

ECHA, on a request by the Commission, prepared a restriction report on chrysotile¹

SUMMARY

ECHA, as requested by the Commission, has submitted a proposal recommending an amendment to an existing restriction (entry 6 in the Annex XVII in the REACH legislation), which prohibits the manufacture, placing on the market and use of asbestos fibres, and of articles and mixtures containing these fibres added intentionally. The entry also gives a possibility for a Member State to exempt the placing on the market and use of diaphragms containing one of the fibres, namely chrysotile, for existing electrolysis installations until they reach the end of their service life, or until suitable chrysotile-free substitutes become available, whichever is the sooner.

The restriction report proposes that the existing derogation on chrysotile in the entry is made time-limited until 2025. Furthermore, the companies making use of the derogation would need to annually report their use of and risks related to the use of chrysotile. The restriction report is called „Amendment to a restriction“ reflecting the fact, that it is a minor modification to an existing restriction with minor impacts.

Due to the very targeted focus on the two electrolysis installations currently relying on this exemption – AarhusKarlshamn Sweden AB (AAK), a hydrogen production facility in Karlshamn, Sweden and Dow Deutschland Anlagengesellschaft mbH (Dow), a chlor-alkali installation in Stade, Germany – ECHA has consulted with these two companies extensively in 2013. This restriction report is largely based on the information received through those consultations. Based on these information and data, the exposure to chrysotile in their processes is minimised by process design and appropriate working practices.

As the risks appear to be minimised in the two companies, continuing or ending the possibility for exemptions would not affect risk levels. For AAK already planning to end the chrysotile use, there appears to be no additional costs due to this proposal. For Dow the move away from chrysotile would have additional costs. The main costs are due to one of the companies needing to adopt an alternative substance to replace chrysotile. The direct benefits from the proposed restriction are expected to be low, the main benefits would come via improved clarity of the restriction and improved reporting requirements.

ECHA starts the public consultation on the restriction report 19 March, and the consultation ends 19 September 2014. ECHA encourages interested parties to provide their comments by 29 May 2014, to assist in the first discussion of the restriction proposal potentially in committee meetings in June 2014.

SUGGESTED RESTRICTION

ECHA, as requested by the Commission, has submitted a proposal recommending an amendment to an existing restriction entry 6 in the Annex XVII in the REACH legislation. In the restriction report it is proposed that (text to be deleted is stroked out and new text is underlined):

¹ The information note is prepared on the basis of the Annex XV report.

