Regulation (EC) No 1185/2009 of the European Parliament and of the Council of 25 November 2009 concerning statistics on pesticides (Text with EEA relevance)

REGULATION (EC) No 1185/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2009

concerning statistics on pesticides

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty, in the light of the Joint text approved by the Conciliation Committee on 10 November 2009[(2)],

Whereas:

(1) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme[(3)] recognised that the impact of pesticides on human health and the environment, in particular from pesticides used in agriculture, must be reduced further. It underlined the need to achieve more sustainable use of pesticides and called for a significant overall reduction of risks and the use of pesticides consistent with the necessary crop protection.

(2) In its Communication to the Council, the European Parliament and the European Economic and Social Committee entitled 'Towards a Thematic Strategy on the Sustainable Use of Pesticides', the Commission recognised the need for detailed, harmonised and up-to-date statistics on sales and use of pesticides at Community level. Such statistics are necessary for assessing policies of the European Union on sustainable development and for calculating relevant indicators on the risks for health and the environment related to pesticide use.

(3) Harmonised and comparable Community statistics on pesticide sales and use are essential for the development and monitoring of Community legislation and policies in the context of the Thematic Strategy on the Sustainable Use of Pesticides.

(4) Since the effects of the 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[(4)] will not become apparent until the first evaluation of active substances for use in biocidal products is finalised, neither the Commission nor most Member States currently have

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sufficient knowledge or experience to propose further measures regarding biocides. The scope of this Regulation should thus be limited to pesticides which are plant protection products covered by 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[(5)], for which substantial experience already exists on data collection.

(5) However, it is anticipated that, taking into account the results of the evaluation of Directive 98/8/EC and on the basis of an impact assessment, the scope of this Regulation will be extended to cover biocidal products.

(6) The experience of the Commission in collecting data on sales and use of pesticides over many years has demonstrated the need to have a harmonised methodology for collecting statistics at Community level both from the stage of placing on the market and from users. Moreover, in view of the aim of calculating accurate risk indicators in accordance with the objectives of the Thematic Strategy on the Sustainable Use of Pesticides, statistics need to be detailed up to the level of the active substances.

(7) Among the different data collection options evaluated in the impact assessment of the Thematic Strategy on the Sustainable Use of Pesticides, mandatory data collection was recommended as the best option because it would allow the development of accurate and reliable data on the placing on the market and use of pesticides quickly and cost-efficiently.

(8) Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics[(6)] constitutes the reference framework for the provisions of this Regulation, requiring, in particular, conformity to standards of professional independence, impartiality, objectivity, reliability, cost-effectiveness and statistical confidentiality.

(9) The transmission of data subject to statistical confidentiality is governed by the rules set out in Regulation (EC) No 223/2009. Measures which are taken in accordance with that Regulation ensure the physical and logical protection of confidential data and ensure that no unlawful disclosure and non-statistical use occur when Community statistics are produced and disseminated.

(10) The publication and dissemination of data collected under this Regulation is governed by the rules set out in Regulation (EC) No 223/2009. Measures which are taken in accordance with Regulation (EC) No 223/2009 ensure the physical and logical protection of confidential data and ensure that no unlawful disclosure and non-statistical use occur when Community statistics are produced and disseminated.

(11) Data regarding the placing on the market and use of pesticides to be submitted pursuant to Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides[(7)] and Regulation (EC) No 1107/2009 should be assessed in accordance with the relevant provisions of that Directive and of that Regulation.

(12) This Regulation should apply without prejudice to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information[(8)] and to Regulation (EC) No 1367/2006 of the European Parliament and

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of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies[9].

(13) To ensure comparable results, statistics on pesticides should be produced in accordance with a specified breakdown, in an appropriate form and within a fixed period of time from the end of a reference year as defined in the Annexes of this Regulation.

(14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[10].

(15) In particular the Commission should be empowered to define the area treated and to adapt Annex III. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(16) Since the objective of this Regulation, namely the establishment of a common framework for the systematic production of Community statistics on the placing on the market and use of pesticides, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(17) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom[11], has been consulted,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter, scope and objectives

1 This Regulation establishes a common framework for the systematic production of Community statistics on the placing on the market and use of those pesticides which are plant protection products, as defined in Article 2(a)(i).

2 The statistics shall apply to:

— the annual amounts of pesticides placed on the market in accordance with Annex I,

— the annual amounts of pesticides used in accordance with Annex II,

3 The statistics shall, in particular, together with other relevant data serve the purposes of Articles 4 and 15 of Directive 2009/128/EC.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

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(a) 'pesticides' means:

(i) a plant protection product as defined in Article 2(1) of Regulation (EC) No 1107/2009;

(ii) a biocidal product as defined in Article 2(1) of Directive 98/8/EC;

(b) 'substances' means substances as defined in point 2 of Article 3 of Regulation (EC) No 1107/2009, including active substances, safeners and synergists;

(c) 'active substances' means active substances as referred to in Article 2(2) of Regulation (EC) No 1107/2009;

(d) 'safeners' means safeners as referred to in Article 2(3)(a) of Regulation (EC) No 1107/2009;

(e) 'synergists' means synergists as referred to in Article 2(3)(b) of Regulation (EC) No 1107/2009;

(f) 'placing on the market' means placing on the market as defined in point 9 of Article 3 of Regulation (EC) No 1107/2009;

(g) 'authorisation holder' means authorisation holder as defined in point 24 of Article 3 of Regulation (EC) No 1107/2009;

(h) 'agricultural use' means any type of application of a plant protection product associated directly or indirectly with the production of plant products in the context of the economic activity of an agricultural holding;

(i) 'professional user' means professional user as defined in point 1 of Article 3 of Directive 2009/128/EC;

(j) 'agricultural holding' means agricultural holding as defined in Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November 2008 on farm structure surveys and the survey on agricultural production methods[(12)].

Article 3

Data collection, transmission and processing

1 Member States shall collect the data necessary for the specification of the characteristics listed in Annex I on an annual basis and for the specification of the characteristics listed in Annex II in five-year periods by means of:

— surveys,

— information concerning the placing on the market and use of pesticides taking into account, in particular, the obligations pursuant to Article 67 of Regulation (EC) No 1107/2009,

— administrative sources, or,

— a combination of these means, including statistical estimation procedures on the basis of expert judgements or models,

2 Member States shall transmit to the Commission (Eurostat) the statistical results, including confidential data, in accordance with the schedules and with the periodicity specified in Annexes I and II. Data shall be presented in accordance with the classification given in Annex III.

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3 Member States shall transmit the data in electronic form, in conformity with an appropriate technical format to be adopted by the Commission (Eurostat) in accordance with the regulatory procedure referred to in Article 6(2).

4 For reasons of confidentiality, the Commission (Eurostat) shall aggregate the data before publication in accordance with the chemical classes or categories of products indicated in Annex III, taking due account of the protection of confidential data at the level of individual Member State. The confidential data shall be used by national authorities and by the Commission (Eurostat) exclusively for statistical purposes, in accordance with Article 20 of Regulation (EC) No 223/2009.

Article 4

Quality assessment

1 For the purpose of this Regulation, the quality criteria as laid down in Article 12(1) of Regulation (EC) No 223/2009 shall apply.

2 Member States shall provide the Commission (Eurostat) with reports on the quality of the data transmitted as referred to in Annexes I and II. The Commission (Eurostat) shall assess the quality of data transmitted.

Article 5

Implementing measures

1 The appropriate technical format for the transmission of data shall be adopted in accordance with the regulatory procedure referred to in Article 6(2).

The Commission may, if necessary, modify requirements relating to the provision of the quality reports described in Section 6 of Annexes I and II. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3).

2 The Commission shall adopt the definition of the ‘area treated’ as referred to in Section 2 of Annex II. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3).

3 The Commission shall adapt the list of substances to be covered and their classification in categories of products and chemical classes as set out in Annex III on a regular basis and at least every five years. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3).

Article 6

Committee procedure

1 The Commission shall be assisted by the European Statistical System Committee, established by Article 7 of Regulation (EC) No 223/2009.