COMMISSION IMPLEMENTING REGULATION (EU) No 1034/2013

of 24 October 2013

approving aluminium phosphide releasing phosphine as an active substance for use in biocidal products for product type 20

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products [1], and in particular the third subparagraph of Article 89(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 1451/2007 [2] 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 of the European Parliament and of the Council [3]. That list includes aluminium phosphide.

(2) Aluminium phosphide has been evaluated in accordance with Article 11(2) of Directive 98/8/EC for use in product-type 23, products for the control of other vertebrates, as defined in Annex V to that Directive, which corresponds to product-type 20 as defined in Annex V to Regulation (EU) No 528/2012.

(3) Germany was designated as Rapporteur Member State and submitted the competent authority report, together with a recommendation, to the Commission on 23 July 2010 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 27 September 2013, in an assessment report.

(5) It appears from that report that biocidal products used for product-type 23 and containing aluminium phosphide may be expected to satisfy the requirements laid down in Article 5 of Directive 98/8/EC.

(6) It is therefore appropriate to approve aluminium phosphide releasing phosphine for use in biocidal products for product-type 20.

(7) Since the evaluation did not address nanomaterials, the approval should not cover such materials pursuant to Article 4(4) of Regulation (EU) No 528/2012.

(8) A reasonable period should be allowed to elapse before an active substance is approved, in order to permit Member States, interested parties, and the Commission where appropriate, to prepare themselves to meet the new requirements entailed.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS REGULATION:

Article 1

Aluminium phosphide releasing phosphine shall be approved as an active substance for use in biocidal products for product-type 20, subject to the specifications and conditions set out in the Annex.

[1] OJ L 167, 27.6.2012, p. 1.

[2] 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 (OJ L 325, 11.12.2007, p. 3).

[3] 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 (OJ L 123, 24.4.1998, p. 1).

Article 2

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

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

Done at Brussels, 24 October 2013.

For the Commission
The President
José Manuel BARROSO

ANNEX

Common Name	IUPAC Name Identification Numbers	Minimum degree of purity of the active substance (1)	Date of approval	Expiry date of approval	Product type	Specific conditions (2)
Aluminium phosphide releasing phosphine	IUPAC Name: Aluminium phosphide EC No: 244-088-0 CAS No: 20859-73-8	830 g/kg	1 July 2015	30 June 2025	20	The product assessment shall pay particular attention to the exposures, the risks and the efficacy linked to any uses covered by an application for authorisation, but not addressed in the Union level risk assessment of the active substance. Authorisations are subject to the following conditions: (1) Products shall only be sold to and used by specifically trained professionals. (2) In view of the risks identified for operators, appropriate risk mitigation measures must be applied. These include, amongst others, the use of appropriate personal protective equipment, the use of applicators and the presentation of the product in a form designed to reduce operator exposure to an acceptable level. (3) In view of the risks identified for terrestrial non-target species, appropriate risk reduction measures must be applied. These include, amongst others, the non-treatment of areas where other burrowing mammals than the target species are present.

(1) The purity indicated in this column was the minimum degree of purity of the active substance used for the evaluation made in accordance with Article 8 of Regulation (EU) No 528/2012. The active substance in the product placed on the market can be of equal or different purity if it has been proven technically equivalent with the evaluated active substance.

(2) For the implementation of the common principles of Annex VI to Regulation (EU) No 528/2012, the content and conclusions of assessment reports are available on the Commission website: http://ec.europa.eu/comm/environment/biocides/index.htm