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COMMISSION IMPLEMENTING DECISION

of 19.6.2024

granting an authorisation under Regulation (EC) No 1907/2006 of the European Parliament and of the Council to Chrom-Mueller Metallveredelung GmbH for certain uses of chromium trioxide

(Only the German text is authentic)

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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/EC¹, and in particular Article 64(8) thereof,

Whereas:

- (1) Chromium trioxide is listed in Annex XIV to Regulation (EC) No 1907/2006, and uses of that substance are subject to the authorisation requirement in Article 56(1), point (a), of that Regulation.
- (2) On 25 November 2021, Chrom-Mueller Metallveredelung GmbH ('the applicant') submitted an application in accordance with Article 62 of Regulation (EC) No 1907/2006 for authorisation for certain uses of chromium trioxide. The uses for which authorisation was sought are industrial use for high ratio aspects inside hard chromium coating of firearms barrel bores subject to thermal, mechanical and chemical stresses, in order to provide wear resistance properties, as well as low friction coefficient, hardness, resistance to corrosion and gas erosion properties ('use 1'), industrial use in the hard chromium coating of complex outer surfaces of firearm auxiliary parts subject to mechanical, chemical and thermal stress in order to provide optimized sliding properties as well as heat, corrosion and wear resistance properties ('use 2'), and industrial use in the hard chromium coating of complex outer and inner surfaces of firearms auxiliary parts requiring a customised and selective coating technique and subject to thermal, mechanical and chemical stresses, in order to provide wear resistance and barrier properties, as well as post-processing capability and resistance to hot combustion gas erosion ('use 3').
- (3) The European Chemicals Agency sent the opinions on the application for authorisation for use 1², use 2³ and use 3⁴ adopted by its Committee for Risk Assessment (RAC) and

¹ OJ L 396, 30.12.2006, p. 1, ELI: <http://data.europa.eu/eli/reg/2006/1907/oj>.

² <https://echa.europa.eu/documents/10162/8a900a27-f8af-4333-e79b-210d2934dcc8>

³ <https://echa.europa.eu/documents/10162/eb2d4ea0-1820-c41d-bf46-7483b456336f>

⁴ <https://echa.europa.eu/documents/10162/bf53565b-a2e1-a623-8395-edc04295f735>

its Committee for Socio-economic Analysis (SEAC) to the Commission pursuant to Article 64(5), second subparagraph, of Regulation (EC) No 1907/2006. On 29 November 2022, the Commission received the opinions.

- (4) In its opinions, RAC concluded that it is not possible to determine a derived no-effect level for the carcinogenic and mutagenic properties of chromium trioxide in accordance with Section 1.4 of Annex I to Regulation (EC) No 1907/2006 and that therefore chromium trioxide is a substance for which it is not possible to determine a threshold for the purposes of Article 60(3), point (a), of that Regulation. As a result, Article 60(2) of Regulation (EC) No 1907/2006 does not apply to chromium trioxide and an authorisation may therefore only be granted with respect to that substance under paragraph 4 of that Article.
- (5) In its opinions on uses 1, 2 and 3, RAC concluded that the risk management measures and operational conditions described in the application are appropriate and effective in limiting the risk to human health posed by those uses.
- (6) However, RAC expressed moderate concerns regarding potential exposure during the manual bath sampling. Consequently, in order to further minimise the exposure of workers to hexavalent chromium (Cr(VI)), the hazardous component of chromium trioxide, RAC recommended imposing additional conditions for authorisation. Moreover, RAC recommended monitoring arrangements to ensure that the operational conditions and risk management measures implemented remain adequate and effective in limiting the risk to human health posed by chromium trioxide as well as to address some minor shortcomings in exposure estimates and to provide information on the trends in exposure and emissions during the review period, for both occupational exposure to, and environmental release of, Cr(VI). Having evaluated RAC's assessment, the Commission agrees with its conclusion and recommendations.
- (7) In its opinions on uses 1, 2 and 3, SEAC concluded that the societal costs of not granting an authorisation are higher than the monetised risk to human health arising from those uses. The Commission, having evaluated SEAC's assessment, concurs with that conclusion and considers that the applicant has demonstrated that the benefits of the continued uses outweigh the risk to human health arising from those uses.
- (8) For an alternative to be suitable it needs to be safer, available, and technically and economically feasible. Where suitable alternatives are available in the Union, but not technically or economically feasible for the applicant or its downstream users, the applicant is required by Article 62(4), point (f), of Regulation (EC) No 1907/2006 to submit a substitution plan.
- (9) An alternative that provides the functionality and level of technical performance necessary for the use for which authorisation is sought should be considered to be technically feasible. Certain potential alternatives may provide the functionality, but at some loss of performance or in a manner that involves technical compromises that would impair the functionality. In such cases, unless justified by particular circumstances, the Commission should not consider a potential alternative to be technically feasible for the applicant where the applicant has demonstrated that it or its downstream users are not able to accommodate such losses of performance or technical compromises by applying a reasonable additional effort, taking into account the circumstances of the case.
- (10) In its opinions on uses 1, 2 and 3, SEAC concluded that there were no technically and economically feasible alternative substances or technologies available for the applicant

