

Decision number: CCH-D-2114332589-40-01/F

Helsinki, 10 June 2016

**DECISION ON A COMPLIANCE CHECK OF A REGISTRATION PURSUANT TO ARTICLE 41(3) OF REGULATION (EC) NO 1907/2006****For Thiophene, tetrahydro-, 1,1-dioxide, 3-(C9-11-isoalkyloxy) derivs., C10-rich, EC No 800-172-4 (CAS No 398141-87-2), 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 Thiophene, tetrahydro-, 1,1-dioxide, 3-(C9-11-isoalkyloxy) derivs., C10-rich, EC No 800-172-4 (CAS No 398141-87-2), submitted by [REDACTED] (Registrant).

This decision is based on the registration as submitted with submission number [REDACTED], for the tonnage band of 100 to 1000 tonnes 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 10 April 2015.

On 18 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 21 September 2015 ECHA received comments from the Registrant on the draft decision agreeing to the draft decision requests on Sub-chronic toxicity study (90-day), oral route in rats and Pre-natal developmental toxicity study in rats, oral route and for the documentation for the recommended personal protective equipment, i.e. Hand protection request, the Registrant indicated he will endeavour to update the Chemical Safety Report (CSR) to provide a more detailed description of the gloves to be used when handling the pure substance. The ECHA Secretariat considered the Registrant's comments. On basis of this information, only the deadline in Section II was amended. The Statement of Reasons (Section III) was changed accordingly.

On 21 January 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 for amendment of the draft decision within 30 days of the receipt of the notification.

Subsequently, proposal(s) for amendment to the draft decision were submitted.

On 26 February 2016 ECHA notified the Registrant of the proposal(s) for amendment to the draft decision and invited him pursuant to Article 51(5) of the REACH Regulation to provide comments on the proposal(s) for amendment within 30 days of the receipt of the notification.

The ECHA Secretariat reviewed the proposal(s) for amendment received and did not amend the draft decision.

On 7 March 2016 ECHA referred the draft decision to the Member State Committee.

By 29 March 2016 the Registrant did not provide any comments on the proposal for amendment.

After discussion in the Member State Committee meeting on 25–29 April 2016, a unanimous agreement of the Member State Committee on the draft decision was reached on 26 April 2016.

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)(d), 13 and Annex IX 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. Sub-chronic toxicity study (90-day), oral route (Annex IX, Section 8.6.2.; test method: EU B.26./OECD 408) in rats; modified to include urinalysis and a full histopathological examination which is to include immunohistochemical investigation of renal pathology to determine if the pathology is mediated by alpha-2u globulin nephropathy.
2. Pre-natal developmental toxicity study (Annex IX, Section 8.7.2.; test method: EU B.31./OECD 414) in rats or 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.

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.

**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. Documentation for the recommended personal protective equipment, i.e. Hand protection (Article 14(6), Annex I, section 5.1.1., in conjunction with Annex II, 0.1.2. and 8.2.2.2. (b)(ii), as specified under section III.C.1 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 **17 August 2018** an update of the registration dossier containing the information required by this decision, including, where relevant, an update of the Chemical Safety Report. The timeline has been set to allow for sequential testing as appropriate.

**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)(d) of the REACH Regulation, a technical dossier for a substance manufactured or imported by the Registrant in quantities of 100 to 1000 tonnes per year shall contain as a minimum the information specified in Annexes VII to IX of the REACH Regulation.

1. Sub-chronic toxicity study (90-day), oral route (Annex IX, Section 8.6.2.)

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. Adequate information on this endpoint needs to be present in the technical dossier for the registered substance to meet this information requirement. Pursuant to last paragraph of column 2 of that Section, further studies may be required by the Agency in case of, for instance, indications of an effect for which the available evidence is inadequate for toxicological and/or risk characterisation.

In the technical dossier the Registrant has provided a study record for a "repeated dose 28-day oral toxicity study" (test method: OECD 407). However, this study does not provide the information required by Annex IX, Section 8.6.2., because exposure duration is less than 90 days and the number of animals per dose group is significantly lower. Therefore, the sensitivity of a 28-day study is much lower than that of a 90-day study.

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 light of the physico-chemical properties of the substance liquid with low vapour pressure not classified as corrosive/irritating to the skin or damaging/irritating to the eye and the information provided on the uses and human exposure, i.e., no exposure estimates indicating a high inhalation exposure, ECHA considers that testing by the oral route is most appropriate.

According to the test method EU B.26/OECD 408 the rat is the preferred species. ECHA considers this species as being appropriate and testing should be performed with the rat.

In the repeated dose 28-day oral toxicity study (test method: OECD 407) study the registrant reports that "an increase in the incidence and/or severity of renal tubular epithelial cytoplasmic hyaline droplets was observed in males at all dose levels but not in females". The fact that these effects were only observed in male rats indicates that the registered substance may induce alpha-2u-globulin-mediated nephropathy. Since humans do not excrete alpha-2u-globulin, this mode of action is not relevant to humans. For this reason, ECHA decided to include in the request for a sub-chronic toxicity study urinalysis (which is optional in paragraph 30 of OECD 408, and the relevant part of Section 1.5.2.2. of EU Method B.26) to investigate kidney function, and a full histopathological examination (paragraph 36 of OECD 408, Section 1.5.2.4. of EU Method B.26), which is to include immunohistochemical investigation of renal pathology to determine if the pathology is indeed mediated by alpha-2u globulin.

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: Repeated dose 90-day oral toxicity study (test method: EU B.26./OECD 408) in rats: modified to include urinalysis and a full histopathological examination which is to include immunohistochemical investigation of renal pathology to determine if the pathology is mediated by alpha-2u globulin nephropathy.

## 2. 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.

In the technical dossier the Registrant has provided a study record for a "reproduction/developmental toxicity screening test" (test method: OECD 421). 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 like examinations of foetuses for skeletal and visceral alterations.

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.

## **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. Documentation for the recommended personal protective equipment, i.e. Hand protection) (Article 14(6), Annex I, section 5.1.1., in conjunction with Annex II, 0.1.2. and 8.2.2.2. (b)(ii))

Article 14(6) as well as Annex I, 0.1., 5.1.1., 5.2.4. and 6.2. of the REACH Regulation require registrants to identify and apply appropriate measures to adequately control the risks identified in a CSR. The exposure shall be estimated and risks shall be characterised in the CSR under the assumption that relevant risk management measures have been implemented.

According to Annex I, 0.3., 0.5. and 5.1.1. the applied Risk Management Measures (RMM) have to be described in the CSR. 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 by actors in the supply chain. Accordingly, the 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 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 under various exposure scenarios: *Wear chemically resistant gloves (tested to EN374)*, while in IUCLID Section 11 has reported: *if contact with the materail may occur wear chemically protective gloves.*

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. Gloves are reported in the CSR and IUCLID Section 11 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.

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.

### **C. Deadline for submitting the required information**

In the draft decision communicated to the Registrant the time indicated to provide the requested information was 24 months from the date of adoption of the decision. The Registrant submitted comments in which an extension to the deadline for submitting the information was requested. Following a request to substantiate the deadline extension, the Registrant's submitted a detailed project flowchart from a test house. ECHA evaluated the justification and documentary evidence provided and decided to change the deadline from 24 months to 26 months.

### **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<sup>[1]</sup> by Claudio Carlon, Head of Unit, Evaluation E2

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