Decision number: CCH-D-2114303416-60-01/F Helsinki, 31 August 2015

DECISION ON A COMPLIANCE CHECK OF A REGISTRATION PURSUANT TO ARTICLE 41(3) OF REGULATION (EC) NO 1907/2006

For hexahydro-1,3,5-trimethyl-1,3,5-triazine, CAS No 108-74-7 (EC No 203-612-8), 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 41(1) of the REACH Regulation ECHA has performed a compliance check of the registration for hexahydro-1,3,5-trimethyl-1,3,5-triazine, CAS No 108-74-7 (EC No 203-612-8), submitted by [redacted] (Registrant).

This decision is based on the registration as submitted with submission number [redacted], for the tonnage band of 1000 tonnes or more per year. This decision does not take into account any updates submitted after 5 March 2015, the date upon which ECHA notified its draft decision to the Competent Authorities of the Member States pursuant to Article 51(1) of the REACH Regulation.

This compliance check decision does not prevent ECHA from initiating further compliance checks on the present registration at a later stage.

The compliance check was initiated on 17 March 2014.

On 4 June 2014 ECHA sent the draft decision to the Registrant and invited him to provide comments within 30 days of the receipt of the draft decision. That draft decision was based on submission number [redacted].

On 9 July 2014 ECHA received comments from the Registrant on the draft decision, concerning the information requirements of Annex IX, Sections 8.6.2., 8.7.2., Annex X, Section 8.7.3., Annex VI, section 4 and Annex I, sections 3.0.4., 3.3., 5.0., 5.2.2. and 5.2.4.

On 28 August 2014 the Registrant updated his registration dossier with the submission number [redacted].

The compliance check requirement to submit information of a two-generation reproductive toxicity study (EU B.35, OECD TG 416) or an extended one-generation reproductive toxicity study (EU B.56, OECD TG 443) has been removed from this draft decision due to the legislative amendments to the REACH Regulation regarding Annex X, Section 8.7.3. In light of this, ECHA Secretariat did not consider further the Registrant's comments and update concerning the information requirement of Annex X, Section 8.7.3. However, ECHA Secretariat did consider further the Registrant's comments and update concerning the

information requirements of Annex IX, Sections 8.6.2., 8.7.2., Annex VI, section 4 and Annex I, sections 3.0.4., 3.3., 5.0., 5.2.2. and 5.2.4. On the basis of all this information and change of scope, Section II was amended. The Statement of Reasons (Section III) was changed accordingly.

On 5 March 2015 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 for amendment of the draft decision within 30 days of the receipt of the notification.

Subsequently, proposals for amendment to the draft decision were submitted.

On 10 April 2015 ECHA notified the Registrant of the proposals for amendment to the draft decision and invited him pursuant to Article 51(5) of the REACH Regulation to provide comments on the proposals for amendment within 30 days of the receipt of the notification.

The ECHA Secretariat reviewed the proposals for amendment received and amended the draft decision.

On 20 April 2015 ECHA referred the draft decision to the Member State Committee.

By 11 May 2015, in accordance to Article 51(5), the Registrant provided comments on the proposals for amendment. The Member State Committee took the comments of the Registrant on the proposals for amendment into account.

A unanimous agreement of the Member State Committee on the draft decision was reached on 26 May 2015 in a written procedure launched on 13 May 2015.

ECHA took the decision pursuant to Article 51(6) of the REACH Regulation.

II. Information required

A. Information in the technical dossier derived from the application of Annexes VII to XI

Pursuant to Articles 41(1), 41(3), 10(a)(vi) and/or (vii), 12(1)(e), 13 and Annexes IX and X of the REACH Regulation the Registrant shall submit the following information using the indicated test method and the registered substance subject to the present decision:

1. Pre-natal developmental toxicity study (Annex IX, Section 8.7.2.; test method: EU B.31./OECD 414) in rats or rabbits, oral route.