and in the Union at the time of adoption of the opinion. The Commission, having evaluated SEAC's assessment and the relevant information available, notes that the identified potential alternatives imply a significant loss of performance in terms of technical requirements such as wear resistance, hardness, heat resistance and corrosion resistance, necessary for, among others, ensuring the proper functioning and safe use of firearms. In that regard, the Commission acknowledges that more studies are needed to identify and optimise one of the most promising alternatives and considers that the applicant has demonstrated that it is not yet able to accommodate such loss of performance and would need more time to develop and implement an alternative. The Commission therefore agrees with SEAC's conclusion that there are no suitable alternatives for the applicant and in the Union.

- (11) Therefore, having regard to the conditions laid down in Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise uses 1, 2 and 3 provided that the risk management measures described in the chemical safety report are applied and that the operational conditions described therein, as well as the conditions set out in this Decision, are fulfilled.
- (12) The Commission has based its assessment on all relevant scientific evidence available, as assessed by RAC and SEAC, and, after having carried out a detailed examination, has concluded on the basis of a sufficient amount of material and reliable information. Nevertheless, additional scientific evidence would allow the Commission to perform its assessment on a more robust or broad evidentiary basis in the future. Hence, it is appropriate to require the authorisation holder to generate and include additional information about exposure and emissions in the review report.
- (13) In its opinions on uses 1, 2 and 3 SEAC recommended that the review period referred to in Article 60(9), point (e), of Regulation (EC) No 1907/2006 be set at 12 years. The Commission agrees with that recommendation, taking into account the relevant elements from RAC's and SEAC's assessments and, in particular, RAC's conclusion that the risk management measures are appropriate and effective in limiting the risk, SEAC's conclusion on the risk to human health and on the socio-economic benefits of the continued uses of the substance, as well as the time needed for research and the development of an alternative.
- (14) The language used to describe the risk management measures and operational conditions in the application for authorisation may be different from the official language of the Member State where the uses take place. Therefore, in order to facilitate supervision and enforcement of compliance with the authorisation, it is appropriate to require the authorisation holder to submit, upon request, a brief summary of those risk management measures and operational conditions to the competent authority of that Member State in an official language of that Member State.
- (15) This Decision does not affect the obligation of the authorisation holder to ensure that the use of a substance does not adversely affect human health or the environment, having regard to the principle set out in Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, this Decision does not affect the obligation of the authorisation holder under Article 60(10) of that Regulation to ensure that the exposure is reduced to as low a level as is technically and practically possible or the obligation of the employer under Article 4(1) and Article 5 of Directive 2004/37/EC of

the European Parliament and of the Council⁵ to reduce the use of carcinogens, mutagens or reprotoxic substances at the place of work, in particular by replacing those substances, in so far as is technically possible, and to prevent workers' exposure to a risk to their health or safety. This Decision does not affect the application of Union law in the area of health and safety at work, in particular Council Directives 89/391/EEC⁶, 92/85/EEC⁷, 94/33/EC⁸, 98/24/EC⁹ and Directive 2004/37/EC, or any national binding occupational limit values which may be stricter than the applicable limit values under Union law.

