EUROPEAN CHEMICALS AGENCY

Decision number: TPE-D-0000003560-81-05/F Helsinki, 29 October 2013

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

For Reaction mass of benzeneacetic acid, alpha-oxo-, 1,1'-(oxydi-2,1-ethanediyl) ester and benzeneacetic acid, alpha-oxo-, 2-(2-hydroxyethoxy)ethyl ester, EC No 442-300-8, 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 40(1) of the REACH Regulation, ECHA has examined the following testing proposal submitted for Reaction mass of benzeneacetic acid, alpha-oxo-, 1,1'-(oxydi-2,1-ethanediyl) ester and benzeneacetic acid, alpha-oxo-, 2-(2-hydroxyethoxy)ethyl ester, EC No 442-300-8, by [redacted] (Registrant).

- Developmental toxicity study (OECD 414)

This decision is based on the registration dossier as submitted with submission number [redacted], for the tonnage band of 10 to 100 tonnes per year and in prospect of an increase in the tonnage band to 100 to 1000 tonnes per year. This decision does not take into account any updates after 20 June 2013, 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 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.

The examination of the testing proposal was initiated upon the date when receipt of the complete registration dossier was confirmed on 9 November 2012.

ECHA held a third party consultation for the testing proposal from 15 January 2013 until 1 March 2013. ECHA did not receive information from third parties.

On 24 April 2013 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 25 April 2013 ECHA received comments from the Registrant agreeing to ECHA's draft decision.

On 20 June 2013 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 submitted proposals for amendment to the draft decision.

On 26 July 2013 ECHA notified the Registrant of proposals for amendment to the draft decision and invited him pursuant to Article 51(5) of the REACH Regulation to provide comments on those proposals for amendment within 30 days of the receipt of the notification.

ECHA reviewed the proposals for amendment received and decided not to amend the draft decision.

On 5 August 2013 ECHA referred the draft decision to the Member State Committee.

On 16 August 2013 the Registrant provided comments on the proposed amendments. The Member State Committee took the comments of the Registrant into account.

After discussion in the Member State Committee meeting on 25-27 September 2013, a unanimous agreement of the Member State Committee on the draft decision as modified at the meeting was reached on 26 September 2013.
ECHA took the decision pursuant to Article 51(6) of the REACH Regulation.

II. Testing required

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

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

Pursuant to Articles 40(4) and 22 of the REACH Regulation, the Registrant shall submit to ECHA by **29 October 2014** an update of the registration dossier containing the information required by this decision.

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.

III. Statement of reasons

The decision of ECHA is based on the examination of the testing proposal submitted by the Registrant for the registered substance.

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

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. Whereas the registration dossier is currently at the tonnage level of 10 to 100 tonnes per year (Annex VIII), where the pre-natal developmental toxicity study is not a standard information requirement, the Registrant justified performing the pre-natal developmental toxicity study already at this tonnage level by stating: *"It is proposed to conduct a GLP-compliant OECD 414 developmental toxicity study instead of the reproduction toxicity screening study (OECD 421). The screening study is designed to allow for assessment of fertility and development. However, no effects towards reproductive organs were observed in the available oral subacute 28-day repeated dose toxicity study up to the highest dose levels tested (1000 mg/kg). No abnormalities (gross pathology, weight, histopathology) were observed, thus, effects on reproduction are not expected. No conclusion towards development can be drawn; however, since the NOAEL in the available repeated dose study was 1000 mg/kg, the substance is not expected to cause effects that are strong enough to be picked up in a screening study. Therefore, the OECD 414 study is considered more appropriate and to generate more relevant data.*

In addition, the test article will reach the next tonnage level (100t-1000t) in 2012, making it obligatory to address developmental toxicity in more detail. This fact, together with the scientific reasons stated above, lead to the conclusion that a developmental toxicity study based on guideline 414 is more appropriate and is herewith proposed."

In addition to the information obtained from the testing proposal, the Registrant has already submitted an inquiry to ECHA in [redacted] concerning the expected increase in the tonnage band to 100 to 1000 tonnes per annum (inquiry number [redacted]).

Based on the above mentioned reasons, ECHA considers that there are sufficient grounds to perform the study already at this tonnage level. ECHA notes that on [redacted] the Registrant updated the technical dossier to the tonnage band of 100 to 1000 tonnes per annum.

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) 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.

IV. Adequate identification of the composition of the tested material

The process of examination of testing proposals set out in Article 40 of the REACH Regulation aims at ensuring that the new study meets real information needs. Within this context, the Registrant's dossier was sufficient to confirm the identity of the substance to the extent necessary for examination of the testing proposal. The Registrant must note, however, that this information has not been checked for compliance with the substance identity requirements set out in Section 2 of Annex VI of the REACH Regulation.

In addition, it is important to ensure that the particular sample of substance tested in the new study 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 study must be suitable to assess these.

Finally, there must be adequate information on substance identity for the sample tested and the grade(s) registered to enable the relevance of the study 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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Jukka Malm
Director of Regulatory Affairs