<p>6. Asbestos fibres</p> <p>(a) Crocidolite</p> <p>CAS No 12001-28-4</p> <p>(b) Amosite</p> <p>CAS No 12172-73-5</p> <p>(c) Anthophyllite</p> <p>CAS No 77536-67-5</p> <p>(d) Actinolite</p> <p>CAS No 77536-66-4</p> <p>(e) Tremolite</p> <p>CAS No 77536-68-6</p> <p>(f) Chrysotile</p> <p>CAS No 12001-29-5</p> <p>CAS No 132207-32-0</p>	<p>1. The manufacture, placing on the market and use of these fibres and of articles and mixtures containing these fibres added intentionally is prohibited. However, Member States may exempt the placing on the market and use of diaphragms containing chrysotile (point (f)) for existing electrolysis installations until they reach the end of their service life, or until suitable asbestos-free substitutes become available, whichever is the sooner.</p> <p>By 1 June 2011 Member States making use of this exemption shall provide a report to the Commission on the availability of asbestos free substitutes for electrolysis installations and the efforts undertaken to develop such alternatives, on the protection of the health of workers in the installations, on the source and quantities of chrysotile, on the source and quantities of diaphragms containing chrysotile, and the envisaged date of the end of the exemption. The Commission shall make this information publicly available.</p> <p>Following receipt of those reports, the Commission shall request the Agency to prepare a dossier in accordance with Article 69 with a view to prohibit the placing on the market and use of diaphragms containing chrysotile.</p> <p><u>2. By way of derogation, paragraph 1 shall not apply until 31 December 2025 regarding the placing on the market and use of diaphragms containing chrysotile (point (f)), and placing on the market and use of chrysotile fibres used exclusively for the purpose of including such fibres in diaphragms, to electrolysis installations in use on 17 January 2013, if placing on the market or use were exempted by a Member State in accordance with the restriction on asbestos fibres as initially codified by Regulation (EC) No 1907/2006 of 18 December 2006 (OJ L 396, 30.12.2006).</u></p> <p><u>Without prejudice to the application of other Union provisions on the protection of workers from asbestos, any manufacturer, importer or downstream user benefiting from the derogation shall:</u></p> <ul style="list-style-type: none"> <u>i) minimise exposure to asbestos fibres placed on the market or used in compliance with the derogation of this paragraph,</u> <u>ii) prepare an annual report per calendar year giving the amount of chrysotile placed on the market and used in diaphragms, in compliance with the derogation of this paragraph,</u> <u>iii) send the report specified in para 2(ii) to the relevant Member State giving the exemption and the European Commission, with a copy to the European Chemicals Agency, including a translation into English in case the original report is drawn up in another official language than English, by 31 January of the following year.</u> <p><u>The relevant Member States giving the exemption may set a specific limit value for fibres in air or a monitoring regime for ensuring compliance with paragraph 2(i). If a monitoring regime</u></p>
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	<p><u>is required, the results of the monitoring of exposures from the use of diaphragms and any fibres used should be included in the report specified in paragraph 2(ii).</u></p> <p><u>If a party granted a exemption concludes that the exemption needs to be extended because the relevant electrolysis installation has not reached the end of its service life and technically or economically viable asbestos-free substitutes are not yet available, they shall submit a report by 31 December 2020 to the Member State granting the exemption and the European Commission. The report shall include a risk assessment, including any relevant Exposure Scenarios describing the measures to minimise the risks, an Analysis of alternatives, and any information relevant for a socio-economic analysis related to the need for a further derogation.</u></p> <p>[3.].....</p> <p>[4.].....</p>
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The paragraphs 3 and 4 in the same entry are not proposed to be revised.

USE OF CHRYSOTILE REASONS FOR ACTION

In January 2013, the Commission requested ECHA to prepare an Annex XV restriction report with a view of prohibiting the placing on the market and use of diaphragms containing chrysotile. On the basis of a comparison of the benefits and risks of continued use, ECHA does not propose a termination of the derogation but rather a modification of the current derogation in the relevant entry.

The main motivation for proposing a change in the current entry is to improve clarity and transparency of the existing derogation. Secondly, the proposed modification states an explicit time limit for the derogation until 2025, and specific reporting requirements for the companies' utilising the derogation, which are both missing from the current entry.

CONSEQUENCES OF THE ACTION

In the case of AAK, potential risks from existing use of chrysotile are considered negligible. AAK has already decided to move away from chrysotile in the next 5-10 years, and the potential risks would not be affected by earlier removal of chrysotile, however, the earlier removal would be costly as transfer to chrysotile-free technology requires several years.

In the case of Dow, exposure is minimized and potential risks from the use of chrysotile are controlled. Dow is currently doing production level testing a possibility for an alternative substance to be used instead of chrysotile. The decision about its adoption can be made 2015. If this alternative proves to be technically and economically feasible, the adoption could be completed by 2025. According to Dow the adoption would cause an additional cost of €70 million (or €5.8 million per annum) to the company– when calculated up to 2030 and assuming that the transfer to chrysotile-free technology takes place without problems. Given a weaker performance of the alternative substance, the costs could be higher, even €355 million, or €29 million per annum. In either case, the proposed amendment to entry 6 would not change the cost. ECHA has not received any information to suggest that the replacement of chrysotile-based technologies should be taking place faster than currently planned by the company.

COMMENTS PREFERABLY BY 29TH MAY

The opinion forming process of the ECHA Committees for Risk Assessment (RAC) and Socio-economic Analysis (SEAC) starts with a public consultation 19 March 2014. Interested parties can comment on the proposal and the restriction report using the ECHA website. Although the public consultation concludes on 19 September 2014, the rapporteurs of RAC and SEAC would appreciate receiving comments by 29 May 2014 to assist them in the detailed discussion of the restriction proposal in June 2014.

The final opinions of both Committees are scheduled to be available by March 2015. ECHA will send these two opinions to the European Commission, which will take the decision whether to include the new restriction in Annex XVII of the REACH Regulation.