EUROPEAN CHEMICALS AGENCY

Helsinki, 22 April 2016

Decision Number: CCH-D-2114328438-45-01/F

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

For 1,1',1''-nitrilotripropan-2-ol, EC No 204-528-4 (CAS No 122-20-3), 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 1,1',1''-nitrilotripropan-2-ol, EC No 204-528-4 (CAS No 122-20-3), submitted by [redacted] (Registrant).

This decision is based on the registration as submitted with submission number [redacted], for the tonnage band of [redacted] per year.

This decision does not take into account any updates after the date when the draft decision was notified to the Registrant under Article 50(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 1 July 2015.

On 14 August 2015 ECHA sent the draft decision to the Registrant and invited him to provide comments within 30 days of the receipt of the draft decision.

On 16 September 2015 ECHA received comments from the Registrant on the draft decision.

The ECHA Secretariat considered the Registrant's comments.

The information is reflected in the Statement of Reasons (Section III) whereas no amendments to the Information Required (Section II) were made.

On 3 March 2016 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, Competent Authorities of the Member States did not propose amendments to the draft decision and ECHA took the decision pursuant to Article 51(3) 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 VII, X of the REACH Regulation the Registrant shall submit the following information using the indicated test methods and the registered substance subject to the present decision:

1. Flammability (Annex VII, Section 7.10.; test method: as specified in Section III.A.1. below);
2. Granulometry (Annex VII, Section 7.14.; test method: as specified in Section III.A.2. below);
3. Pre-natal developmental toxicity study (Annex X, Section 8.7.2.; test method: EU B.31./OECD 414) in rabbits, oral route.

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.

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:

4. Long-term DNEL for inhalation, local effects (Annex I, Section 1.4.1.) and re-assessment of related risks;
5. Documentation for the recommended personal protective equipment, i.e. Eye/face protection (Annex I, Section 5.1.1, in conjunction with Annex II, Sections 0.1.2 and 8.2.2.2 (a)), as specified under section III.B.5. below;
6. Documentation for the recommended personal protective equipment, i.e. Skin protection (i.e. Hand protection) (Annex I, Section 5.1.1, in conjunction with Annex II, Sections 0.1.2 and 8.2.2.2 (b)(i)), as specified under section III.B.6. below.

C. Deadline for submitting the required information

Pursuant to Articles 41(4) and 22(2) of the REACH Regulation the Registrant shall submit to ECHA by **2 May 2017** an update of the registration dossier containing the information required by this decision.
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.

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 [redacted] per year shall contain as a minimum the information specified in Annexes VII to X of the REACH Regulation.

1. Flammability (Annex VII, Section 7.10.)

"Flammability" is a standard information requirement as laid down in Annex VII, Section 7.10. 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 endpoint flammability is waived in the registration dossier with the following justification: "*Because of the low melting point, the substance is used in a liquid form therefore the flammability is deduced from flash point and boiling point".* Additionaly, in a supporting study from a secondary source ([redacted]) for which no information is provided on the guideline followed, it is reported that the substance is a "*combustible solid*" but no additional explanation is included.

ECHA observes that the substance is a crystalline solid with low melting point and there is no information on the flammability of the solid substance available in the registration dossier. ECHA notes that there is no threshold defined, below which it is possible to state that the flammability of a solid with low melting point can be derived from the flash point. Furthermore, it is not clear that the registered substance will not be present in solid form during its whole life-cycle (e.g. in the Exposure Scenario for manufacturing, as well as in some other Exposure Scenarios, it is noted that the substance is used in solid form and has high dustiness). Therefore, ECHA concludes that the waiving justification provided by the Registrant is not acceptable as it does not meet the specific rules for adaptation of Annex VII, Section 7.10., column 2 of the REACH Regulation or the general rules for adaptation in Annex XI of the REACH Regulation.

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.

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: Flammability (test method: UN Test N.1 as described in the UN Recommendations on the Transport of Dangerous Goods, Manual of Test and Criteria). Guidance for determining appropriate test methods for the Flammability endpoint is available in the ECHA Guidance on information requirements and chemical safety assessment (version 3.0., August 2014), Chapter R.7a, Section R.7.1.10).

2. Granulometry (Annex VII, Section 7.14.)

"Granulometry" is a standard information requirement as laid down in Annex VII, Section 7.14. 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 endpoint granulometry is waived in the registration dossier with the following justification: "*In accordance with column 2 of REACH Annex VII, the particle size distribution (Granulometry) study does not need to be performed as the substance is marketed or used in its molten form*" and "*Substance is marketed or used in a non solid or granular form.*" ECHA observes that the substance is a crystalline solid with low melting point and there is no information on the particle size of the solid substance available in the registration dossier. Moreover, ECHA notes that it is not clear that the registered substance will not be present in solid form during its whole life-cycle (e.g. in the Exposure Scenario for manufacturing, as well as in some other Exposure Scenarios, it is noted that the substance is used in solid form and has high dustiness). Therefore, ECHA concludes that the waiving justification provided by the Registrant is not acceptable as it does not meet the specific rules for adaptation of Annex VII, Section 7.14., column 2 of the REACH Regulation or the general rules for adaptation in Annex XI of the REACH Regulation.

