EUROPEAN
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COMMISSION IMPLEMENTING DECISION

of 19.7.2017

granting an authorisation for certain uses of chromium trioxide and dichromium tris(chromate) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Nexter Mechanics)

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

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(ONLY THE ENGLISH TEXT IS AUTHENTIC)

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 64(8) thereof,

Whereas:

(1) Chromium trioxide and dichromium tris(chromate) are listed in Annex XIV to Regulation (EC) No 1907/2006 and are therefore subject to the authorisation requirement referred to in Article 56(1)(a) of that Regulation.

(2) On 23 November 2015, an application for authorisation was submitted by Nexter Mechanics ('the applicant') in accordance with Article 62 of Regulation (EC) No 1907/2006 for the industrial use of chromium trioxide in a mixture for the hard chromium plating of military armament steels parts which are thermomechanically stressed and in contact with oxidizing gas at high temperature, so as to ensure a thermal barrier with high melting point, resistance to wear and oxidation associated with weapons as well as resistance to impact and atmospheric corrosion ('use 1'); for the hard chromium plating of military armament parts in order to ensure surface hardness, resistance to atmospheric corrosion, abrasive wear resistance and friction coefficient for parts in relative movement ('use 2'); for the black colour hard chromium plating of exterior surface of steel weapon barrel designed for military use, to ensure, during the whole gun barrel service life, stealth, erosion, corrosion and high temperature resistances in the conditions of uses ('use 3'); and by Nexter Mechanics and Nexter Systems for the industrial use of chromium trioxide in a specific mixture by spraying or immersion, and of dichromium tris(chromate) in a specific mixture by pen application, for the chromate conversion coating of welded mechanical structures of armoured vehicles and associated parts made of high mechanical properties aluminium alloys for military use, and requiring a maintained electrical conductivity after severe climatic environments, atmospheric corrosion resistance and paint adhesion ('use 4').

[1] OJ L 396, 30.12.2006, p. 1.

(3) On 20 September 2016, the Commission received the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency[2] on the application pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006.

(4) In its opinion, RAC confirmed that it is not possible to determine a derived no-effect level (DNEL) for the carcinogenic properties of chromium trioxide and dichromium tris(chromate) in accordance with Section 6.4 of Annex I to Regulation (EC) No 1907/2006 and therefore chromium trioxide and dichromium tris(chromate) are non-threshold substances. In accordance with Article 60(3)(a) of Regulation (EC) No 1907/2006, Article 60(2) of that Regulation does not apply to those substances, and therefore an authorisation may only be granted on the basis of Article 60(4) of that Regulation.

(5) In its opinions, RAC concluded that the risk management measures and operational conditions as described in the application, and in particular in the chemical safety reports[3], are appropriate and effective in limiting the risk to workers and to the general population that could be potentially exposed via the environment.

(6) In its opinions, due to the uncertainties related to the data on worker exposure and on indirect exposure of man via the environment, RAC recommended additional conditions and monitoring arrangements.

(7) In its opinions, the SEAC concluded that the overall socio-economic benefits arising from the uses of chromium trioxide and dichromium (tris)chromate applied for outweigh the risks to human health or the environment arising from those uses and that there are no suitable alternative substances or technologies in terms of their technical feasibility for the applicants.

(8) Based on the RAC and the SEAC opinions, and in accordance with Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the uses of chromium trioxide and dichromium (tris)chromate applied for, provided that the risk management measures and operational conditions described in the application and in particular in the chemical safety reports, as well as additional conditions set out in this Decision, are fully applied.

(9) In its opinions, the SEAC recommended the review periods referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 to be set at twelve years for use 1 and at seven years for use 2, use 3 and use 4. The recommended review periods take into account the low costs associated with the risks that arise from the continued use of the substance, the high performance requirements associated specifically with use 1, the lack of suitable alternatives by the sunset date, the applicant's request and credible justification for a review period of twelve years for use 1 and of seven years for uses 2, 3 and 4 in order to perform research and development, military testing, industrialisation and an extensive qualification process once a technically and economically feasible alternative becomes available, as well as the fact that the benefits of continued use outweigh the risks by a significant margin.

