NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

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| **1.** | **Notifying Member:** EUROPEAN UNION  **If applicable, name of local government involved (Article 3.2 and 7.2):** |
| **2.** | **Agency responsible:**  European Commission  **Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:**  European Commission,  EU-TBT Enquiry Point,  Fax: +(32) 2 299 80 43,  E-mail: [grow-eu-tbt@ec.europa.eu](mailto:grow-eu-tbt@ec.europa.eu)  Website: <http://ec.europa.eu/growth/tools-databases/tbt/en/> |
| **3.** | **Notified under Article 2.9.2 [****X],** **2.10.1 [****],** **5.6.2 [****],** **5.7.1 [****], 3.2 [****], 7.2 [****],** **other****:** |
| **4.** | **Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable):** Benthiavalicarb (pesticide active substance) |
| **5.** | **Title, number of pages and language(s) of the notified document:** Draft Commission Implementing Regulation concerning the non-renewal of the approval of the active substance Benthiavalicarb, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council, and amending Commission Implementing Regulation (EU) No 540/2011; (5 page(s), in English) |
| **6.** | **Description of content:** This draft Commission Implementing Regulation provides that the approval of the active substance Benthiavalicarb is not renewed in accordance with Regulation (EC) No 1107/2009. EU Member States shall withdraw authorisations for plant protection products containing Benthiavalicarb as an active substance. The non-renewal of approval is based on the first evaluation of the substance for use as a pesticide active substance in the EU under Regulation (EC) No 1107/2009. The substance was formerly assessed and approved under Directive 91/414/ EEC.  This decision only concerns the placing on the market of this substance and plant protection products containing it. Following non-approval and the expiry of all grace periods for stocks of products containing this substance, separate action will likely be taken on MRLs and a separate notification will be made in accordance with SPS procedures. |
| **7.** | **Objective and rationale, including the nature of urgent problems where applicable:**  In order for an active substance to be approved in accordance with Regulation (EC) No 1107/2009 (concerning the placing of plant protection products on the market), it must be demonstrated that the substance is not harmful to human health, animal health or the environment. Criteria are listed in Article 4 of the Regulation (and also detailed in Annex II thereto) which must be met to enable approval.  During the evaluation and peer-review of Benthiavalicarb, a number of concerns and areas that could not be finalised were identified. These are detailed in the statement of the European Food Safety Authority (EFSA).  The decision is based on a risk assessment carried out by a rapporteur EU Member State and peer reviewed by the European Food Safety Authority together with all EU Member States, taking into account other factors legitimate to the matter.  In the case of Benthiavalicarb, the outcome of the risk assessment, as documented in the EFSA Conclusion, is not favourable and identifies critical areas of concern.  These critical areas of concern have been identified:  (1) Carcinogenic potential. Criteria for classification as Category 1B are met (RAC opinion adopted on 18.03.2022);  2) Criteria for endocrine disruption (ED) for humans for the T and EAS modalities are met. These concerns mean that Benthiavalicarb does not meet the approval criteria as outlined in Regulation (EC) No 1107/2009.  Existing authorisations will need to be withdrawn; EU Member States must withdraw existing plant protection products containing Benthiavalicarb at the latest by 6 months from the date of entry into force. A period of grace in line with Article 46 of Regulation (EC) No 1107/2009 is allowed for and shall expire at the latest 12 months from the entry into force (allowing for a final season of use).  Protection of human health or safety; Protection of animal or plant life or health; Protection of the environment |
| **8.** | **Relevant documents:**  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 and repealing Council Directives 79/117/EEC and 91/414/EEC  <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009R1107>  Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (*OJ L 153, 11.6.2011, p. 1–186*)  <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32011R0540>  Commission Implementing Regulation (EU) 2015/408 of 11 March 2015 on implementing Article 80(7) of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and establishing a list of candidates for substitution (*OJ L 67, 12.3.2015, p. 18–22*)  <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32015R0408>  EFSA (European Food Safety Authority), 2022. Peer review of the pesticide risk assessment of the active substance benthiavalicarb.  <https://doi.org/10.2903/j.efsa.2021.6833> |
| **9.** | **Proposed date of adoption:** 4th quarter 2023  **Proposed date of entry into force:** 20 days following publication in the Official Journal of the EU |
| **10.** | **Final date for comments:** 60 days from notification |
| **11.** | **Texts available from: National enquiry point [****]** **or address, telephone and fax numbers and email and website addresses, if available, of other body:**  European Commission,  EU-TBT Enquiry Point,  Fax: + (32) 2 299 80 43,  E-mail: [grow-eu-tbt@ec.europa.eu](mailto:grow-eu-tbt@ec.europa.eu)  The text is available on the EU-TBT Website : <http://ec.europa.eu/growth/tools-databases/tbt/en/>  <https://members.wto.org/crnattachments/2023/TBT/EEC/23_11162_00_e.pdf> |