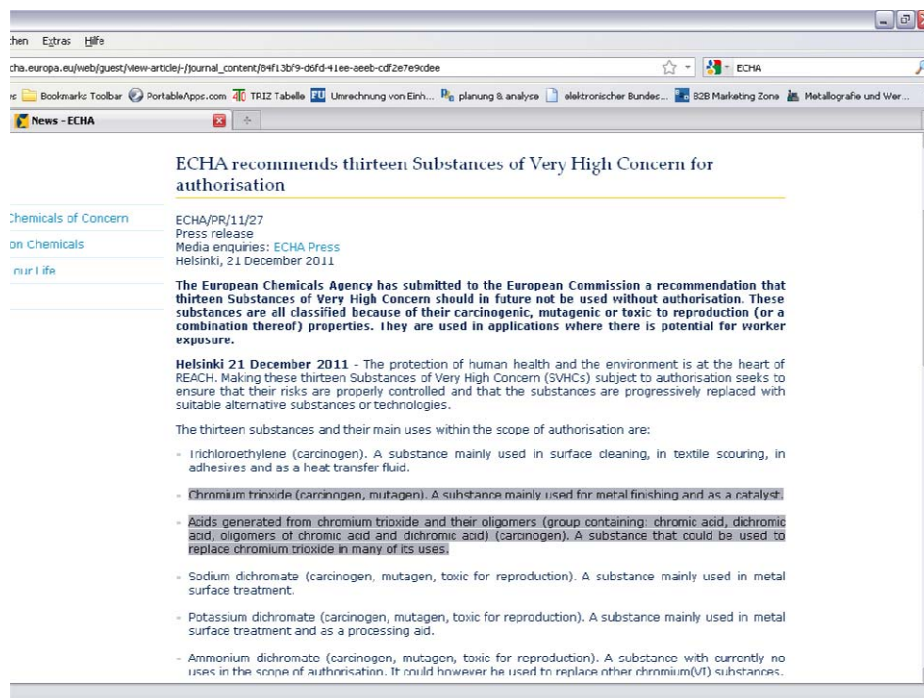


Chromium trioxide and chromic acid – ECHA recommends compulsory authorisation

Last update: December 2011

The Member State Committee (MSC) has made its decision ...

On December 21, 2011 ECHA announced that chromium trioxide and chromic acid will be entered with high priority into Annex XIV of the REACH regulation. It was not expected that ECHA would come to this decision so quickly. However, this makes matters clear and provides planning reliability for the next steps to be taken. The applications for special authorisation for determined applications filed in consideration of various existing legislations have all been rejected; no exceptions from obligatory authorisation will be admitted. According to the MSC the reason for the refusal was that the wording relating to use and the actions to be implemented for risk mitigation were not specific enough. In addition, MSC stated that the risk mitigation actions could not be proven to be successful. The time limit allowed for filing authorisation applications was extended from 18 to 21 months and will likely end in November, 2014.



The screenshot shows a web browser window displaying a news article from ECHA. The article title is "ECHA recommends thirteen Substances of Very High Concern for authorisation". The text of the article states that the European Chemicals Agency has submitted a recommendation to the European Commission that thirteen Substances of Very High Concern (SVHCs) should be subject to authorisation. The article lists several substances, including trichloroethylene, chromium trioxide, and various dichromates. The article is dated 21 December 2011.

<http://echa.europa.eu/>

enthone



**Excerpt from the summary of the Member States Committee's decision:
- ECHA's homepage**

**3rd Draft Recommendation of Priority Substances to be Included in Annex XIV of the REACH Regulation
(List of Substances Subject to Authorisation)**

25 November 2011

Information on how the draft Annex XIV entries have been set and may be modified on the basis of comments received during the public consultation is provided in the document "Preparation of draft Annex XIV entries for the third Recommendation of substances to be included in Annex XIV - General Approach", which is available at ECHA's website.

