

DUCC position on the implementation of CLP Annex VIII and preparation for the first deadline

Since the initiation of discussions in 2010, DUCC and its members have supported and been fully engaged in the process to harmonise information submitted on hazardous mixtures for the purposes of emergency health response. DUCC expresses its appreciation for all the efforts invested to date by the Commission, ECHA, Member States and industry to implement the requirements of CLP Annex VIII (Commission Regulation (EU) 2017/542).

Nonetheless DUCC wishes to register its concerns regarding a number of issues that impact on the ability to prepare for compliance with Annex VIII in time for the first application deadline of 1 January 2020. The main issues can be summarised as follows:

- **Workability study and consequent legal amendments**

During the finalization of Annex VIII a number of practical issues were identified by industry sectors which would hinder or prevent compliance with its requirements. The Commission announced in January 2017 that it would conduct a study into these workability issues, with a view to identifying solutions including potential amendments to the legal text of Annex VIII. There was however a long delay in initiating the study, and this has only commenced in earnest in autumn 2018. The study is due to be completed by May 2019, which leaves little time to propose and adopt amendments to apply in time for 1 January 2020 – particularly in light of European elections and the formation of a new Commission in 2019.

- **Other legal amendments**

Besides the potential changes mentioned above, a number of other amendments and clarifications to the legal text have been proposed and discussed recently in a meeting of the CARACAL Sub-Group on ATPs. Whilst some of these amendments are necessary and welcome, this creates legal uncertainty and makes it more difficult for companies to prepare for their submissions.

- **Obligations of duty holders**

The role of re-branders/re-labellers, and the potential for missing submission data on some hazardous mixtures placed on the market, is currently the subject of ongoing discussions. Any decision or clarification on this point will undoubtedly introduce additional responsibilities for many economic operators (some of whom will be SMEs), but in the meantime there is a lack of legal clarity.

- **IT tools**

The XML data schema for submissions is already available but may be amended in light of the points above. Companies formulating mixtures are largely dependent on implementation by their IT providers: some of these are reporting that new software releases will be made available by mid-2019, which does not leave enough time for companies to adapt their interfaces and procedures and to integrate with other systems before the first deadline.

The central notification portal to be hosted by ECHA is also an important element of the implementation strategy for many companies, and whilst a first version is expected to go live in Q1 2019 this will have only limited functionality; in practice most companies will be reliant on the enhanced functionality (including system-to-system integration) that is only due to become available in November 2019.



Downstream Users of Chemicals Co-ordination group

Furthermore in a survey conducted by ECHA in May/June 2018, only 43% of Appointed Bodies and Poison Centres indicated that they would be ready to accept submissions in the new harmonized format before 1 January 2020.

- **Guidance**

The complexity of the Annex VIII requirements makes guidance indispensable for industry. ECHA's official guidance document is due for publication by the end of 2018, but a number of areas have been left open with notes as a result of the discussions and uncertainties mentioned above.

Additional, sector-specific guidance may also be needed from industry associations, but it is difficult to develop this as long as so many areas remain unresolved.

In order to prepare successfully for compliance, industry needs both stability in the requirements and availability of the necessary tools (from ECHA, from IT providers and the consequential internal systems) for an appropriate period in advance of the first deadline – twelve months would normally be considered as a minimum. The issues listed above mean however that this will not be the case.

DUCC therefore invites the Commission to reflect seriously on this situation and to commit to taking whatever action is necessary to ensure that all parties will be able to meet their obligations by the first deadline for submission of information on consumer mixtures.

About DUCC

DUCC is a joint platform of **11 European associations** whose member companies use chemicals to **formulate mixtures** (as finished or intermediary products) for professional and industrial users, as well as for consumers. DUCC focuses on the downstream users' needs, rights, duties and specificities under **REACH** and **CLP**. DUCC's membership represents several important industry sectors, ranging from cosmetics and detergents to aerosols, paints, inks, toners, pressroom chemicals, adhesives and sealants, construction chemicals, fragrances, lubricants and chemical distributors industries. Altogether, their membership comprises more than **9.000 companies** across the respective sectors in Europe, the vast majority being SMEs. The calculated turnover of these companies is more than **215 billion euros** in Europe.

For more information on DUCC: www.ducc.eu

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