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.

In his comments to the draft decision according to Article 50(1), the Registrant clarified that the registered substance is a solidified liquid at room temperature. In this state, the material forms a solid block. For handling, it has to be molten by heating to a temperature above the melting point, therefore the particle size distribution cannot be measured and is not relevant for the marketed substance. Additionally, the Registrant indicated the willingness to revise the exposure scenarios, currently indicating that the registered substance is a solid with high dustiness, and amend the exposure assessment considering the vapour pressure of the liquid substance at the processing temperature.

ECHA acknowledges the Registrant's explanation of the registered substance properties, which shall be included in the registration dossier, and acknowledges that a particle size measurement could be omitted in accordance with column 2 of REACH Annex VII and REACH Annex XI.

Moreover, ECHA acknowledges the Registrant's willingness to revise the exposure scenarios. However, as the revision of the exposure assessment with the inclusion of the vapour pressure of the liquid form is not available in the dossier yet, the information need still needs to be addressed.
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: Granulometry (Guidance for determining appropriate test methods for the Granulometry endpoint is available in the ECHA Guidance on information requirements and chemical safety assessment (version 3.0., August 2014), Chapter R.7a, Section R.7.1.14.3).

3. Pre-natal developmental toxicity study (Annex X, Section 8.7.2.)

Pre-natal developmental toxicity studies on two species are part of the standard information requirements for a substance registered for [redacted] per year (Annex IX, Section 8.7.2., column 1, Annex X, Section 8.7.2., column 1, and sentence 2 of introductory paragraph 2 of Annex X of the REACH Regulation).

The technical dossier contains information on a pre-natal developmental toxicity study in rats by the oral route using the registered substance as test material. However, there is no information available for a pre-natal developmental toxicity study in a second species. Furthermore, the technical dossier does not contain an adaptation in accordance with column 2 of Annex X, Section 8.7. or with the general rules of Annex XI for this standard information requirement.

In his comments to the draft decision according to Article 50(1), the Registrant agrees to revise the reproductive toxicity section of the current registration dossier and to apply a weight-of-evidence approach as a possible adaptation in accordance with Annex XI of the REACH legislation. ECHA acknowledges the Registrant's comments.

The Registrant indicated that a recent substance evaluation on diisopropanolamine (CAS No. 110-97-4) did not reveal any concern due to a missing study on a second species in the section developmental toxicity. ECHA notes that the purpose of substance evaluation is to address obvious concerns while the purpose of dossier evaluation is to ensure compliance with the Annexes VII to X. The substance subject to the present decision is registered for [redacted] per year and hence, a pre-natal developmental toxicity study in a second species is a standard information requirement which is not triggered by a specific concern.

The Registrant further indicated that in an existing OECD category for diisopropanolamine (DIPA) and for the registered substance triisopropanolamine (TIPA) no additional hazard with respect to prenatal / developmental toxicity was identified. ECHA notes that in the SIDS INITIAL ASSESSMENT PROFILE (SIAM 29, 20-22 October 2009), the conclusion that *"DIPA and TIPA are not expected to have the potential for reproductive or developmental toxicity"* is based on a pre-natal developmental toxicity study in rats (OECD 414) with diisopropanolamine. However, this conclusion is not based on information on pre-natal developmental toxicity in a second species as it is required for substances registered for [redacted] per year under the REACH Regulation.

The Registrant further commented that isopropanolamines are structurally related to ethanolamines, which *"are not known to be developmentally toxic and/or teratogenic substances in both rats and rabbits"*. ECHA notes that due to the differences observed for fertility and the discussed differences in the mode of action, read-across for the endpoint reproductive toxicity seems to be flawed. Therefore, ECHA considers such information from the proposed analogue substance does not reliably contribute to the assessment of whether the substance subject to the present decision has or has not a dangerous property as regards developmental toxicity as required by Annex XI section 1.2.

In addition, the Registrant has indicated that the registered substance is being used as a salt in mixtures containing pesticides and that for Picloram triisopropanolamine salt a publication on a pre-natal developmental toxicity study in rabbits is available. However, the Registrant did not provide further information on the similarity of the pesticide tested in the study with the registered substance, the constituents of the pesticides and the percentage of the registered substance within this pesticide. ECHA notes that, to draw a conclusion on the reproductive hazard of the registered substance in a second species, dosing with the registered substance up to maternal toxic doses or the limit dose would be required.