B. Information related to chemical safety assessment and chemical safety report

Pursuant to Articles 41(1), 41(3), 10(b), 14 and Annex I of the REACH Regulation the Registrant shall submit in the chemical safety report:

1. Revised predicted no effects concentration (PNEC) for marine sediment, freshwater sediment, and soil (Annex I, sections 3.0.4. and 3.3.).
2. Revised risk characterisation for environment for exposure scenario - Environmental release during offshore industrial use, based on the PNEC derived according to Annex I, section 3.3. (Annex I, section 6.4.)

Note for consideration by the Registrant:

The Registrant may adapt the testing requested above according to the specific rules outlined in Annexes VI to X and/or according to the general rules contained in Annex XI of the REACH Regulation. In order to ensure compliance with the respective information requirement, any such adaptation will need to have a scientific justification, referring to and conforming with the appropriate rules in the respective Annex, and an adequate and reliable documentation.

Failure to comply with the requests in this decision, or to fulfil otherwise the information requirements with a valid and documented adaptation, will result in a notification to the Enforcement Authorities of the Member States.

C. Deadline for submitting the required information

Pursuant to Articles 41(4) and 22(2) of the REACH Regulation the Registrant shall submit registration to ECHA by **7 September 2016** an update of the registration dossier containing the information required by this decision including, where relevant, an update of the Chemical Safety Report.

III. Statement of reasons

Pursuant to Article 41(3) of the REACH Regulation, ECHA may require the Registrant to submit any information needed to bring the registration into compliance with the relevant information requirements.

A. Information in the technical dossier derived from the application of Annexes VII to XI

Pursuant to Articles 10(a)(vi) and/or (vii), 12(1)(e) of the REACH Regulation, a technical dossier for a substance manufactured or imported by the Registrant in quantities of 1000 tonnes or more per year shall contain as a minimum the information specified in Annexes VII to X of the REACH Regulation.

1. Pre-natal developmental toxicity study (Annex IX, Section 8.7.2.)

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. Adequate information on this endpoint needs to be present in the technical dossier for the registered substance to meet this information requirement.

The Registrant has sought to adapt this information requirement. The justification of the adaptation given by the Registrant is "*Results of developmental toxicity are presented in Section 7.8.1 "Toxicity to reproduction" as the study was a combined 28-day repeated dose toxicity study with reproductive/developmental toxicity screening (OCED 422).*" ECHA observes that in section 7.8.1 of the technical dossier the Registrant has indeed provided a study record for a "combined repeated dose toxicity study with the reproduction/developmental toxicity screening test" (test method: OECD 422). However, this study does not provide the information required by Annex IX, Section 8.7.2., because it does not cover key parameters of a pre-natal developmental toxicity study such as examinations of foetuses for skeletal and visceral alterations.
In the update of the registration dossier the Registrant provided new additional justification of the adaptation. First, the Registrant notes that the study performed according to OECD

TG 422 "is sufficient *in order to conclude that no reproductive or developmental toxicity was observed at any dose level tested".* The Registrant underlines that the leading health effects identified for the substance "*are skin corrosion, eye damage and sensitisation (Skin Corr. 1C, Eye Damage 1 and Skin Sens. 1A), which would not change regardless of the outcome of the OECD 414 and OECD 416 studies proposed for this tonnage band."* Furthermore, he indicates that these effects "*do not have a threshold and the substance is therefore considered "high hazard" due to the potency of the effects observed";* thus, by the Registrant "*no quantitative DNEL/DMEL can be derived for the substance and human health risk assessment has to be conducted qualitatively."* The Registrant stresses that "*the strict operational conditions and risk management measures prescribed for the leading health effect are designed to render exposure to the substance as negligible, measures that would not change if further reproduction/developmental toxicity data were available."* The Registrant refers to ECHA's Guidance documents, i.e. "*as stated in "Guidance on information requirements and chemical safety assessment Part B: Hazard assessment (P26)": "For corrosive substances, strict measures have to be taken to prevent any contact". Furthermore as stated in "Guidance on information requirements and chemical safety assessment Part E: Risk Characterisation "the general approach when no DNEL for an endpoint is available aims at reducing/avoiding contact with the substance"."*

Thus, the Registrant refers to Annex XI, section 3.2(a) of REACH Regulation and speculates "*that the footnote in Annex XI (3.2a) may not have considered a situation where the key hazards are driven by non-threshold effects, and that such waivers should be addressed on a case-by-case basis."*

