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[...](2017) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

**amending Regulation (EC) No 340/2008 on the fees and charges payable to the
European Chemicals Agency**

(Text with EEA relevance)

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amending Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency

(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 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning 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,¹ and in particular Article 74(1) thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 1907/2006, the structure and amount of the fees provided for in that Regulation shall take account of the work required to be carried out by the European Chemicals Agency ('the Agency') and the competent authorities and shall be fixed at such a level as to ensure that the revenue derived from them when combined with other sources of the Agency's revenue is sufficient to cover the cost of the services delivered.
- (2) The experience gained so far by the Agency and its Committees for Risk Assessment and for Socio-economic Analysis in assessing applications for authorisation has shown that the amount of work involved in such assessment is driven by the number of uses applied for in one application, rather than the number of applicants having jointly submitted the application. Consequently, the fee applicable to a given application should be the same, regardless of the number of applicants; no additional fee should be levied for each additional applicant. The same reasoning applies also to the charges for submission of any review report. Modifying the fees and charges accordingly could allow easing the financial burden for smaller operators, such as small and medium-sized enterprises.
- (3) Where enterprises having submitted a joint application for authorisation belong to different size categories for which different base fees would apply, the highest fee should be levied.
- (4) Furthermore, following the review of Commission Regulation (EC) No 340/2008², conducted in 2015, and in the light of the experience gained in treating authorisation

¹ OJ L 396, 30.12.2006, p. 1.

² Commission Regulation (EC) No 340/2008 of 16 April 2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament

applications, it is appropriate that the authorisation fees and charges be adjusted to reflect the workload of the Agency. To that end, the additional fees and charges applicable per additional use should be only slightly lower than the amount of the basic fee or charge. Those additional fees or charges per additional use should therefore be increased.

- (5) Regulation (EC) No 340/2008 should therefore be amended accordingly.
- (6) For reasons of legal certainty, this Regulation should not apply to applications submitted before the day of entry into force of this Regulation.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 340/2008 is amended as follows:

- (1) In Article 8, paragraph 2 is replaced by the following:

‘2. The Agency shall levy a base fee for any application for an authorisation of a substance, as set out in point 1 of Annex VI. The base fee shall cover the application for an authorisation for one substance and one use.

The Agency shall levy an additional fee, as set out in Annex VI to this Regulation, for each additional use and for each additional substance that meets the definition of a group of substances as defined in point 1.5. of Annex XI to Regulation (EC) No 1907/2006 and that is covered by the application. No additional fee shall be levied where more than one applicant is party to the application for an authorisation. Where the applicants that are party to a joint application for an authorisation are of different sizes, the highest fee applicable to any of those applicants shall be levied for that application.

The Agency shall issue one invoice covering the base fee and any applicable additional fees.’

- (2) In Article 9, paragraph 2 is replaced by the following:

‘2. The Agency shall levy a base charge for submission of any review report, as set out in point 1 of Annex VII. The base charge shall cover the submission of a review report for one substance and one use.

The Agency shall levy an additional charge, as set out in Annex VII to this Regulation, for each additional use and for each additional substance that meets the definition of a group of substances as defined in point 1.5. of Annex XI to Regulation (EC) No 1907/2006 and that is covered by the review report. No additional charge shall be levied where there is more than one party to a review report. Where the entities that are party to the submission of a joint review report are of different sizes, the highest charge applicable to any of those applicants shall be levied to that submission.

The Agency shall issue one invoice covering the base charge and any applicable additional charges.’

and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 107, 17.4.2008, p. 6).

(3) Annexes VI and VII are replaced by the text set out in the Annex to this Regulation.

Article 2

Regulation (EC) No 340/2008 as amended by Commission Implementing Regulation (EU) No 254/2013³ shall apply to applications submitted before [the date of entry into force of this Regulation].

Article 3

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,

For the Commission
The President
Jean-Claude Juncker

³ Commission Implementing Regulation (EU) No 254/2013 of 20 March 2013 amending Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 79, 21.3.2013, p. 7).