Draft Annex XIV entries									
#	Substance	EC number	CAS Number	SVHC-relevant intrinsic properties*	Latest application date pursuant to Art. 58 (1) (c) (ii) ®	Sunset date	Review periods	Exempted (categories of) uses	Exemptions for PPORD
1	Trichloroethylene	201-167-4	79-01-6	Art. 57 (a); Carcinogen 1B	Date of inclusion in Annex XIV plus 18 months ¹⁾	Latest application date plus 18 months	None	None	None
2	Chromium trioxide	215-607-8	1333-82-0	Art. 57 (a) & (b); Carcinogen 1A, Mutagen 1B	Date of inclusion in Annex XIV plus 21 months ²⁾	Latest application date plus 18 months	None	None	None
3	Acids generated from chromium trioxide and their oligomers Group containing: Chromic acid Dichromic acid Oligomers of chromic	231-801-5 236-881-5 not yet	7738-94-5 13530-68-2	Art. 57 (a); Carcinogen 1B	Date of inclusion in Annex XIV plus 21 months ²⁾	Latest application date plus 18 months	None	None	None

Industry Consortium – authorisation of chromium trioxide by REACH

Enthone had already informed its customers in July, 2011 about the creation of a consortium launched by Lanxess for the purpose of obtaining an authorisation for CrO3. This group is comprised of all importers of CrO3 under the direction of Lanxess Germany, Enthone GmbH (as the representative of its European organisation), more than 100 electroplating European companies from all over , and five national consortiums or associations.

Considering the somewhat awkward flow of information within the supply chain during the Registration phase, Lanxess decided to invite only directly concerned European companies for the first meeting (no associations or consultants). The European and national associations were informed accordingly. Members of associations were granted the opportunity of participating as representatives of their respective companies. In the second meeting the doors were opened, and associations or consortiums from the Netherlands, France and Italy accepted the opportunity to attend.

After several months of intensive work and negotiations, the general conditions have now been created to enable cooperation within the supply chain at the European level, taking anti-trust and other legal issues, as well as data protection, into consideration.

The consortium agreement lists the rights and obligations of the parties to it, lays down the rules for handling sensitive data and information, indicates the arrangement of uses in groups, cost sharing, etc.. Members may have their interests represented in this consortium by a representative of a national or transnational consortium/association or of a group of users. To this effect, however, the general conditions must be right within the individual institutions or must be created if need be. Also, any member may obtain an individual authorisation at the filing of authorisation dossiers.



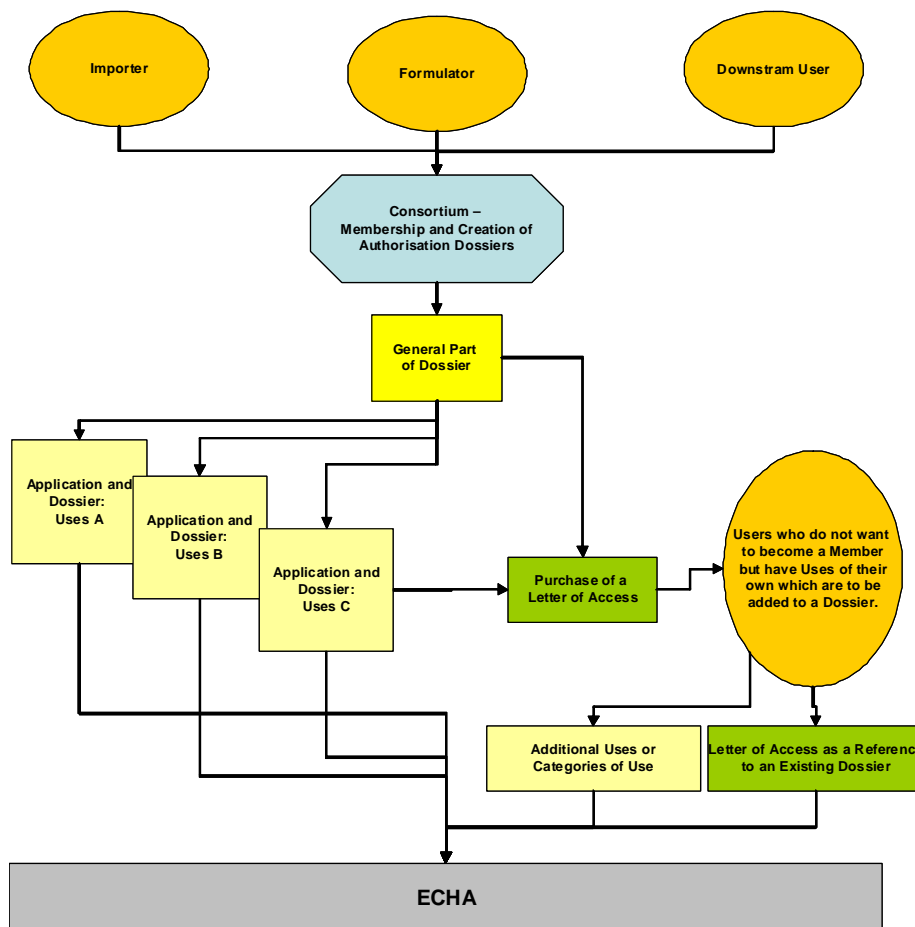
Cost sharing:

