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COMPET 608
ENT 146
MI 637
CONSOM 187
ENV 594
CHIMIE 91
SAN 523

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. Cion doc.: ST 11070/21 + ADD 1 - D074017/02

Subject: Commission Regulation (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), as regards carcinogenic, mutagenic or reproductive toxicant (CMR) substances
- Decision not oppose adoption

1. On 26 July 2021, the Commission submitted the above draft Regulation to the Council, which amends entries 28, 29, and 30 of Annex XVII of Regulation (EC) 1907/2006¹ (REACH), in accordance with its Articles 68(2), 131, and 133, and Annex VI to Regulation (EC) No 1272/2008².

¹ Regulation (EC) 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94, as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1). (consolidated version:25/08/2021);

² Regulation (EC) 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) 1907/2006 (OJ L 353, 31.12.2008, p. 1–1355) (consolidated version:10/05/2021);

These entries prohibit the placing on the market and use for supply to the public of substances classified as carcinogenic, mutagenic or reproductive toxicant (CMR), categories 1A or 1B.

2. Article 131 of REACH provides that its Annexes may be amended in accordance with the procedure referred to in Article 133. The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 133(1) of REACH.
3. Appendices 1 to 6 to the above Annex XVII do not reflect yet the new classifications of substances as CMR³, and until their due date of application they need to be amended accordingly. The new classifications will apply at different dates in 2022. The dates of application, however, do not prevent operators from applying earlier the new restrictions related to the above CMR substances category 1A or 1B.
4. Pursuant to the procedure in Article 5a of Council Decision 1999/468/EC⁴, before being formally adopted by the Commission, such draft measures are submitted for scrutiny to the European Parliament and the Council. If neither the European Parliament nor the Council have opposed the measures envisaged by the Commission, the draft Regulation shall be adopted by the Commission.
5. On 20 July 2021, the Committee voted unanimously in favour of the measure in the above draft Regulation, in accordance with Article 5a(2) of Council Decision 1999/468/EC.

³ These Appendices have been last amended by Commission Regulation (EU) 2020/2096 (OJ L 425, 16.12.2020, p. 3); Delegated Regulations (EU) 2020/1182, (OJ L 261, 11.8.2020, p. 2), and 2021/849 (OJ L 188, 28.5.2021, p. 27);

⁴ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23); Current consolidated version is of 23/07/2006.

6. On 26 July 2021, delegations were asked by 26 August 2021 to indicate their possible opposition to the draft Regulation. No delegation raised grounds for opposition.

 7. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm its non-opposition to the draft Regulation, as set out in document ST 11070/21 + ADD 1 as an item without discussion at one of its forthcoming meetings.
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