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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	30 May 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2023) 3387 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 30.5.2023 amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council as regards the listing of perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds

Delegations will find attached document C(2023) 3387 final.

Encl.: C(2023) 3387 final



EUROPEAN
COMMISSION

Brussels, 30.5.2023
C(2023) 3387 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 30.5.2023

amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council as regards the listing of perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The objective of Regulation (EU) 2019/1021 is to protect human health and the environment from persistent organic pollutants ('POPs') by prohibiting, phasing out as soon as possible, or restricting the manufacturing, placing on the market and use of substances subject to the Stockholm Convention on POPs ('the Convention'). At the tenth Conference of the Parties to the Stockholm Convention, which took place in Geneva, Switzerland in June 2022, it was decided to include perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds in Annex A to the Convention. That decision should be reflected in Annex I to Regulation (EU) 2019/1021.

This delegated act implements decision SC-10/14 to list perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds in Annex A, in accordance with Article 15(1) of Regulation (EU) 2019/1021.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

An expert group (the 'POPs CA meeting') was consulted on the draft delegated act on 24 November 2022 and comments were taken into account. The group is composed of all the relevant stakeholders - representatives of Member States, of the European Chemicals Agency, the chemicals industry and the civil society.

A public consultation was carried out for the draft act from 9 February to 9 March 2023. Five citizens and one association provided a feedback, mostly supporting the proposal.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act amends the list of chemicals in Annex I on the basis of developments under the Convention, as required by Article 15(1) of Regulation (EU) 2019/1021.

COMMISSION DELEGATED REGULATION (EU) .../...

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amending Annex I to Regulation (EU) 2019/1021 of the European Parliament and of the Council as regards the listing of perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants¹, and in particular Article 15(1) thereof,

Whereas:

- (1) Regulation (EU) 2019/1021 implements the commitments of the Union under the 2001 Stockholm Convention on Persistent Organic Pollutants² ('the Convention') and under the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants³ ('the Protocol').
- (2) Annex A to the Convention contains a list of chemicals. Each Party to the Convention is required to prohibit the chemicals on the list and/or take the legal and administrative measures necessary to eliminate their production, use, import and export.
- (3) The Conference of the Parties to the Convention has, pursuant to Article 8(9) of the Convention, decided in its tenth meeting from 6 to 17 June 2022 to amend Annex A to the Convention in order to include perfluorohexane sulfonic acid ('PFHxS'), its salts and PFHxS-related compounds in that Annex without any specific exemption.
- (4) Part A of Annex I to Regulation (EU) 2019/1021, which contains a list of the substances listed in the Convention and in the Protocol as well as substances listed only in the Convention, should therefore also be amended to include PFHxS, its salts and PFHxS-related compounds.
- (5) In order to reinforce the application and enforcement in the Union of Article 3 of Regulation (EU) 2019/1021, a limit value should be set for PFHxS, its salts and PFHxS-related compounds occurring as an unintentional trace contaminant in substances, mixtures and articles. That limit value should be set at 0,025 mg/kg for PFHxS including its salts, and at 1 mg/kg for the individual PFHxS-related compounds or a combination of those compounds. For the use in firefighting foams where those limit values cannot currently be met, higher concentration limits should be established, subject to review by the Commission within 3 years after entry into force with a view to lowering the limits.
- (6) Regulation (EU) 2019/1021 should therefore be amended accordingly,

¹ OJ L 169, 25.6.2019, p. 45.

² OJ L 209, 31.7.2006, p. 3.

³ OJ L 81, 19.3.2004, p. 37.

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2019/1021 is amended in accordance with the Annex to this Regulation.

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, 30.5.2023

For the Commission
The President
Ursula VON DER LEYEN