Furthermore, the Registrant claims that all conditions of Annex XI, section 3.2(a) are fulfilled. As already mentioned above, there is "*no significant exposure during manufacture and identified uses is anticipated as the operational conditions and risk management measure implemented in support of the qualitative risk characterisation are designed to render exposure to the substance as negligible".*

The Registrant notes that DNEL derived from a screening test for reproductive and developmental toxicity has been only used "*for quantitative confirmation that operational conditions and risk management measures protect against the effects seen in the OECD 422 study."* The Registrant considers that the footnote to Annex XI, section 3.2(a)(ii) "*does not consider situations where the exposure to a substance can be mitigated due to other hazardous properties constituting the leading health effect of the substance, in this case a full suite of qualitative primary hazard conclusions for the substance."*

Finally, the Registrant notes that "*the risk characterisation ratios for long-term systemic effects via the inhalation route were well below 1 for all identified uses of this substance, indicating that risks are adequately controlled."*

In response to the Registrant's arguments, ECHA notes that the arguments concerning ECHA's Guidance documents Part B and Part E do not remove the information requirement of a Pre-natal developmental toxicity study as there is no stand alone related adaptation argument listed in column 2 of Section 8.7.2. of Annex IX or in Annex XI. Furthermore, ECHA underlines, as also noted by the Registrant, footnote in the Annex XI, section 3.2.(a) is clear "*a DNEL derived from a screening test for reproductive/developmental toxicity shall not be considered appropriate to omit a prenatal developmental toxicity study or a two-generation reproductive toxicity study*", i.e. respective condition for adaptation is not fulfilled. Furthermore, ECHA notes that the estimated risk characterisation ratios (RCRs) for long-term systemic effects (via the inhalation route) provided in the CSR for various PROCs are in the range of 0.08-0.23. ECHA considers that not all estimated RCRs are well below 1, i.e. ECHA considers that condition of Annex XI, section 3.2(a)(iii) has not been also fulfilled.

Furthermore, ECHA underlines that a thorough and rigorous exposure assessment in accordance with section 5 of Annex I, as required in Annex XI, section 3.2, is missing for uses of fuel in preparations (industrial and professional).

Thus, as explained above, the information available on this endpoint for the registered substance in the technical dossier does not meet the information requirement. Consequently there is an information gap and it is necessary to provide information for this endpoint.

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.

Therefore, pursuant to Article 41(1) and (3) of the REACH Regulation, the Registrant is requested to submit the following information derived with the registered substance subject to the present decision: Pre-natal developmental toxicity study (test method: EU B.31./OECD 414) in rats or rabbits by the oral route.

Notes for consideration by the Registrant

In addition, a pre-natal developmental toxicity study on a second species is part of the standard information requirements as laid down in Annex X, Section 8.7.2. for substances registered for 1000 tonnes or more per year (see sentence 2 of introductory paragraph 2 of Annex X).

The Registrant should firstly take into account the outcome of the pre-natal developmental toxicity on a first species and all other relevant available data to determine if the conditions are met for adaptations according to Annex X, Section 8.7. column 2, or according to Annex XI; for example if the substance meets the criteria for classification as toxic for reproduction Category 1B: May damage the unborn child (H360D), and the available data are adequate to support a robust risk assessment, or alternatively, if weight of evidence assessment of all relevant available data provides scientific justification that the study in a second species is not needed. If the Registrant considers that testing is necessary to fulfill this information requirement, he should include in the update of his dossier a testing proposal for a pre-natal developmental toxicity study on a second species. If the Registrant comes to the conclusion that no study on a second species is required, he should update his technical dossier by clearly stating the reasons for adapting the standard information requirement of Annex X, Section 8.7.2.

B. Information related to the chemical safety assessment and chemical safety report

Pursuant to Articles 10(b) and 14(1) of the REACH Regulation the registration shall contain a chemical safety report which shall document the chemical safety assessment conducted in accordance with Article 14(2) to (7) and with Annex I of the REACH Regulation.