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[2] https://echa.europa.eu/documents/10162/222f068b-7d36-4fc0-b24a-7cd3ea192dfe
https://echa.europa.eu/documents/10162/ebe80b32-72fc-4465-ac96-9ffa4ac30ea8
https://echa.europa.eu/documents/10162/a4aabfc5-d6a4-4465-ab2c-1922168d1641
https://echa.europa.eu/documents/10162/f3ccb1a4-edf3-419c-9e10-333587e97e77

[3] http://ec.europa.eu/DocsRoom/documents/19113/attachments/1/translations/en/renditions/native
http://ec.europa.eu/DocsRoom/documents/19118/attachments/1/translations/en/renditions/native

(10) Therefore, as regards the uses of chromium trioxide and dichromium (tris)chromate applied for, the review periods referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 should be set at twelve years for use 1 and at seven years for use 2, use 3 and use 4 as from the sunset date set out in Annex XIV to Regulation (EC) No 1907/2006.

(11) The language used for the description of the risk management measures and operational conditions included in the application for authorisation may be different from the official language(s) of the Member State(s) where the uses take place. Therefore, in order to facilitate the enforcement of the authorisation, it is appropriate to include a monitoring arrangement requiring the authorisation holders to submit, upon request, a succinct summary of those risk management measures and operational conditions in an official language of the Member State concerned.

(12) This Decision does not affect the obligation of the authorisation holder to ensure that the use does not adversely affect human health or the environment pursuant to Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, it does not affect either the obligation of the authorisation holder to ensure that the exposure to the substance is reduced to as low a level as is technically and practically possible pursuant to Article 60(10) of Regulation (EC) No 1907/2006 or the obligation of the employer to reduce the use of a carcinogen or mutagen at the place of work, in particular by replacing it, in so far as is technically possible in accordance with Article 4(1) of Directive 2004/37/EC of the European Parliament and of the Council[4], or to prevent and reduce exposure in accordance with Article 5 of that Directive. Furthermore, this Decision is without prejudice to the application of the EU Directives in the area of health and safety at work, in particular Council Directive 89/391/EEC[5], Council Directive 98/24[6], Directive 2004/37 of the European Parliament and of the Council[7], Council Directive 92/85/EEC[8] and Council Directive 94/33/EC[9].

(13) This Decision is without prejudice to any obligation to comply with emission limit values set in accordance with Directive 2010/75/EU of the European Parliament and of the Council[10] and Directive 2008/50/EC of the European Parliament and of the

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4 Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).

5 Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.06.1989, p. 1).

6 Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 05.05.1998, p. 11).

7 Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.04.2004).

8 Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/ 391 / EEC) (OJ L 348, 28.11.1992, p. 1).

9 Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.08.1994, p. 12).

10 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

Council[11], as well as with emission limit values set to achieve compliance with the environmental quality standards established both in Directive 2008/105/EC of the European Parliament and of the Council[12] and by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council[13]. Compliance with the provisions of this Decision should not necessarily result in compliance with emission limit values or environmental quality standards under other Union legislation, which may include separate or more onerous requirements.

(14) The measures provided for in this Decision are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

Article 1

An authorisation is granted in accordance with Article 60(4) of Regulation (EC) No 1907/2006 for the following uses of chromium trioxide (EC No 215-607-8 and CAS No 1333-82-0) and dichromium tris(chromate) (EC No 246-356-2 and CAS No 24613-89-6), provided that the risk management measures and operational conditions described in the chemical safety report submitted pursuant to Article 62(4)(d) of that Regulation, as well as the conditions and monitoring arrangements set out in Articles 2 and 4 of this Decision, are fully applied:

