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COMMISSION IMPLEMENTING DECISION

of 23.10.2024

granting an authorisation under Regulation (EC) No 1907/2006 of the European Parliament and of the Council to Micron srl for a use of acids generated from chromium trioxide and their oligomers

(Only the English 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) Acids generated from chromium trioxide and their oligomers are listed in Annex XIV to Regulation (EC) No 1907/2006 and uses of those substances are subject to the authorisation requirement referred to in Article 56(1), point (a) of that Regulation.
- (2) On 21 November 2022, Micron srl ('the applicant') submitted an application in accordance with Article 62 of Regulation (EC) No 1907/2006 for authorisation for a use of acids generated from chromium trioxide and their oligomers. The use for which authorisation was sought is dilution of chromic acid solution at concentrations lower than 0.1% for the use in passivation baths.
- (3) The European Chemicals Agency sent the opinions² on the application adopted by its Committee for Risk Assessment (RAC) and its Committee for Socio-economic Analysis (SEAC) to the Commission pursuant to Article 64(5), second subparagraph, of Regulation (EC) No 1907/2006. On 23 February 2024, the Commission received the opinions.
- (4) In its opinion, RAC concluded that it is not possible to determine a derived no-effect level for the carcinogenic and mutagenic properties of acids generated from chromium trioxide and their oligomers in accordance with Section 1.4 of Annex I to Regulation (EC) No 1907/2006 and that therefore acids generated from chromium trioxide and their oligomers are substances 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 acids generated from chromium

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/c716e17d-c76d-1fc0-fcdd-8002dd315e0b>

trioxide and their oligomers and an authorisation may therefore only be granted with respect to those substances under paragraph 4 of that Article.

- (5) In its opinion, 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 the use of acids generated from chromium trioxide and their oligomers described in the application. However, in order to further corroborate the appropriateness and effectiveness of the risk management measures and operational conditions in place, RAC recommended imposing additional monitoring programmes for both occupational exposure to hexavalent chromium Cr(VI), the toxic component of acids generated from chromium trioxide and their oligomers, and the environmental release of it. Having evaluated RAC's assessment, the Commission agrees with its conclusion and recommendations.
- (6) In its opinion, SEAC concluded that the societal costs of not granting an authorisation are higher than the monetised risk to human health arising from the use of acids generated from chromium trioxide and their oligomers described in the application. The Commission, having evaluated SEAC's assessment, concurs with that conclusion and considers that the applicant has demonstrated that the benefits of the continued use outweigh the risk to human health arising from that use.
- (7) 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.
- (8) In its opinion, 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. SEAC noted that there is no function *per se* provided by the substance in the dilution step (formulation of mixtures) and that the passivation step is not subject to the authorisation requirement as the concentration of chromic acid in the dilution used at that stage is below 0.1%. Therefore, SEAC concluded that alternatives do not have to be assessed by the applicant for the use applied for (dilution). The Commission, having evaluated SEAC's assessment, agrees with SEAC's conclusions.
- (9) Therefore, having regard to the conditions laid down in Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the use of acids generated from chromium trioxide and their oligomers described in the application, provided that the risk management measures described in the chemical safety report are applied, and that the operational conditions described therein, are fulfilled. Nevertheless, taking into account the information submitted in the application as assessed by SEAC, the Commission considers that for the sake of legal clarity and to ensure that the use description properly reflects SEAC's assessment, it is appropriate to align the description of the authorised use with the wording used in the application.
- (10) 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.

- (11) In its opinion, 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 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 and SEAC's conclusions on the socio-economic benefits and costs of the continued use of the substance, as well as the applicant's ongoing research and development efforts to find alternatives to the use of the substance at the passivation step.
- (12) 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 States where the use takes 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.
- (13) 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 Council³ 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/EEC⁴, 92/85/EEC⁵, 94/33/EC⁶, 98/24/EC⁷ and Directive 2004/37/EC, or any national binding occupational limit values which may be stricter than the applicable limit values under Union law.

³ 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>).

⁴ 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>).

⁵ 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>).

⁶ 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>).

⁷ 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>).

- (14) This Decision does not affect any obligation to comply with emission limit values or other requirements set in accordance with Directive 2008/50/EC⁸ or Directive 2010/75/EU⁹ 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 Council¹⁰ or the environmental quality standards established in Directive 2008/105/EC of the European Parliament and of the Council¹¹. 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.
- (15) 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,

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 use of acids generated from chromium trioxide and their oligomers: chromic acid (EC No: 231-801-5, CAS No: 7738-94-5), dichromic acid (EC No: 236-881-5, CAS No: 13530-68-2), oligomers of chromic acid and dichromic acid:

Authorisation number	Authorisation holder	Authorised use
REACH/24/51/0	Micron srl	Dilution of chromic acid solution at concentrations lower than 0.1% for the use in passivation baths in the electroless nickel-plating process

The authorisation is granted subject to the risk management measures and operational conditions described in the chemical safety report¹².

Article 2

The review period shall expire on 21 November 2034.

⁸ 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>).

⁹ 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>).

¹⁰ 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>).

¹¹ 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>).

¹² <https://ec.europa.eu/docsroom/documents/58754>

The authorisation shall cease to be valid on 21 November 2034 if the authorisation holder has not submitted the review report in accordance with Article 61(1) of Regulation (EC) No 1907/2006 by 21 May 2033.

Article 3

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) take place at least annually, or more frequently if a significant increase of consumption of acids generated from chromium trioxide and their oligomers 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 or static inhalation exposure sampling;
 - (e) be representative of all the tasks with possible exposure to Cr(VI), including maintenance tasks, of the operational conditions and risk management measures for each of those tasks, and of 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 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 consumption of acids generated from chromium trioxide and their oligomers 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 use takes 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 those reviews, the authorisation holder shall introduce measures to further reduce to a level as low as technically and practically possible occupational exposure to Cr(VI) and Cr(VI) emissions to the environment. Measures introduced to reduce occupational exposure shall follow the hierarchy of control principles set out in Article 5 of Directive 2004/37/EC.

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 information on the outcome and conclusions of the reviews and on any measure 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 use takes place.

Article 4

If a review report is submitted, it shall include the information referred to in Article 3(6).

Article 5

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 use takes place. The brief summary shall be drafted in an official language of that Member State.

Article 6

This Decision is addressed to:

Micron srl, Via dell'Artigianato 42, 26029 Soncino, Cremona, Italy.

Done at Brussels, 23.10.2024

For the Commission
Margrethe VESTAGER
Executive Vice-President