1. Predicted no effects concentration (PNEC) for marine sediment, freshwater sediment, and soil (Annex I, Sections 3.0.4. and 3.3.)

Pursuant to Annex I, Section 3.3.1 of the REACH Regulation based on the available information, the PNEC for each environmental sphere shall be established. If it is not possible to derive the PNEC, then this shall be clearly stated and fully justified.

In the updated technical registration dossier and in the revised chemical safety report (CSR), the Registrant has provided PNECs for sewage treatment plant (STP), marine water sediment, freshwater sediment and soil.

ECHA observes that provided PNECs for marine sediment, freshwater sediment and soil are estimated by using equilibrium partitioning method (EPM). However, ECHA notes that as input value for estimation of these PNECs was used PNEC for water based on toxicity of the substance to aquatic invertebrates (effect concentration (EC50) is 20.352 mg/l), but not the PNEC for water provided in the technical IUCLID dossier/CSR, which is based on the lowest effect concentration from the aquatic toxicity studies, i.e. with fish and algae, where EC50 is 1.908 mg/l. ECHA notes that according to the Guidance on information requirements and chemical safety assessment, Chapter R.10: Characterisation of dose [concentration]-response for environment (May 2008) the PNEC for water based on the lowest observed effect concentration in aquatic toxicity tests should be used for the derivation of PNECs for marine sediment, freshwater sediment and soil. In addition, ECHA notes that for the derivation of PNECs for marine and freshwater sediments by EPM parameters of suspended matter are used, therefore conversion factor for recalculating wet weight to dry weight concentrations for sediments should be calculated by using parameters of suspended matter also, i.e. conversion factor will be 4.6 and not 2.3.

ECHA thus concludes that a derivation of the PNECs for marine sediment, freshwater sediment and soil should be revised.

Therefore, pursuant to Article 41(1) and 41(3) of the REACH Regulation the Registrant is requested to revise the PNECs for marine sediment, freshwater sediment and soil compartments, and to update the technical registration dossier and CSR accordingly.

2. Revised risk characterisation for environment for exposure scenario - Environmental release during offshore industrial use, based on the PNEC derived according to Annex I, section 3.3. (Annex I, section 6.4.)

Pursuant to Annex I, section 3.3.1 of the REACH Regulation, based on the available information, the PNEC for each environmental sphere shall be established. According to Annex I, Section 6 of the REACH Regulation the risk characterisation consists of [...] a comparison of the predicted environmental concentrations in each environmental sphere with the PNECs. For any exposure scenario, the risk to the environment can be considered to be adequately controlled, throughout the lifecycle of the substance that results from manufacture or identified uses, if the exposure levels estimated in Section 6.2 of Annex I do not exceed the appropriate PNEC, as determined in Section 3 of Annex I.

Based on a proposal for amendment from a Member State Competent Authority, ECHA notes that in accordance with Annex I, Section 3, the Registrant derived the PNEC for marine water (0.19 µg /l) by applying an assessment factor of 10000 (i.e. following the principles set in ECHA's Guidance on information requirements and chemical safety assessment, Chapter R.10: Characterisation of dose [concentration]-response for environment (May 2008)). The Registrant reported the derived PNEC in the IUCLID technical registration dossier and section 7.6 of the CSR. However, ECHA observes that for the risk characterisation for the environmental exposure scenario - Environmental release during offshore industrial use, the Registrant used 100 times higher PNEC for marine water than the one derived in accordance with Annex I, Section 3 and reported in the IUCLID technical registration dossier and section 7.6 of the CSR. The Registrant explains that "*due to safety factor in modelling process, CHARM uses assessment factor of 100 for hazard assessment (1.908 mg/L / 100 = 19 µg/L) (CHARM, 2005)*". ECHA notes that there is no further explanation what is meant by '*safety factor in modelling*' and how this would allow to use a

non-default assessment factor of 100 for the derivation of the PNEC for marine water in case of this particular exposure scenario. Thus, ECHA concludes that the Registrant's justification provided for the use of such a PNEC, different from the one reported in the IUCLID technical registration dossier and section 7.6 of the CSR, is not acceptable.