The overall cost for establishing the authorisation documents within the consortium is expected to be approx. 1.5 million €. This figure includes all uses (also outside Surface Engineering) but does not include the authorisation fees to be paid to ECHA. To ensure a fair allocation of costs among the members and out of consideration for small and medium-sized businesses the costs will be graduated similarly to the way the fees for the authorisation applications are graduated.

As work within a consortium is, as a rule, time- and cost-consuming, there is a possibility of being granted access to the respective relevant applications by forming sub-groups, thus also minimising costs. This will avoid the necessity of members having to co-finance specific uses which are "exotic" for them. The costs each company will have to bear will decrease as the number of members increases. Costs will, however, increase if the categories of use are further sub-divided to suit additional members. It is assumed that over the entire authorisation phase the costs for each member will amount to a figure ranging between 10,000 and 30,000 €.

Establishing the authorisation dossiers is the consortium members' duty. Members have full access to the contents of the dossiers and can join in drafting their contents. If the parties concerned decide not to apply for membership and leave it to their supplier to obtain authorisation, they may nevertheless apply for an authorisation of their own by acquiring a "Letter of Access" and advising ECHA of any additional specific uses. In this way a party can refer to the existing authorisation dossier but apply for the authorisation of uses of its own which may be subject to secrecy. This is quite reasonable, especially when proprietary processes with a unique selling point are concerned which a party does not wish to disclose.