Therefore, the Registrant's weight of evidence conclusion that the registered substance is not teratogenic in the second species (i.e. rabbit) is currently not sufficiently supported by the information provided in the registrant's comments on the draft decision.

As explained above, the information currently 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.

The test in the first species was carried out by testing a rodent species and ECHA therefore considers that the test in a second species should be carried out in a non-rodent species. According to the test method EU B.31/OECD 414, the rabbit is 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 rabbit as a second 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 rabbits by the oral route.

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.

4. Long-term DNEL for inhalation, local effects (Annex I, Section 1.4.1.) and re-assessment of related risks

Annex I, Section 1.4.1 of the REACH Regulation requires that based on the outcome of evaluation of the available information, derived no-effect level(s) ((a) DNEL(s)) shall be established for the substances, reflecting the likely route(s), duration and frequency of exposure. The following factors shall, among others, be taken into account when deriving DNELs:

a) the uncertainty arising, among other factors, from the variability in the experimental information and from intra- and inter-species variation;
b) the nature and severity of the effect;
c) the sensitivity of the human (sub-)population to which the quantitative and/or qualitative information on exposure applies;

and that the DNELs reflect the likely route(s), duration and frequency of exposure.

ECHA notes that the substance is classified for eye irritation (harmonized classification) and sensory irritation was observed in mice in acute toxicity (inhalation) study. This leads to the assumption that following inhalation exposure irritation is to be expected. Furthermore, spray application is reported in the registration dossier and high inhalation exposure concentrations (equal to ■ mg/m^3) are estimated by the Registrant in the Chemical Safety Report for process categories (PROCs) 5, 8a, 14. Therefore, there is a concern for local effects in the respiratory tract for the registered substance and a long-term DNEL for inhalation, local effects and re-assessment of related risks are necessary in order to demonstrate safe use.

ECHA concludes that a long-term DNEL for inhalation, local effects is required based on Annex I, Section 1.4.1, but is not present in the registration dossier.

In his comments to the draft decision according to Article 50(1), the Registrant proposed to use a generic DNEL of 10 mg/m³ for local respiratory tract irritation. However, ECHA notes that a generic DNEL for local respiratory tract irritation is not sufficiently justified to address a substance-specific concern for local effect as required by REACH Annex I, Section 1.4.1 (see above). Furthermore, in ECHA *Guidance on information requirements and chemical safety assessment* (version 2, December 2010), Chapter R.8. it is indicated that deviations from the default approach require substance specific arguments substantiated with scientific data.

Therefore, pursuant to Article 41(1) and (3) of the REACH Regulation, the Registrant is requested to submit long-term DNEL for inhalation, local effects and re-assessment of related risks. The chemical safety assessment and the chemical safety report shall be amended accordingly.

5. Documentation for the recommended personal protective equipment, i.e. Eye/face protection (Annex I, Section 5.1.1)

Annex I, Sections 0.1., 0.3., 0,5., 5.1.1., 5.2.4. and 6.2. of the REACH Regulation require registrants to include in the exposure scenario, where relevant, a description of risk management measures. The exposure shall be estimated and risks shall be characterised in the CSR under the assumption that relevant risk management measures have been implemented.

The CSR needs to contain sufficient information to allow ECHA to gain assurance that the risks are adequately controlled and that appropriate risk management measures can be applied and prescribed by actors in the supply chain as required by Article 14(6) of the REACH Regulation. To ensure the safe use of a substance, Annex I Section 5.1.1 requires a description of the risk management measures to reduce or avoid direct and indirect exposure of humans. Accordingly, a supplier is required to describe the relevant RMM in detail in the Safety Data Sheet in order to minimise the exposure for workers handling the registered substance (e.g. the type of gloves to be worn, protection equipment for parts of the body other than the hand or respiratory protection shall be clearly specified based on the hazard of the substance or mixture and potential for contact and with regard to the amount and duration of exposure in accordance with Annex II, Sections 8.2.2.2.(b)(i), (ii) and 8.2.2.2.(c) respectively). The information provided in the Safety Data Sheet (SDS) shall be consistent with information in the Chemical Safety Report (Annex II, section 0.1.2. of the REACH Regulation).

ECHA observes that the registered substance has a harmonised classification as Eye Irritant 2 and the Registrant applies a self-classification as Eye Damage 1. ECHA notes that specific detailed information on the recommended personal protective equipment is missing both from the CSR and from the information on safe use within the IUCLID dossier. In the CSR, the Registrant indicated the following for eye protection: "*wear suitable eye protection if exposure to the eyes may be possible, e.g. due to splashing, working overhead or when the face of the worker needs to be close to the source*", while in IUCLID Section 11 the Registrant has not reported any information on personal protection.