- (16) This Decision does not affect any obligation to comply with emission limit values or other requirements set in accordance with Directive 2008/50/EC¹⁰ or Directive 2010/75/EU¹¹ of the European Parliament and of the Council, nor any obligation to comply with emission limit values set to achieve compliance with the environmental quality standards established by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council¹² or the environmental quality standards established in Directive 2008/105/EC of the European Parliament and of the Council¹³. Compliance with the provisions of this Decision does not necessarily imply compliance with any emission limit values or environmental quality standards under any other provisions of Union law, which may include further or more onerous requirements.
- (17) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 133 of Regulation (EC) No 1907/2006,

⁵ 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, mutagens or reprotoxic substances 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, ELI: <http://data.europa.eu/eli/dir/2004/37/oj>).

⁶ 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, 29.6.1989, p. 1, ELI: <http://data.europa.eu/eli/dir/1989/391/oj>).

⁷ 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, ELI: <http://data.europa.eu/eli/dir/1992/85/oj>).

⁸ Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12, ELI: <http://data.europa.eu/eli/dir/1994/33/oj>).

⁹ 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, 5.5.1998, p. 11, ELI: <http://data.europa.eu/eli/dir/1998/24/oj>).

¹⁰ 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, ELI: <http://data.europa.eu/eli/dir/2008/50/oj>).

¹¹ 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, ELI: <http://data.europa.eu/eli/dir/2010/75/oj>).

¹² 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, ELI: <http://data.europa.eu/eli/dir/2000/60/oj>).

¹³ 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, ELI: <http://data.europa.eu/eli/dir/2008/105/oj>).

HAS ADOPTED THIS DECISION:

Article 1

An authorisation is hereby granted in accordance with Article 60(4) of Regulation (EC) No 1907/2006 to the following person for the following uses of chromium trioxide (EC No 215-607-8; CAS No 1333-82-0):

Authorisation number	Authorisation holder	Authorised use
REACH/24/22/0	Chrom-Mueller Metallveredelung GmbH	Industrial use for high ratio aspects inside hard chromium coating of firearms barrel bores subject to thermal, mechanical and chemical stresses, in order to provide wear resistance properties, as well as low friction coefficient, hardness, resistance to corrosion and gas erosion properties
REACH/24/22/1		Industrial use in the hard chromium coating of complex outer surfaces of firearm auxiliary parts subject to mechanical, chemical and thermal stress in order to provide optimized sliding properties as well as heat, corrosion and wear resistance properties
REACH/24/22/2		Industrial use in the hard chromium coating of complex outer and inner surfaces of firearms auxiliary parts requiring a customised and selective coating technique and subject to thermal, mechanical and chemical stresses, in order to provide wear resistance and barrier properties, as well as post-processing capability and resistance to hot combustion gas erosion

The authorisation is granted subject to the risk management measures and operational conditions described in the chemical safety report¹⁴, and to the conditions set out in Article 2.

Article 2

1. The authorisation is subject to the conditions set out in paragraphs 2, 3 and 4.
2. The authorisation holder shall ensure that the hard chrome plating line is fully automated by 19 February 2025.
3. By 19 June 2025 and afterwards each time when new relevant information becomes available, the authorisation holder shall carry out a study to assess the feasibility of implementing a closed or automatic system to perform bath sampling tasks where exposure to Cr(VI) is foreseen and which currently rely on the use of personal

¹⁴ <https://ec.europa.eu/docsroom/documents/52237>

protective equipment. The authorisation holder shall act in accordance with the outcome of that study.

