



2024/1331

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COMMISSION DELEGATED REGULATION (EU) 2024/1331

of 28 February 2024

amending Regulation (EC) No 273/2004 of the European Parliament and of the Council and Council Regulation (EC) No 111/2005 as regards the inclusion of the drug precursor Isopropylidene (2-(3,4-methylenedioxyphenyl)acetyl)malonate (IMDPAM) and other substances in the list of scheduled substances

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 273/2004 of the European Parliament and of the Council of 11 February 2004 on drug precursors ⁽¹⁾, and in particular Article 15 thereof,

Having regard to Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Union and third countries in drug precursors ⁽²⁾, and in particular Article 30a thereof,

Whereas:

- (1) Regulation (EC) No 273/2004 lays down measures for monitoring trade in drug precursors within the Union, while Regulation (EC) No 111/2005 governs trade in drug precursors between the Union and third countries. Annex I to Regulation (EC) No 273/2004 and the Annex to Regulation (EC) No 111/2005 each contain a list of scheduled substances, which are subject to several harmonised control and monitoring measures provided for by those Regulations.
- (2) National competent authorities have reported the seizure of the sodium salt of Isopropylidene (2-(3,4-methylenedioxyphenyl)acetyl)malonate (IMDPAM) in the context of illicit manufacture of narcotic drugs.
- (3) IMDPAM is used to produce 3,4-Methylenedioxyphenylpropan-2-one, which, in turn, is a precursor of 3,4-methylenedioxymethamphetamine (MDMA), commonly known as 'ecstasy'.
- (4) MDMA is one of the most common drugs illicitly produced in the Union. It is known to pose significant risks to human health.
- (5) Therefore, IMDPAM should be included in the list of scheduled substances at Union level to reinforce its control and monitoring.
- (6) In addition, seven esters of 2-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid) and six esters of 3-(1,3-benzodioxol-5-yl)-2-methyl-oxirane-2-carboxylic acid (PMK glycidic acid) have been identified as possible substitutes of BMK glycidic acid and PMK glycidic acid in the illicit production of drugs. Those esters can be easily designed to avoid the control and monitoring measures applicable to BMK glycidic acid and PMK glycidic acid, Category 1 scheduled substances. They are also easily convertible into the two scheduled substances. To ensure their control and monitoring, the respective esters should also be added to the list of scheduled substances in Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005.
- (7) The scheduled substances listed in Annex I to Regulation (EC) No 273/2004 and in the Annex to Regulation (EC) No 111/2005 are divided into categories for which different measures apply, so as to achieve a proportionate balance between the level of threat posed by each specific substance and the burden on licit trade. The strictest control and monitoring measures apply to substances of Category 1.

⁽¹⁾ OJ L 47, 18.2.2004, p. 1.

⁽²⁾ OJ L 22, 26.1.2005, p. 1.

- (8) IMDPAM and the identified esters of BMK glycidic acid and PMK glycidic acid pose a significant social and public health threat in the Union. They have no known licit production, trade, or use, except for research purposes. Therefore, including these substances in Category 1 of Annex I to Regulation (EC) No 273/2004 and in Category 1 of the Annex to Regulation (EC) No 111/2005 would be an adequate response to prevent their use in the illicit manufacture of narcotic drugs whilst, at the same time, not entailing any significant extra administrative burden for economic operators and competent authorities in the Union.
- (9) Regulations (EC) No 273/2004 and (EC) No 111/2005 should therefore be amended accordingly.
- (10) Commission Implementing Regulation (EU) 2020/1577 ⁽³⁾ reclassified red phosphorus in the Combined Nomenclature ('CN'). The CN codes in Regulations (EC) No 273/2004 and (EC) No 111/2005 should therefore be amended accordingly.
- (11) Regulations (EC) No 273/2004 and (EC) No 111/2005 jointly implement certain provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on 20 December 1988 and approved by Council Decision 90/611/EEC ⁽⁴⁾. In view of the close substantive link between the empowerments contained in those Regulations, it is appropriate to adopt the amendments by way of one single delegated act,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 273/2004

Annex I to Regulation (EC) No 273/2004 is amended in accordance with Annex I to this Regulation.

Article 2

Amendments to Regulation (EC) No 111/2005

The Annex to Regulation (EC) No 111/2005 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force

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, 28 February 2024.

For the Commission

The President

Ursula VON DER LEYEN

⁽³⁾ Commission Implementing Regulation (EU) 2020/1577 of 21 September 2020 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 361, 30.10.2020, p. 1).