enthone

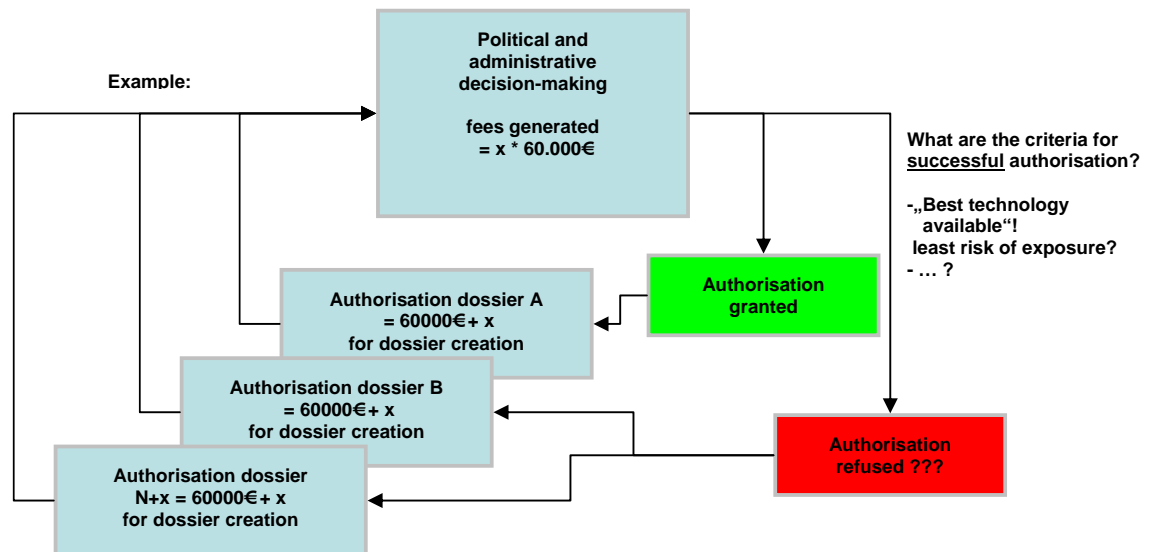




Authorisation dossiers – jointly or individually?

The authorisation dossiers comprise a number of documents and studies which constitute an significant financial burden for individual companies. In addition, due to a lack of experience in handling this matter, the success of filing of dossiers with different contents regarding exposure and safe utilisation, consideration of alternatives, etc., is uncertain. No company can be sure if their own dossier will be accepted or if somewhere in Europe there isn't another user who can raise the standards even higher.

Establishing individual dossiers and an application for authorisation does not imply automatically that ECHA will grant the authorisation being applied for. This constitutes a financial risk which, for many small and medium-sized businesses, far exceeds their annual expenses for products containing chromium trioxide. Therefore, cooperation within the supply chain is reasonable and necessary.



To the general public, suppliers seeking authorisation sought is often portrayed as a monopoly protecting itself. It is a fact, however, that the chromium trioxide market naturally allows for only a limited number of vendors. Moreover, the costs involved as well as the aforementioned risks are in most cases neglected in this line of argument.

The costs are made up of the following:

1. Application fees (graduated according to company size, per use and per company)
 2. Costs incurred for studies (assessment of alternatives, measurements of concentrations at the workplace)
 3. Costs incurred for consultancy services (preparing dossiers, project management, etc.)
 4. Travel expenses, participation in different committees or consortiums
 5. Lobbying costs (optional)
 6. Costs for introducing alternative technologies
 7. Costs for plant modifications (e.g. cutting down emissions)
- = 10,000 to 30,000 € or more



Cookson Electronics

For an individual company, the total costs could mount into the six figure range. Therefore, each company must ask itself whether it makes sense to establish a dossier of its own or if it would not be better to have the costs shared by more applicants by filing joint applications. This is a matter to be considered carefully and decided individually by a company, as well as communicated openly to the respective supplier. In the event of an application for authorisation being rejected, it would have been better in the end to invest the money in measures aiming at risk minimisation.

Summary

- If you are interested in concurring in the drafting of the authorisation dossiers or if you wish to file your own application for authorisation – taking the law on competition into account and considering economically reasonable aspects – then we invite you to seek cooperation within the consortium.
- Create the general conditions for cooperation within your line of business or via your association.
- Due to the early decision of the MSC cooperation starts in January, 2012.
- Please inform your supplier whether you are yourself interested in an authorisation or whether and to what extent your uses are covered by your supplier's authorisation.
- Your contact at Enthone:
 - Dirk Wiethölter: dwiethoelter@cooksonelectronics.com (German/English)
 - Simon Hosken: shosken@cooksonelectronics.com (English)
- Your contact for the Industry Consortium (German/English):
 - McKenna Long & Aldridge LLP
 - Ursula Schliessner
 - 2 Avenue de Tervueren, 1040 Brüssel, Belgien
 - uschliessner@mckennalong.com
 - Tel.: +32 2 2781224

Please bear in mind that the registration deadline for membership in the consortium is 15 March, 2012.

If you have any further questions, please feel free to contact us.

Yours Sincerely,
ENTHONE GmbH

Simon Hosken
EH&S Manager CE Europe
shosken@cooksonelectronics.com

Dirk Wiethölter
Product Manager Europe, WRC – Hard Chromium
dwiethoelter@cooksonelectronics.com

enthone