28th March 2013

NGO RECOMMENDATIONS:

ENCOURAGING THIRD PARTY PARTICIPATION IN THE REACH AUTHORISATION PROCESS TO ASSURE THAT SVHCs THAT HAVE SAFER ALTERNATIVES ARE NOT USED

Background

Substitution of hazardous chemicals is one of REACH's main objectives[1]. The processes that REACH establishes to meet this objective are the Authorisation and Restriction processes.

Companies willing to use or place Substances of Very High Concern (SVHC) on the market have to request an authorisation, which will be use specific. Applicants will have to investigate the possibility of substituting these substances with safer alternatives or technologies, and prepare substitution plans, if appropriate.

The European Commission will take the decision to grant or not an authorisation, taking into account the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-Economic Analysis (SEAC). It should be noted that because REACH applies without prejudice to EU laws on safety and health at work, in any case authorisations should not be granted when, in so far as it is technically possible[2], there is a

[1] REACH Regulation Preamble, recital 12, reads "**encourage and in certain cases to ensure that substances of high concern are eventually replaced by less hazardous substances or technologies where suitable economically and technically viable alternatives are available."**
Article 1 establishes that the aim of the Regulation is to ensure a high level of protection of human health and the environment, and that substances that are placed on the market do not adversely affect human health and the environment.

[2] 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. Chapter II. Employers' obligations. Article 4(1) Reduction and replacement

substance, mixture or a process available that is not dangerous or is less dangerous compared to the SVHC under consideration[3].

Third party participation in the authorisation process is key to provide RAC and SEAC with as much information as possible on alternatives and therefore, **assure that SVHC that have safer alternatives are not granted an authorisation**.

Therefore, **the Commission, the Agency and Member States should adopt all possible measures to encourage third party participation in the authorisation process** including:

Transparency

Third parties should be able to actively participate in all different stages of the authorisation process' discussions where an authorisation of a SVHC may be decided. All information of an Authorisation application should be made public and confidentiality claims should be treated on a case by case basis.

Guidance

Third parties should have clear guidance for submitting information. The information submission process should facilitate and encourage third parties to submit any available information on alternatives. In order to guarantee the relevance of the information submitted, the ECHA should make available on its web-site comprehensive information on the uses included in the application. ECHA should also create a section on its webpage to support third party participation, including: access point to helpdesk; resources on how to identify alternatives, alternatives assessment methods, etc.

Dissemination

Authorisation applications should be widely disseminated both by ECHA and Member States even before the commenting period is launched, in order to help third parties to prepare the submission of information.

ECHA and Member States should carry out similar dissemination activities as those carried out during the pre-registration and registration processes, including Notices on ECHA´s website; ECHA Newsletter; information through Helpdesks; collaboration with Trade Unions and NGOs, industry, trade and sector associations, sustainable chemistry networks; workshops, etc.

Encourage participation of interested 3rd parties that may have information on the use applied for by:

- Contacting interested 3rd parties such as downstream users associations, technological institutes and academia, Trade Union Institutes, NGOs involved, etc.
- Organizing supply chain dialogues for applications that may get an authorisation.

[3] REACH, Article 4 (2). Therefore substance authorisations can be considered subject to the requirements of the EU workers protection legislation.

- Launching an alternatives competition for **3rd parties** that provide viable substitutes for problematic SVHC, especially where authorisations may be granted. If the incentives are sufficient (recognition, economic award, etc.), this concept could bring in many 3rd parties with existing info and get them to actively work on targeted SVHC substitution, thereby providing solutions and spreading the Principle of Substitution within the market place and beyond.

Provide information and technical support to 3rd parties by:

- Establishing an ECHA helpdesk
- Informing, training and coordinating Member States helpdesks so they can also support participation of 3rd parties with dissemination, information and training activities.

Elaborate alternative assessments for uses that may obtain an authorisation. ECHA's technical service or the Commission through a contract may elaborate alternative assessments for those SVHC for which the applicant and 3rd parties have not submitted information on alternatives.