In their comments to the above-accepted proposal for amendment from a Member State Competent Authority, the Registrant provided a further justification for the use of the non-default (from CHARM model) assessment factor of 100 for the derivation of the PNEC for marine water in case of this particular exposure scenario. In particular, the Registrant refers to ECHA's Guidance on information requirements and chemical safety assessment, Chapter R.16: Environmental Exposure Estimation (October 2012). This Guidance notes that for the exposure situations for the offshore uses of substances, the methodology proposed by OSPAR (Oslo and Paris Conventions) can be taken into consideration. Furthermore, the Registrant notes that the CHARM methodology has been developed for screening level risk assessment of offshore substances and it covers both hazard assessment process, which is agreed within the OSPAR Commission, and exposure assessment as a precursor to characterization of risk. The lower assessment factor (compared to the proposed assessment factor in ECHA's Guidance, Chapter R.10 for the derivation of PNEC for marine water) in the Registrant's view is applicable due to the highly conservative assumptions used in the exposure calculations performed by the CHARM model.

ECHA acknowledges that the information (outlined above) provided in the Registrant's comments on the proposal for amendment is relevant and could be used as part of a justification to adapt the information requirement. However, ECHA notes that from the information provided in the registration dossier and in the Registrant's comment, it is not clear what particular parameters of the exposure assessment (performed for the substance) by using the CHARM model would justify the use of a non-default assessment factor of 100 for the derivation of the PNEC for marine water in case of this particular exposure scenario. Furthermore, ECHA notes that ECHA's Guidance, Chapter R.16 addresses principles of the Exposure Assessment under the REACH Regulation and the details of PNECs derivation are addressed in a different Guidance, Chapter 10.

Therefore, since the Registrant has not provided sufficient justification, and pursuant to Article 41(1) and 41(3) of the REACH Regulation, for the risk characterisation for the environment, for the exposure scenario - Environmental release during offshore industrial use, the Registrant is requested to use the PNEC for marine water provided in the IUCLID technical registration dossier and section 7.6 of the CSR. Alternatively, the Registrant has to provide a sufficient scientific justification based on adequate and reliable documentation why the use of the PNEC for marine water based on assessment factor of 100 is acceptable for the exposure scenario - Environmental release during offshore industrial use. The technical registration dossier and CSR should be updated accordingly.

IV. Adequate identification of the composition of the tested material

In relation to the information required by the present decision, the sample of substance used for the new studies must be suitable for use by all the joint registrants. Hence, the sample should have a composition that is within the specifications of the substance composition that are given by the joint registrants. It is the responsibility of all joint registrants who manufacture or import the same substance to agree on the appropriate composition of the test material and to document the necessary information on their substance composition.

In addition, 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 by each registrant. If the registration of the substance by any registrant covers different grades, the sample used for the new studies must be suitable to assess these grades.

Finally there must be adequate information on substance identity for the sample tested and the grade(s) registered to enable the relevance of the studies to be assessed.

C. Deadline for submitting the required information

In the draft decision communicated to the Registrant the time indicated to provide the requested information was 36 months from the date of adoption of the decision. This period of time took into account the fact that the draft decision also contained a two-generation reproductive toxicity study (EU B.35, OECD TG 416) or an extended one-generation reproductive toxicity study (EU B.56, OECD TG 443) (Annex X, Section 8.7.3.), and sub-chronic toxicity study (90-day), oral route (EU B.26./OECD 408) (Annex IX, Section 8.6.2.). As these studies are not addressed in the present decision, ECHA Secretariat considers that a reasonable time period for providing the required information in the form of an updated IUCLID5 dossier is 12 months from the date of the adoption of the decision. The decision was therefore modified accordingly.

V. 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 an appeal shall be lodged within three months of receiving notification of this decision. Further information on the appeal procedure can be found on ECHA's internet page at http://www.echa.europa.eu/regulations/appeals. The notice of appeal will be deemed to be filed only when the appeal fee has been paid.

Authorised[1] by Claudio Carlon, Head of Unit, Evaluation

[1] As this is an electronic document, it is not physically signed. This communication has been approved according to ECHA's internal decision-approval process.