The need for a use of suitable eye protection is reported in the CSR as required personal protective equipment to prevent eye exposure to the substance. Generally, the type of eye protection equipment required, such as safety glasses, safety goggles, face shield, shall be specified.

In his comments to the draft decision according to Article 50(1) the Registrant indicated that relevant information about PPE or RPE was given in IUCLID section 11. In the Registrant's opinion, the CSR should not be regarded as a stand-alone document, but refer to information in IUCLID and, thus, the eSDS. As a consequence, information about PPE and RPE in the CSR can be limited. Additionally, the Registrant explained that the lead registrant uses an internal information system about PPE, including a database specially adapted to the needs of production, laboratories and workshops, in order to find the appropriate safety gloves. Further links in the IUCLID chapter 11 and/or the eSDS may lead to competitive advantage for specific providers.

ECHA underlines that no information on PPEs, including information on gloves, RPEs, eye and body protections, is included either in IUCLID section 11 or in the CSR. Also, it is a supplier's obbligation to describe the relevant RMMs in detail in the eSDS and the information provided shall be consistent with the information in the Chemical Safety Report. With respect to information which, if disclosed, may lead to competitive advantage for specific providers, ECHA reminds that there is the possibility in the IUCLID dossier to claim certain information which the Registrant does not wish to disclose confidential, provided that an appropriate justification is included.

Moreover, ECHA notes that Annex I, section 0.5 of the REACH Regulation indicates that "*The chemical safety assessment shall be based on the information on the substance [...] The information to be considered includes information related to the hazard of the substance, [...], operational conditions and risk management measures applied or recommended to downstream users to be taken into account*". REACH Annex I, section 0.7 also adds that "*An exposure scenario is the set of conditions that describe [] how the manufacturer controls, or recommends downstream users to control, exposure of humans and the environment*".

ECHA concludes that the requested information on PPEs, including information on gloves, RPEs, eye and body protections, are still missing from the CSR or IUCLID section 11, where they are required.

Therefore, pursuant to Article 41(1)(c) the Registrant is required to provide in the CSR a description of the eye protection equipment to be used when handling the pure substance. The information provided by the Registrant shall be sufficiently detailed to allow suppliers to fulfil their obligations specified under Annex II for the compilation of the safety data sheets.

6. Documentation for the recommended personal protective equipment, i.e. Skin protection (i.e. Hand protection) (Annex I, Section 5.1.1)

Annex I, 0.1., 0.3., 0.5., 5.1.1., 5.2.4. and 6.2. of the REACH Regulation require registrants to include in the exposure scenario, where relevant, a description of risk management measures. The exposure shall be estimated and risks shall be characterised in the CSR under the assumption that relevant risk management measures have been implemented.

The CSR needs to contain sufficient information to allow ECHA to gain assurance that the risks are adequately controlled and that appropriate risk management measures can be prescribed and applied by actors in the supply chain as required by Article 14(6) of the REACH Regulation. To ensure the safe use of a substance, Annex I Section 5.1.1 requires a description of the risk management measures to reduce or avoid direct and indirect exposure of humans.

Accordingly, a supplier is required to describe the relevant RMM in detail in the Safety Data Sheet in order to minimise the exposure for workers handling the registered substance (e.g. the type of gloves to be worn, protection equipment for parts of the body other than the hand or respiratory protection shall be clearly specified based on the hazard of the substance or mixture and potential for contact and with regard to the amount and duration of exposure in accordance with Annex II, section 8.2.2.2.(b)(i), (ii) and 8.2.2.2.(c) respectively). The information provided in the Safety Data Sheet (SDS) shall be consistent with information in the Chemical Safety Report (Annex II, section 0.1.2. of the REACH Regulation).

ECHA notes that specific detailed information on the recommended personal protective equipment is missing both from the CSR and from the information on safe use within the IUCLID dossier. In the CSR, the Registrant indicated the following for hand protection: *"wear chemically resistant gloves in combination with 'basic' employee training (efficacy [redacted]%)"*, while in IUCLID Section 11 the Registrant has not reported any information on personal protection.

Gloves are reported in the CSR as required personal protective equipment to prevent dermal exposure to the substance. Generally, gloves that are capable of preventing exposure to the skin for a pre-determined duration shall be specified. Typically, this information, as a minimum, has to specify the glove material and, depending on the exposure scenarios, may also need to include the breakthrough time and thickness of the glove material.

In his comments to the draft decision according to Article 50(1) the Registrant explained what is reported under section III.B.5 above. ECHA's assessment of the Registrant's comments can be found under the same section above.

Therefore, pursuant to Article 41(1)(c) the registrant is required to provide in the CSR a description of the gloves to be used when handling the pure substance. The information provided by the Registrant shall be sufficiently detailed to allow suppliers to fulfil their obligations specified under Annex II for the compilation of the safety data sheets.

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.

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, E2

[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.