EUROPEAN CHEMICALS AGENCY

Helsinki, 23 August 2017

Addressee: [redacted]

Decision number: CCH-D-2114369497-32-01/F
Substance name: 4,6-BIS(OCTYLTHIOMETHYL)-O-CRESOL
EC number: 402-860-6
CAS number: 110553-27-0
Registration number: [redacted]
Submission number: [redacted]
Submission date: 11.12.2013
Registered tonnage band: 1000+T

DECISION ON A COMPLIANCE CHECK

Based on Article 41 of Regulation (EC) No 1907/2006 (the REACH Regulation), ECHA requests you to submit information on:

1. **Pre-natal developmental toxicity study (Annex X, Section 8.7.2.; test method: EU B.31./OECD TG 414) in a second species (rabbit), oral route with the registered substance;**

2. **Identification of degradation products (Annex IX, 9.2.3.) using an appropriate test method with the registered substance;**

You 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 to the REACH Regulation. To ensure compliance with the respective information requirement, any such adaptation will need to have a scientific justification, referring and conforming to the appropriate rules in the respective annex, and adequate and reliable documentation.

You have to submit the requested information in an updated registration dossier by **1 June 2020**. You also have to update the chemical safety report, where relevant.

The reasons of this decision are set out in Appendix 1. The procedural history is described in Appendix 2 and advice and further observations are provided in Appendix 3.

Appeal

This decision can be appealed to the Board of Appeal of ECHA within three months of its notification. An appeal, together with the grounds thereof, has to be submitted to ECHA in writing. An appeal has suspensive effect and is subject to a fee. Further details are described under: http://echa.europa.eu/regulations/appeals.

Authorised[1] by Kevin Pollard, Head of Unit, Evaluation E1

[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.

Appendix 1: Reasons

1. Pre-natal developmental toxicity study (Annex X, Section 8.7.2.) in a second species

In accordance with Articles 10(a) and 12(1) of the REACH Regulation, a technical dossier registered at more than 1000 tonnes per year must contain, as a minimum, the information specified in Annexes VII to X to the REACH Regulation. The information to be generated for the dossier must fulfil the criteria in Article 13(4) of the same regulation.

Pre-natal developmental toxicity studies (test method EU B.31./OECD TG 414) on two species are part of the standard information requirements for a substance registered for 1000 tonnes or more 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 provided for a pre-natal developmental toxicity study in a second species in the technical dossier. You have sought to adapt this information requirement. You provided the following justification for the adaptation:

"In accordance with column two of Annexes IX and X, testing for developmental toxicity should only be done in a second species if there is concern from existing data.
The test substance was tested in one-generation study ([redacted] 2000; OECD guideline 415), where the postnatal development of F1 pups was observed until weaning (day 21). A prenatal developmental toxicity study (OECD 414) was also conducted in rats ([redacted] 1988). None of these studies showed any concern regarding developmental toxicity of the test substance. Thus, there is no need for evaluation on a second species according to the Annex IX of the REACH Regulation."

ECHA notes that you propose an adaptation referring to Annex IX and X, column 2, which for Annex IX requires that "*a decision on the need to perform a study at this tonnage level or the next on a second species should be based on the outcome of the first test and all other relevant available data*." However, for Annex X dossiers a pre-natal developmental toxicity study in a second species is a standard information requirement. Therefore, for an Annex X dossier, an adaptation based on Annex IX, Section 8.7.2., column 2 cannot be accepted. However, ECHA evaluates your arguments with respect to Annex XI, Section 1.2., "weight of evidence".

An adaptation pursuant to Annex XI, Section 1.2. requires sufficient weight of evidence from several independent sources of information leading to the assumption/conclusion that a substance has or has not a particular dangerous property with respect to the information requirement in question including an adequate and reliable documentation. Your weight of evidence adaptation needs to address the specific dangerous (hazardous) properties of the registered substance at equivalent level as investigated in a pre-natal developmental toxicity study (EU B.31/OECD TG 414), particularly in a second species.

The existing OECD TG 414 and OECD TG 415 studies, together or separately, do not meet this condition because both studies were performed with the same species and the OECD TG 415 study does not address pre-natal developmental toxicity with the sensitivity and depth of investigations (e.g. skeletal and visceral alterations) which would allow concluding on prenatal developmental toxicity.

Hence, the information provided 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 using a rodent species (rat). According to the test method EU B.31./OECD 414, the rabbit is the preferred non-rodent species. On the basis of this default assumption, ECHA considers that the test should be performed with rabbit as a second species.

ECHA considers that the oral route is the most appropriate route of administration for substances except gases to focus on the detection of hazardous properties on reproduction as indicated in ECHA *Guidance on information requirements and chemical safety assessment* (version 4.1, October 2015) R.7a, chapter R.7.6.2.3.2. Since the substance to be tested is a liquid, ECHA concludes that testing should be performed by the oral route.

In your comments to the draft decision according to Article 50(1) of the REACH Regulation you indicate that you accept to perform this study. ECHA Secretariat acknowledges your agreement.

Therefore, pursuant to Article 41(1) and (3) of the REACH Regulation, you are 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 TG 414) in a second species (rabbit) by the oral route.

2. Identification of degradation products (Annex IX, 9.2.3.)

In accordance with Articles 10(a) and 12(1) of the REACH Regulation, a technical dossier registered at more than 1000 tonnes per year must contain, as a minimum, the information specified in Annexes VII to X to the REACH Regulation. The information to be generated for the dossier must fulfil the criteria in Article 13(4) of the same regulation.

