Commission Implementing Regulation (EU) 2018/895 of 22 June 2018 amending Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2018/895

of 22 June 2018

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 Socioeconomic 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 a joint application for authorisation is submitted, the fees and charges should be shared among the applicants in a fair, transparent and non-discriminatory manner, in particular with regard to small and medium-sized enterprises (SMEs). The existing SME reductions for the fees and charges should be taken into account for sharing the total applicable fees and charges.

(4) 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.

(5) Furthermore, following the review of Commission Regulation (EC) No 340/2008[(2)], conducted in 2015, and in the light of the experience gained in treating authorisation 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.

(6) Regulation (EC) No 340/2008 should therefore be amended accordingly.

(7) For reasons of legal certainty, this Regulation should not apply to applications submitted before the day of entry into force of this Regulation.

(8) 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 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.

Where a joint application for an authorisation is submitted, the applicants shall make every effort to share the fee in a fair, transparent and non-discriminatory manner, in particular with regard to SMEs.

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 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.

Where a joint review report is submitted, the holders of the authorisation shall make every effort to share the charge in a fair, transparent and non-discriminatory manner, in particular with regard to SMEs.

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

(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 last amended by Implementing Regulation (EU) 2015/864[(3)] shall apply to applications submitted before 15 July 2018.

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, 22 June 2018.

For the Commission

The President

Jean-Claude JUNCKER