Authorisation number	Authorisation holder	Authorised use
REACH/17/21/0	Nexter Mechanics	Industrial use of chromium trioxide in a mixture for the hard chromium plating of military armament steels parts which are thermomechanically stressed and in contact with oxidizing gas at high temperature, so as to ensure a thermal barrier with high melting point, resistance to wear and oxidation associated with weapons as well as resistance to impact and atmospheric corrosion
REACH/17/21/1	Nexter Mechanics	Industrial use of chromium trioxide in a mixture for the hard chromium plating of military armament parts in order to ensure surface hardness, resistance to atmospheric corrosion, abrasive wear resistance and friction coefficient for parts in relative

[11] Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

[12] Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

[13] Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

		movement
REACH/17/21/2	Nexter Mechanics	Industrial use of chromium trioxide in a mixture for the black colour hard chromium plating of exterior surface of steel weapon barrel designed for military use, to ensure, during the whole gun barrel service life, stealth, erosion, corrosion and high temperature resistances in the conditions of uses
REACH/17/21/3 REACH/17/21/4	Nexter Mechanics Nexter Systems	Industrial use, of chromium trioxide in a specific mixture by spraying or immersion, and of dichromium tris(chromate) in a specific mixture by pen application, for the chromate conversion coating of welded mechanical structures of armoured vehicles and associated parts made of high mechanical properties aluminium alloys for military use, and requiring a maintained electrical conductivity after severe climatic environments, atmospheric corrosion resistance and paint adhesion

Article 2

The authorisation referred to in Article 1 shall be subject to the following conditions:

– the authorisation holders shall implement appropriate preventive maintenance programmes in order to ensure the effectiveness of the risk management measures currently in place, namely of the local exhaust ventilation equipment. The implemented programmes shall be described (including the frequency on which maintenance should be performed) and shall be, upon request, submitted to the competent authority of the Member State where the authorised uses take place. That description shall be further included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006.

Article 3

1. As regards the authorised use of chromium trioxide REACH/17/21/0, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 21 September 2029.

2. As regards the three authorised uses REACH/17/21/1, REACH/17/21/2, REACH/17/21/3 and REACH/17/21/4, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 21 September 2024.

Article 4

The following monitoring arrangements shall apply:

(a) the authorisation holder shall submit, upon request, to the competent authority of the Member State where the authorised use takes place a succinct summary of the applicable risk management measures and operational conditions described in the chemical safety report in an official language of that Member State;

(b) the authorisation holder shall conduct regular occupational exposure measurements related to the four uses described in Article 1. This monitoring shall:

  (i) take place at least annually;

  (ii) be undertaken according to standard sampling and analytical methods, where appropriate;

  (iii) comprise both personal and stationary inhalation exposure sampling;

  (iv) be representative of the range of tasks with possible exposure to chromium (VI) and of the total number of workers that are potentially exposed;

(c) the authorisation holder shall regularly, and at least annually, measure emissions of chromium (VI) to air related to the four uses referred to in Article 1. The measurements shall be undertaken according to standard sampling and analytical methods, where appropriate;

(d) the information gathered in the monitoring required by points (b) and (c) shall be used to regularly review the effectiveness of the risk management measures and operational conditions and to take action, as appropriate, and in particular with regard to the feasibility of implementing general mechanical ventilation in the plating shop and exploring alternative ways of working that do not require armament parts to be assembled and dismantled in the plating shop;

(e) the results of the monitoring, as described in points (b) and (c), as well as the outcome and conclusions of the review and any actions taken, as described in paragraph (d), shall be documented and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 and, upon request, be submitted to the competent authority of the Member State where the authorised uses take place.

Article 5

This Decision is addressed to the following:

1. Nexter Mechanics, 20 Rue du 9 Juin 1944, 19012 Tulle, France.

2. Nexter Systems, 11 Allée des Marronniers, 78022 Versailles, France.

Done at Brussels, 19.7.2017

For the Commission
Elżbieta BIEŃKOWSKA
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION