regulation (EC) No 1451/2007, the findings of the review were incorporated, within the Standing Committee on Biocidal Products on 25 May 2012 in an assessment report.
- (5) The assessment has demonstrated that biocidal products used as insecticides, acaricides and products to control other arthropods and containing bifenthrin cannot be expected to satisfy the requirements laid down in

Article 5 of Directive 98/8/EC. The scenarios evaluated in the environmental risk assessment showed an unacceptable risk for the aquatic compartment. It is therefore not appropriate to include bifenthrin for use in product type 18 in Annex I, IA or IB to Directive 98/8/EC.

- (6) In the interest of legal certainty, the date as of which biocidal products of product type 18 containing bifenthrin should no longer be placed on the market should be specified, taking into account both the unacceptable effects of those products and the legitimate expectations of manufacturers of those products.
- (7) 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*

Bifenthrin (CAS No 82657-04-3) shall not be included in Annex I, IA or IB to Directive 98/8/EC for product type 18.

*Article 2*

For the purposes of Article 4(2) of Regulation (EC) No 1451/2007, biocidal products of product type 18 containing bifenthrin (CAS Nr 82657-04-3) shall no longer be placed on the market with effect from 1 May 2013.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 23 November 2012.

*For the Commission*

Janez POTOČNIK

*Member of the Commission*

<sup>(1)</sup> OJ L 123, 24.4.1998, p. 1.

<sup>(2)</sup> OJ L 325, 11.12.2007, p. 3.