4. The authorisation holder shall document and maintain the information from the outcome and conclusions of the study referred to in paragraph 3 and any measure taken in accordance with paragraphs 2 and 3, and shall make it available, upon request, to the competent authority of the Member State where the authorised use takes place.

Article 3

1. The review period shall expire on 22 November 2033.
2. The authorisation shall cease to be valid on 22 November 2033 with regard to an authorised use if the authorisation holder has not submitted the review report for that use in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 22 May 2032.

Article 4

1. The monitoring arrangements set out in paragraphs 2 to 6 shall apply.
2. The authorisation holder shall carry out a monitoring programme measuring occupational exposure to hexavalent chromium (Cr(VI)). The programme shall include measurements which shall:
 - (a) takes place at least annually, or more frequently if a significant increase of chromium trioxide consumption takes place on site, and shall be sufficiently frequent to capture any potential increase in exposure of workers to Cr(VI);
 - (b) be based on relevant standard methodologies or protocols;
 - (c) ensure a sufficiently low limit of quantification;
 - (d) comprise personal and/or static inhalation exposure sampling;
 - (e) be representative of all the tasks with possible exposure to Cr(VI), the operational conditions and risk management measures for each of those tasks, and the total number of workers that are potentially exposed;
 - (f) be recorded so as to include contextual information about the tasks performed during exposure sampling.
3. The authorisation holder shall continue to conduct a biomonitoring programme for all workers potentially exposed to Cr(VI).
4. The authorisation holder shall carry out a monitoring programme measuring the environmental releases of Cr(VI) to the air and wastewater. The programme shall include measurements which shall:
 - (a) take place at least annually, or more frequently if a significant increase of chromium trioxide consumption takes place on site, and shall be sufficiently frequent to capture any potential increase in emission of Cr(VI);
 - (b) be based on relevant standard methodologies or protocols;
 - (c) ensure a sufficiently low limit of quantification;
 - (d) be representative of the operational conditions and risk management measures used at the site where the authorised uses take place;

- (e) be recorded so as to include contextual information associated with each of the measurements.
5. The authorisation holder shall use the information gathered via the measurements referred to in paragraphs 2, 3 and 4 to review, at least annually, the appropriateness and effectiveness of the risk management measures and operational conditions in place. While doing so, the authorisation holder shall also review and, if needed, update its assessment of the combined exposure for the different groups of workers and its assessment of the exposure of the general population via the environment. If needed, based on the outcome of this review, the authorisation holder shall introduce measures to further reduce to a level as low as technically and practically possible occupational exposure to Cr(VI) in accordance with the hierarchy of control principles set out in Article 5 of Directive 2004/37/EC and Cr(VI) emissions to the environment.
6. The authorisation holder shall document and maintain the information from the monitoring programmes referred to in paragraphs 2, 3 and 4, including the contextual information associated with each set of measurements, as well as the outcome and conclusions of the reviews and any action taken in accordance with paragraph 5, and shall make that information available, including pseudonymised or aggregated biomonitoring results, upon request, to the competent authority of the Member State where the authorised uses take place.

Article 5

If a review report is submitted, it shall include the information referred to in Article 2(4) and Article 4(6).

Article 6

Upon request, the authorisation holder shall submit a brief summary of the applicable risk management measures and operational conditions described in the chemical safety report to the competent authority of the Member State where the authorised uses take place. The brief summary shall be drafted in an official language of that Member State.

Article 7

This Decision is addressed to:

Chrom-Mueller Metallveredelung GmbH, Neckarstraße 57, 78727 Oberndorf a.N., Baden-Württemberg, Germany.

Done at Brussels, 19.6.2024

For the Commission
Thierry BRETON
Member of the Commission