Commission Delegated Regulation (EU) 2019/1823 of 8 August 2019 amending Regulation (EU) No 528/2012 of the European Parliament and of the Council to include D-fructose as an active substance in Annex I thereto (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/1823

of 8 August 2019

amending Regulation (EU) No 528/2012 of the European Parliament and of the Council to include D-fructose as an active substance in Annex I thereto

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products[(1)], and in particular Article 28(1) thereof,

Whereas:

(1) The active substance D-fructose, insofar as it constituted food or feed intended for use as a repellent or attractant of product type 19, used to benefit from the food and feed derogation provided for in Article 6 of Commission Regulation (EC) No 1451/2007[(2)].

(2) A notification was submitted pursuant to Article 16(5) of Commission Delegated Regulation (EU) No 1062/2014[(3)] for D-fructose for product type 19 benefiting from the food and feed derogation. The European Chemicals Agency ('the Agency') declared the notification to be compliant and informed the Commission of the compliance pursuant to Article 17 of that Regulation. D-fructose was consequently included for product type 19 in the list of substance/product type combinations included in the programme of review of existing active substances contained in biocidal products[(4)].

(3) On 31 January 2017 the Commission asked the Agency for an opinion on whether D#fructose gives rise to concern according to Article 28(2) of Regulation (EU) No 528/2012. The opinion of the Agency[(5)] concluded that D-fructose does not give rise to concern and is therefore eligible for inclusion in Annex I to Regulation (EU) No 528/2012.

(4) Taking into account the opinion of the Agency, it is appropriate to include D-fructose in Annex I to Regulation (EU) No 528/2012. As D-fructose is of natural origin, it should be included in category 4 'Traditionally used substances of natural origin'. D#fructose should be included in that Annex only insofar as it falls within the definition of 'food' or 'feed' referred to in point (u) of Article 3(1) of that Regulation. This is consistent with the fact that D-fructose only benefited from the food and feed derogation provided for in Article 6 of Regulation (EC) No 1451/2007 if it was food or feed.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1823. (See end of Document for details)*

(5) Article 89(3) of Regulation (EU) No 528/2012 contains transitional measures where an existing active substance included in the work programme for the systematic examination of existing active substances is approved in accordance with that Regulation. With respect to D-fructose for product-type 19, the date of approval for the purposes of Article 89(3) of that Regulation should be set at 1 June 2021, in order to allow sufficient time for applications for authorisation to be submitted in accordance with the second subparagraph of Article 89(3) of that Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 528/2012 is amended in accordance with the Annex to this Regulation.

Article 2

For the purposes of Article 89(3) of Regulation (EU) No 528/2012, the date of approval of D#fructose for product-type 19 is 1 June 2021.

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, 8 August 2019.

For the Commission

The President

Jean-Claude JUNCKER