Commission Delegated Regulation (EU) 2018/729 of 26 February 2018 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 certain drug precursors in the list of scheduled substances (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/729

of 26 February 2018

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 certain drug precursors 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) 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 a number of harmonised control and monitoring measures provided for by those Regulations.

(2) By means of Decisions 60/12/EC and 60/13/EC of the Commission on Narcotic Drugs of the United Nations, taken at its sixtieth session on 16 March 2017, 4-anilino-*N*-phenethylpiperidine (ANPP) and *N*-phenethyl-4-piperidone (NPP) have been added to Table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988[(3)] (the '1988 UN Convention').

(3) The purpose of Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005 is to implement Article 12 of the 1988 UN Convention in the Union. ANPP and NPP should consequently be added to Annex I to Regulation (EC) No 273/2004 and to the Annex to Regulation (EC) No 111/2005.

(4) The scheduled substances listed in those Annexes 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. For example, substances of category 1 need to be stored in secured premises and each operator dealing with these substances needs a licence.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/729. (See end of Document for details)*

(5) ANPP is an immediate precursor of fentanyl and acetyl fentanyl. NPP can either be used as a starting material for ANPP, which can subsequently be synthesised into fentanyl, or it can be a direct precursor of a number of fentanyl analogues. In other words, both substances can be easily transformed into fentanyl or fentanyl analogues.

(6) The misuse and abuse of fentanyl and fentanyl analogues are causing serious social and public health problems (in particular, a growing number of overdose deaths) in some regions of the Union. There are indications that substantial illegal fentanyl manufacture on the basis of ANPP and NPP is taking place in the Union. To address this problem, import controls on ANPP and NPP should be introduced.

(7) There is only limited lawful production, trade and use of ANPP and NPP in the Union. The scheduling of these substances in category 1 would consequently entail only a limited extra administrative burden for economic operators and competent authorities in the Union. Moreover, consultation with economic operators and Member States showed that there is a clear preference for listing both substances as category 1 substances in the Regulations.

(8) In the light of the considerations in recitals 5, 6 and 7, ANPP and NPP should be scheduled as category 1 substances in Annex I to Regulation (EC) No 273/2004 and in the Annex to Regulation (EC) No 111/2005.

(9) Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005 should therefore be amended accordingly.

(10) Given there is some lawful production, trade and use of ANPP and NPP in the Union, economic operators and competent authorities should be given sufficient time to adapt to the amendments made by this Regulation.

(11) Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005 jointly implement certain provisions of the 1988 UN Convention. In view of the close material link between those two Regulations it is justified to adopt the amendments by way of one single delegated act,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EC) No 273/2004

In Annex I to Regulation (EC) No 273/2004, in the table for Category 1 scheduled substances, the following entries are inserted in the list of substances in the appropriate place sequentially according to their CN Code:

Substance	CN designation (if different)	CN code	CAS No
‘4-anilino-*N*-phenethylpiperidine (ANPP)		2933 39 99	21409-26-7