Commission Delegated Regulation (EU) 2016/1443 of 29 June 2016 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) 2016/1443

of 29 June 2016

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) 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.

(3) The strictest control and monitoring measures are provided for in respect of the substances scheduled in category 1. Operators and users must hold a licence in order to possess those substances and to carry out any kind of transaction involving them.

(4) It is possible to convert chloroephedrine and chloropseudoephedrine directly into methamphetamine with a high yield rate. Member States have demonstrated that since 2013 chloroephedrine and chloropseudoephedrine have been used on several occasions in the Union as precursors for the illicit manufacture of methamphetamine (also known as crystal meth). Additionally, several cases of use of those two substances for the production of methamphetamine have been reported outside the Union.

(5) Trade in and possession of chloroephedrine and chloropseudoephedrine are currently not subject to any legal restrictions, and their control is limited to a voluntary

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/1443. (See end of Document for details)*

commitment by Union operators to monitor trade and report suspicious transactions involving such substances.

(6) There were no significant licit uses of chloroephedrine and chloropseudoephedrine identified during the consultation of Member States and representatives of the chemical industry. More than 3 tonnes of those substances were seized in 2013 and 2014 by the competent authorities of the Member States to prevent them from being used for the illicit manufacture of methamphetamine.

(7) In the light of the high diversion risk posed by chloroephedrine and chloropseudoephedrine, and considering that their scheduling will have no significant impact on licit trade, those substances should be listed under category 1 in Annex I to Regulation (EC) No 273/2004 and in the Annex to Regulation (EC) No 111/2005.

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

(9) Regulation (EC) No 273/2004 and Regulation (EC) No 111/2005 jointly implement certain provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988[(3)]. In view of the close material link between those 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 rows are added:

(1R,2S)-(-)-chloroephedrine		2939 99 00	110925-64-9
(1S,2R)-(+)-chloroephedrine		2939 99 00	1384199-95-4
(1S,2S)-(+)-chloropseudoephedrine		2939 99 00	73393-61-0
(1R,2R)-(-)-chloropseudoephedrine		2939 99 00	771434-80-1

Article 2

Amendment to Regulation (EC) No 111/2005

In the Annex to Regulation (EC) No 111/2005, in the table for Category 1 scheduled substances, the following rows are added: