EUROPEAN CHEMICALS AGENCY

Decision number: TPE-D-0000002537-71-04/F Helsinki, 20 December 2012

DECISION ON A TESTING PROPOSAL SET OUT IN A REGISTRATION PURSUANT TO ARTICLE 40(3) OF REGULATION (EC) NO 1907/2006

For A mixture of: tetrasodium-phosphonoethane-1,2-dicarboxylate; hexasodium-phosphonobutane-1,2,3,4-tetracarboxylate, CAS No 143239-08-1 (EC No 410-800-5), registration number: [redacted]

Addressee: [redacted]

The European Chemicals Agency (ECHA) has taken the following decision in accordance with the procedure set out in Articles 50 and 51 of Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation).

I. Procedure

Pursuant to Article 40(1) of the REACH Regulation, ECHA has examined the following testing proposals submitted as part of the jointly submitted registration dossier in accordance with Articles 10(a)(ix) and 12(1)(d) thereof for A mixture of: tetrasodium-phosphonoethane-1,2-dicarboxylate; hexasodium-phosphonobutane-1,2,3,4-tetracarboxylate, CAS No 143239-08-1 (EC No 410-800-5), by [redacted] (Registrant), latest submission number [redacted], for the tonnage band of 100 to 1000 tonnes per year:

- 90-day oral toxicity study (OECD 408), with specific assessment of effects on the reproductive cycle,
- Pre-natal developmental toxicity study (OECD 414).

The examination of the testing proposals was initiated upon the date when receipt of the complete registration dossier was confirmed on 22 December 2011.

ECHA held a third party consultation for the testing proposals from 6 March 2012 until 20 April 2012. ECHA did receive information from third parties (see section III below).

On 15 June 2012 ECHA sent the draft decision to the Registrant and invited him to provide comments within 30 days of the receipt of the draft decision. By 16 July 2012 the Registrant did not provide any comments on the draft decision to ECHA.

On 19 July 2012 ECHA notified the Competent Authorities of the Member States of its draft decision and invited them pursuant to Article 51(1) of the REACH Regulation to submit proposals to amend the draft decision within 30 days of the receipt of the notification. Subsequently, one Competent Authority of a Member State submitted a proposal for amendment to the draft decision.

On 22 August 2012 ECHA notified the Registrant of the proposal for amendment to the draft decision and invited him pursuant to Article 51(5) of the REACH Regulation to provide comments on the proposal for amendment within 30 days of the receipt of the notification.

ECHA reviewed the proposal for amendment received and has decided to amend the draft decision.

On 3 September 2012 ECHA referred the draft decision to the Member State Committee.

On 14 September 2012, the Registrant provided comments on the proposed amendment. The Member State Committee took the comments of the Registrant into account.

A unanimous agreement of the Member State Committee on the draft decision was reached on 8 October 2012 in a written procedure launched on 26 September 2012 and ECHA took the decision pursuant to Article 51(6) of the REACH Regulation.

This decision does not imply that the information provided by the Registrant in his registration dossier is in compliance with the REACH requirements. The decision does not prevent ECHA from initiating a compliance check on the registration at a later stage.

II. Testing required

The Registrant shall carry out the following proposed tests pursuant to Article 40(3)(a) of the REACH Regulation using the indicated test methods and the registered substance subject to the present decision:

1. Sub-chronic toxicity study (90-day) in rats, oral route (Annex IX, 8.6.2.; test method: EU B.26/OECD 408); and
2. Pre-natal developmental toxicity study in rats or rabbits, oral route (Annex IX, 8.7.2.; test method: EU B.31/OECD 414).

The Registrant shall determine the appropriate order of the studies taking into account the possible outcome and considering the possibilities for adaptations of the standard information requirements according to the column 2 provisions of the respective Annex and those contained in Annex XI of the REACH Regulation.

Pursuant to Articles 40(4) and 22 of the REACH Regulation, the Registrant shall submit to ECHA by **20 December 2014** an update of the registration dossier containing the information required by this decision.

III. Statement of reasons

The decision of ECHA is based on the examination of the testing proposals submitted by the Registrant for the registered substance and scientific information submitted by third parties.

1. Sub-chronic toxicity study (90-day)

a) Examination of the testing proposal

Pursuant to Article 40(3)(a) of the REACH Regulation, ECHA may require the Registrant to carry out the proposed test.

A sub-chronic toxicity study (90 day) is a standard information requirement as laid down in Annex IX, section 8.6.2. of the REACH Regulation. The information on this endpoint is not available for the registered substance but needs to be present in the technical dossier to meet the information requirements. Consequently there is an information gap and it is necessary to provide information for this endpoint.

The Registrant proposed testing by the oral route. In the light of the physico-chemical properties of the substance and the information provided on the uses and human exposure, ECHA considers that testing by the oral route is appropriate.

The Registrant did not specify the species to be tested. According to the test method EU B.26/OECD 408 rat is the preferred rodent species. ECHA considers this species as being appropriate.

The Registrant proposed to extend the sub-chronic toxicity study (90 day) by including additional examinations/parameters, which have not been defined in detail in the testing proposal. ECHA notes, that it is at the Registrant's discretion to perform the intended additional examinations during the testing program and use the results to ensure the safe use of the substance. However, the Registrant is reminded that the proposed extension of this study does not fulfil the standard information requirements in the registration dossier for reproductive toxicity set out in Annex X, 8.7.3. unless the Registrant applies the results from the 90-day study as a valid adaptation according to Annex X, 8.7, column 2.

b) Consideration of the information received during third party consultation

ECHA received third party information concerning the testing proposal during the third party consultation. For the reasons explained further below the information provided by third parties is not sufficient to fulfil this information requirement.

Third party information:

A third Party has proposed a weight-of evidence approach for ECHA to take into account before further tests on vertebrate animals are required. As part of this approach, the third party referred to the low toxicity profile of the registered substance and provided results from studies conducted with the read-across substance 2-phosphonobutane-1,2,4-tricarboxylic acid (CAS No 3797-1-36-1, EC No 253-733-5) (OECD SIDS of 2-phosphonobutane-1,2,4-tricarboxylic acid (CAS No 3797-1-36-1, EC No 253-733-5)).

ECHA has taken the information provided into account and concludes that it is insufficient for demonstrating that the conditions of Annex XI, Section 1.2 and 1.5 of the REACH Regulation are met. More specifically, the proposed weight-of-evidence approach is not sufficient to assume that the substance has or has not a particular dangerous property after sub-chronic administration of the substance and that the standard information requirement for a subchronic toxicity (90-day) study could be adapted. Furthermore, the proposed read-across approach as an element of the weight of evidence justification did not demonstrate that human health effects of the registered substance may be predicted from data on the reference substance. Although ECHA recognises that the information as provided by the third party might be scientifically valid, it does not fulfil Annex XI requirements and is therefore not sufficient to allow ECHA to reject the testing proposal. Nevertheless, ECHA acknowledges that the Registrant may himself supplement under its own responsibility the argumentation and information provided by the third party in order to make use of adaptation possibilities. This would require that the Registrant documents, using several independent sources of information, that there is a sufficient weight of evidence leading to the assumption/conclusion that a substance has or has not particular dangerous properties, according to the criteria laid down in Annex XI of the REACH Regulation.

c) Outcome

Therefore, pursuant to Article 40(3)(a) of the REACH Regulation, the Registrant is required to carry out the proposed study: Sub-chronic toxicity study (90-day) in rats, oral route (test method: EU B.26/OECD 408) using the registered substance.

At any time, the Registrant shall take into account that there may be an obligation to make every effort to agree on sharing of information and costs with other Registrants.

2. Pre-natal developmental toxicity study

a) Examination of the testing proposal

Pursuant to Article 40(3)(a) of the REACH Regulation, ECHA may require the Registrant to carry out the proposed test.

A pre-natal developmental toxicity study for a first species is a standard information requirement as laid down in Annex IX, section 8.7.2. of the REACH Regulation. The information on this endpoint is not available for the registered substance but needs to be present in the technical dossier to meet the information requirements. Consequently there is an information gap and it is necessary to provide information for this endpoint.

The Registrant did not specify the species and route to be used for testing. According to the test method EU B.31/OECD 414, the rat is the preferred rodent species, the rabbit the preferred non-rodent species and the test substance is usually administered orally. ECHA considers these default parameters appropriate and testing should be performed by the oral route with the rat or the rabbit as a first species to be used.

b) Consideration of the information received during third party consultation

ECHA received third party information concerning the testing proposal during the third party consultation. For the reasons explained further below the information provided by third parties is not sufficient to fulfil this information requirement.

Third party information:

A third Party has proposed a weight-of evidence approach for ECHA to take into account before further tests on vertebrate animals are required. As part of this approach, the third party referred to the low toxicity profile of the registered substance and provided results from studies conducted with the read-across substance 2-phosphonobutane-1,2,4-tricarboxylic acid (CAS No 3797-1-36-1, EC No 253-733-5) (OECD SIDS of 2-phosphonobutane-1,2,4-tricarboxylic acid (CAS No 3797-1-36-1, EC No 253-733-5)).

ECHA has taken the information provided into account and concludes that it is insufficient for demonstrating that the conditions of Annex XI, Section 1.2 and 1.5 of the REACH Regulation are met, as explained under Section III.1.b of this draft decision.

c) Outcome

Therefore, pursuant to Article 40(3)(a) of the REACH Regulation, the Registrant is required to carry out the proposed study: Pre-natal developmental toxicity study in rats or rabbits, oral route (test method: EU B.31/OECD 414) using the registered substance.

At any time, the Registrant shall take into account that there may be an obligation to make every effort to agree on sharing of information and costs with other Registrants.

IV. Adequate identification of the composition of the tested material

It is important to ensure that the particular sample of substance tested in the new studies is appropriate to assess the properties of the registered substance, taking into account any variation in the composition of the technical grade of the substance as actually manufactured. If the registration of the substance covers different grades, the sample used for the new studies must be suitable to assess these.

Furthermore, there must be adequate information on substance identity for the sample tested and the grades registered to enable the relevance of the studies to be assessed.

V. General requirements for the generation of information and Good Laboratory Practice

ECHA reminds registrants of the requirements of Article 13(4) of the REACH Regulation that ecotoxicological and toxicological tests and analyses shall be carried out in compliance with the principles of good laboratory practice (GLP).

According to Article 13(3) of the REACH Regulation, tests that are required to generate information on intrinsic properties of substances shall be conducted in accordance with the test methods laid down in a Commission Regulation or in accordance with other international test methods recognised by the Commission or the European Chemicals Agency as being appropriate. Thus, the Registrant shall refer to Commission Regulation (EC) No 440/2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 as adapted to technical progress or to other international test methods recognised as being appropriate and use the applicable test methods to generate the information on the endpoints indicated above.

VI. Information on right to appeal

An appeal may be brought against this decision to the Board of Appeal of ECHA under Article 51(8) of the REACH Regulation. Such appeal shall be lodged within three months of receiving notification of this decision. Further information on the appeal procedure can be found on the ECHA's internet page at http://echa.europa.eu/appeals/app_procedure_en.asp. The notice of appeal will be deemed to be filed only when the appeal fee has been paid.

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