From:
To: (ENV)
Subject: RE: questions POP Regulation
Date: 10 December 2020 09:26:46
Attachments: image005.png
image006.png
image268302.png

Dear ,
Thank you very much for your reply.
Please allow me one comment. I'm not sure Art.4(2) is relevant for our question, as Art. 4 (2) refers to articles.
In our case, what would be used in the production of articles would be compliant PTFE micropowders, there would be no issue with articles.
The potential issue seems to be related to Art. 4(1).
We remain available and happy to discuss,
Best regards,

Partner
Kreab
2/4, Rond-Point Schuman, BE-1040 Brussels, Belgium
Tel
Mob+
@kreab.com
www.kreab.com

From: @ec.europa.eu
Sent: Friday, December 4, 2020 3:42 PM
To: @kreab.com>
Subject: RE: questions POP Regulation

Dear
I have again submitted this question for consideration of our lawyer. We will contact you if we think that a discussion is needed.
Yes, we are discussing the interpretation of Art. 4(2), which might have some relevance for your question but I'm not sure it will address it completely.
Regards

From: [redacted]@kreab.com>
Sent: Wednesday, November 25, 2020 3:44 PM
To: [redacted] (ENV) [redacted]
Subject: RE: questions POP Regulation

Dear [redacted],

I would like to follow up on my question regarding the applicability of the PFOA POP Regulation, with respect to the further processing and transfer of certain materials.
We are available to discuss this issue with you, if that helps with the assessment. Also you mentioned the future publication of a Q&A document on the PFOA Regulation. Would our question be potentially addressed there? We would be interested to know in general terms what the Q&A will cover, if it is still under development and when approximately it could be published.
I thank you in advance very much for your feedback,
Best regards,
[redacted]

[redacted]
Partner
Kreab
2/4, ,BE-1040 Brussels,Belgium
Rond-Point
Schuman
Tel [redacted]
Mob+[redacted]
[redacted]@kreab.com
www.kreab.com

From: [redacted]@ec.europa.eu [redacted]
Sent: Friday, July 3, 2020 10:14 AM
To: [redacted]@kreab.com>
Subject: RE: questions POP Regulation

Dear [redacted]

This question is more complex than the previous one and I'll need to consult our lawyer.

Since we have a backload of questions on PFOA to reply to, it might take some time.
Kind regards
[redacted]

From: [redacted]@kreab.com>
Sent: Friday, July 3, 2020 8:27 AM
To: [redacted] (ENV) [redacted]
Subject: questions POP Regulation

Dear [redacted],

As already indicated last week, I'm coming back to you with further questions about the EU POP Regulation. The questions are formulated in a generic manner. The cases at stake are about the " further processing" of a substance "A". That further processing consists in two steps:

1st step: that step results in the unintentional generation of impurities of a POP substance in substance A. The impurity level at stake is above the allowed UTC level.

2nd step: that step is conducted in order to reduce the level of impurities of the POP substance in substance A below the allowed UTC level – after completion of step 2, substance A is "compliant".

The concern is that during the manufacturing process Step 1 leads to substance A being temporarily "above the UTC levels".

Then the following scenarios may be envisaged:

Scenario 1:
Step 1 is conducted in the EU
Step 2 is conducted in the EU at a different site from Step 1
Two different companies

Scenario 2:
Step 1 is conducted in the EU
Step 2 is conducted outside of the EU
Two different companies

Scenario 3 (less realistic):
Steps 1 and 2 are conducted in the EU by the same company at the same site

We're trying to understand whether these scenarios would be allowed under the POP Regulation, without a specific derogation being required.

Please allow me a first more general comment concerning Article 3 para 1 and Article 4 para 1 b) of the POP Regulation.

Article 3 para 1 prohibits the manufacturing, placing on the market and use of POP substances (listed in Annex I) either "on their own, in mixtures or in articles".

The POP substance is generated as UTC/constituent in another substance. This case does not seem to be covered by Article 3.

Unlike Article 3, Article 4, para 1, b) refers to UTCs in substances. Does Article 4 apply if Article 3 does not apply (Article 4 seems to derive from Article 3)?

In case Article 4 para 1, b) applies, I would have the following questions:

In case Steps 1 and 2 take place within the EU at two different companies (Scenario 1), would Step 1 be regarded as "manufacturing", even if the POP is unintentionally generated (above the UTC levels) and the following step is to make the product compliant?

Would the transfer from Step 1 to another company for Step 2 be regarded as

"placing on the market" and would Step 2 be regarded as a "use"?
In case Step 2 takes place outside of the EU (Scenario 2), I understand the "export" would not fall under the POP Regulation and does not constitute a "placing on the market" operation (according to the Blue Guide, manufacturing for export does not constitute a placing on the market operation). But would a derogation nonetheless be needed for Step 1?
Finally, in case Step 2 would be conducted by the same legal entity as for Step 1 (Scenario 3), there would be no placing on the market operation between Steps 1 & 2. No derogation would be needed for placing on the market but depending on your previous answers, a derogation may nonetheless be needed.
I apologies for bothering you with these questions which are quite intricate.
I thank you very much in advance for your consideration and look forward to your feedback,
Best regards,

Partner
Kreab
2/4, ,BE-1040Brussels,Belgium
Rond-Point
Schuman
Tel
Mob
@kreab.com
www.kreab.com