The identification of the degradation products is a standard information requirement according to column 1, Section 9.2.3. of Annex IX 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 technical dossier does not contain an adaptation in accordance with column 2 of Annex IX, Sections 9.2 or 9.2.3. or with the general rules of Annex XI for this standard information requirement.

According to Annex IX, Section 9.2.3., column 2 of the REACH Regulation, identification of degradation products is not needed if the substance is readily biodegradable. ECHA notes that based on the information in the technical dossier, the registered substance is not readily biodegradable.

Furthermore, ECHA notes that your technical dossier does not provide information on degradation products. Further, your chemical safety assessment (CSA) does not rule out the need to provide information on the degradation products. ECHA considers that this information is needed in relation to the PBT/vPvB assessment as, pursuant to Annex XIII of the REACH Regulation, "*the identification* [of PBT and vPvB substances] *shall also take account of the PBT/vPvB-properties of relevant constituents of a substance and relevant transformation and/or degradation products*". ECHA Guidance on information requirements and chemical safety assessment (version 2.0, November 2014), Chapter R.11.4.1. further specifies that "*constituents, impurities and additives are relevant for the PBT/vPvB assessment when they are present in concentration of ≥ 0.1% (w/w). This limit of 0.1% (w/w) is set based on a well-established practice rooted in a principle recognised in European Union legislation*. [...] *Similar arguments apply to relevant transformation/degradation products. The PBT/vPvB assessment should normally be carried out for each relevant transformation or degradation product*". ECHA notes that your CSA does not contain any information on whether degradation products could be PBT/vPvB or not.

In your comments to the draft decision according to Article 50(1) of the REACH Regulation you explained that the available results, i.e. one OECD 301B and one OECD 301C studies, did not show any ultimate or primary degradation of the registered substance. You claimed that no degradation products could be identified if the substance did not degrade at all.

However, ECHA notes that only results from ready biodegradability tests are available in your registration dossier. Ready biodegradability tests use stringent test conditions. A negative result in a ready biodegradability test thus does not necessarily imply that the substance will not be degraded under relevant environmental conditions, as required for PBT assessment (paragraph 4, introduction, Annex XIII to the REACH Regulation). Therefore, the formation of degradation products in the environment is not ruled out.

You further explained that as a simulation test had to be performed for identifying degradation products, you would prefer to perform that test with sediment, according to OECD test guideline 308, because the substance is highly insoluble. You also indicated that you would perform that test at 20°C to accelerate the formation of degradation products.

ECHA takes note of your proposal to perform a simulation test in sediment. ECHA notes that simulation tests performed in sediment or in soil possibly imply the formation of non-extractable residues (NER) of the parent substance and/or of its transformation products. These residues are bound to the soil or to the sediment particles. NERs may potentially be re-mobilised as parent substance or transformation product. If you perform a simulation test in sediment, you should report the non-extractable residues (NER) in the test results and should explain and scientifically justify the extraction procedure and solvent used for obtaining a quantitative measure of the NERs. ECHA agrees that, for identifying degradation products, the test can be conducted at 20°C.

As explained above, your technical dossier does not meet the information requirements for this endpoint. Consequently there is an information gap and it is necessary to provide information for this endpoint.

Regarding appropriate and suitable test method, the methods will have to be substance-specific. When analytically possible, identification, stability, behaviour, molar quantity of metabolites relative to the parent compound should be evaluated. In addition, degradation half-life, log Kow and potential toxicity of the metabolite may be investigated. You will need to provide a scientifically valid justification for the chosen method.

Therefore, pursuant to Article 41(1) and (3) of the REACH Regulation, you are requested to submit the following information derived with the registered substance subject to the present decision:

Identification of the degradation products (Annex IX, Section 9.2.3.) by using an appropriate and suitable test method, as explained above in this section.

3. Deadline to submit the requested information in this decision

In the draft decision communicated to you, the time indicated to provide the requested information was 18 months from the date of adoption of the decision. In your comments on the draft decision, you requested an extension of the timeline to 33 months. You justified this request by providing statements from the testing laboratories indicating availabilities and timelines for processing the requested tests. Therefore, ECHA has granted the request and set the deadline to 33 months.

Appendix 2: Procedural history

For the purpose of the decision-making, this decision does not take into account any updates of your registration after the date when the draft decision was notified to you under Article 50(1) of the REACH Regulation.

The compliance check was initiated on 18 November 2016.

The decision making followed the procedure of Articles 50 and 51 of the REACH Regulation, as described below:

ECHA notified you of the draft decision and invited you to provide comments.

ECHA took into account your comments and amended the deadline.

ECHA notified the draft decision to the competent authorities of the Member States for proposals for amendment.

As no amendments were proposed, ECHA took the decision according to Article 51(3) of the REACH Regulation.

Appendix 3: Further information, observations and technical guidance

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

2. Failure to comply with the requests in this decision, or to otherwise fulfil the information requirements with a valid and documented adaptation, will result in a notification to the enforcement authorities of your Member State.

3. In relation to the information required by the present decision, the sample of the substance used for the new tests must be suitable for use by all the joint registrants. Hence, the sample should have a composition that is suitable to fulfil the information requirement for the range of substance compositions manufactured or imported 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 the substance tested in the new tests 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 or imported by each registrant.

   If the registration of the substance by any registrant covers different grades, the sample used for the new tests must be suitable to assess these grades. Finally there must be adequate information on substance identity for the sample tested and the grades registered to enable the relevance of the tests to be assessed.