⁽⁴⁾ Council Decision 90/611/EEC of 22 October 1990 concerning the conclusion, on behalf of the European Economic Community, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (OJ L 326, 24.11.1990, p. 56).

ANNEX I

Annex I to Regulation (EC) No 273/2004 is amended as follows:

(1) the table 'Category 1' is amended as follows:

- (a) the entry 'Methyl 2-methyl-3-phenyloxirane-2-carboxylate (BMK methyl glycidate)' is deleted;
- (b) the entry '2-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid)' is replaced by the following:

Substance	CN designation (if different)	CN Code	CAS No
'2-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid) (*)		2918 99 90	25547-51-7

(*) and its ethyl, methyl (CAS No 80532-66-7), propyl, isopropyl, butyl, isobutyl, sec-butyl and tert-butyl esters, with the same CN code as BMK glycidic acid.;

- (c) the entries 'Ethyl 3-(2H-1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (PMK ethyl glycidate)' and 'Methyl 3-(1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (PMK methyl glycidate)' are deleted;
- (d) the entry '3-(1,3-benzodioxol-5-yl)-2-methyl-oxirane-2-carboxylic acid (PMK glycidic acid)' is replaced by the following:

Substance	CN designation (if different)	CN Code	CAS No
'3-(1,3-benzodioxol-5-yl)-2-methyl-oxirane-2-carboxylic acid (PMK glycidic acid) (*)		2932 99 00	2167189-50-4

(*) and its ethyl (CAS No 28578-16-7), methyl (CAS No 13605-48-6), propyl, isopropyl, butyl, isobutyl, sec-butyl and tert-butyl esters, with the same CN code as PMK glycidic acid.;

- (e) the following entry is inserted in the list of substances in the appropriate place sequentially according to the CN Code:

Substance	CN designation (if different)	CN Code	CAS No
'Isopropylidene (2-(3,4-methylenedioxyphenyl) acetyl)malonate (IMDPAM) (*)	IMDPAM	2932 99 00	

(*) also known as 5-[2-(1,3-benzodioxol-5-yl)acetyl]-2,2-dimethyl-1,3-dioxane-4,6-dione, according to IUPAC (The International Union of Pure and Applied Chemistry).;

- (2) in the table 'Subcategory 2A', in the entry 'Red phosphorus', the CN Code '2804 70 00' is replaced by the CN Code '2804 70 10'.

ANNEX II

The Annex to Regulation (EC) No 111/2005 is amended as follows:

(1) the table 'Category 1' is amended as follows:

- (a) the entry 'Methyl 2-methyl-3-phenyloxirane-2-carboxylate (BMK methyl glycidate)' is deleted;
- (b) the entry '2-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid)' is replaced by the following:

Substance	CN designation (if different)	CN Code	CAS No
'2-methyl-3-phenyloxirane-2-carboxylic acid (BMK glycidic acid) (*)		2918 99 90	25547-51-7

(*) and its ethyl, methyl (CAS No 80532-66-7), propyl, isopropyl, butyl, isobutyl, sec-butyl and tert-butyl esters, with the same CN code as BMK glycidic acid.;

- (c) the entries 'Ethyl 3-(2H-1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (PMK ethyl glycidate)' and 'Methyl 3-(1,3-benzodioxol-5-yl)-2-methyloxirane-2-carboxylate (PMK methyl glycidate)' are deleted;
- (d) the entry '3-(1,3-benzodioxol-5-yl)-2-methyl-oxirane-2-carboxylic acid (PMK glycidic acid)' is replaced by the following:

Substance	CN designation (if different)	CN Code	CAS No
'3-(1,3-benzodioxol-5-yl)-2-methyl-oxirane-2-carboxylic acid (PMK glycidic acid) (*)		2932 99 00	2167189-50-4

(*) and its ethyl (CAS No 28578-16-7), methyl (CAS No 13605-48-6), propyl, isopropyl, butyl, isobutyl, sec-butyl and tert-butyl esters, with the same CN code as PMK glycidic acid.;

- (e) the following entry is inserted in the list of substances in the appropriate place sequentially according to the CN Code:

Substance	CN designation (if different)	CN Code	CAS No
'Isopropylidene (2-(3,4-methylenedioxyphenyl) acetyl)malonate (IMDPAM) (*)	IMDPAM	2932 99 00	[]

(*) also known as 5-[2-(1,3-benzodioxol-5-yl)acetyl]-2,2-dimethyl-1,3-dioxane-4,6-dione, according to IUPAC (The International Union of Pure and Applied Chemistry).;

- (2) in the table 'Category 2', in the entry 'Red phosphorus', the CN Code '2804 70 00' is replaced by the CN Code '2804 70 10'.