

Decision number: CCH-D-2114288568-29-01/F

Helsinki, 27 November 2014

DECISION ON A COMPLIANCE CHECK OF A REGISTRATION PURSUANT TO ARTICLE 41(3) OF REGULATION (EC) NO 1907/2006**For 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, CAS No 4767-03-7 (EC No 225-306-3), 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 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, CAS No 4767-03-7 (EC No 225-306-3), submitted by [REDACTED] (Registrant). The scope of this compliance check is limited to the standard information requirement of Annex VII, Section 8.4.1. of the REACH Regulation. ECHA stresses that it has not checked the information provided by the Registrant and other joint registrants for compliance with requirements regarding the identification of the substance (Section 2 of Annex VI).

This decision is based on the registration as submitted with submission number [REDACTED], for the tonnage band of 1000 tonnes or more tonnes per year. This decision does not take into account any updates submitted after 4 September 2014, 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 22 August 2013.

On 21 October 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. That draft decision was based on submission number [REDACTED].

By 21 November 2013 the Registrant did not provide any comments on the draft decision to ECHA.

On 4 June 2014 the Registrant updated his registration dossier with the submission number [REDACTED].

The ECHA Secretariat considered the Registrant's update. The updated dossier did not contain new information relevant to this compliance check. No amendments to the Information Required (Section II) or Statement of Reasons (Section III) were made.

On 4 September 2014 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.

As no proposal for amendment was submitted, ECHA took the decision pursuant to Article 51(3) of the REACH Regulation.

II. Information required

Pursuant to Articles 41(1), 41(3), 10(a)(vii), 12(1)(e), 13 and Annex VII 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:

- *In vitro* gene mutation study in bacteria (Annex VII, 8.4.1.; test method: Bacterial reverse mutation test, EU B.13/14. /OECD 471) using one of the following strains: E. coli WP2 uvrA, or E. coli WP2 uvrA (pKM101), or S. typhimurium TA102, as specified in section III. below.

Pursuant to Article 41(4) of the REACH Regulation the Registrant shall submit the information in the form of an updated IUCLID dossier to ECHA by **4 December 2015**.

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 request(s) in this decision, or to fulfil otherwise the information requirement(s) 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.

Mutagenicity, *in vitro* gene mutation study in bacteria

An "*In vitro* gene mutation study in bacteria" is a standard information requirement as laid down in Annex VII, Section 8.4.1. 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.

According to Article 13(3) of the REACH Regulation, tests required to generate information on intrinsic properties of substances shall be conducted in accordance with the test methods recognised by the Commission or ECHA.

Other tests may be used if the conditions of Annex XI are met. More specifically, Section 1.1.2. of Annex XI provides that existing data on human health properties from experiments not carried out according to GLP or the test methods referred to in Article 13(3) may be used if the following conditions are met:

- (1) Adequacy for the purpose of classification and labelling and/or risk assessment;
- (2) Adequate and reliable coverage of the key parameters foreseen to be investigated in the corresponding test methods referred to in Article 13(3);
- (3) Exposure duration comparable to or longer than the corresponding test methods referred to in Article 13(3) if exposure duration is a relevant parameter; and
- (4) Adequate and reliable documentation of the study is provided.

The registration dossier reports results for the *in vitro* gene mutation study in only four strains.

According to paragraph 13 of the current OECD 471 test guideline (updated 1997) at least five strains of bacteria should be used. These should include four strains of *S. typhimurium* (TA1535; TA1537 or TA97a or TA97; TA98; and TA100) that have been shown to be reliable and reproducibly responsive between laboratories. These four *S. typhimurium* strains have GC base pairs at the primary reversion site and it is known that they may not detect certain oxidising mutagens, cross-linking agents and hydrazines. Such substances may be detected by *E. coli* WP2 strains or *S. typhimurium* TA102 which have an AT base pair at the primary reversion site. The Registrant has provided a test from year 1998 according OECD 471 and GLP with an assigned reliability score of 1. The test used four different strains of *S. typhimurium* TA 1535, TA 1537, TA 98 and TA 100. However, since the test was conducted, significant changes have been made to OECD guideline 471 and this means that the study does not meet the current guidelines, nor can it be considered as providing equivalent data according to the criteria in Annex XI.

Therefore, the REACH Regulation requires that information on *in vitro* gene mutation study with a fifth strain (Annex VII, 8.4.1.) is provided in the dossier. ECHA concludes that a test using *E. coli* WP2 *uvrA*, or *E. coli* WP2 *uvrA* (pKM101), or *S. typhimurium* TA102 has not been submitted by the Registrant and that the test using one of these is required to conclude on *in vitro* gene mutation in bacteria.

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: Bacterial reverse mutation test (test method: EU B.13/14. / OECD 471) using one of the following strains: *E. coli* WP2 *uvrA*, or *E. coli* WP2 *uvrA* (pKM101), or *S. typhimurium* TA102.

IV. Adequate identification of the composition of the tested material

ECHA stresses that the information submitted by the Registrant and other joint registrants for identifying the substance has not been checked for compliance with the substance identity requirements set out in Section 2 of Annex VI of the REACH Regulation. The Registrant is reminded of his responsibility and that of joint Registrants to ensure that the joint registration covers one substance only and that the substance is correctly identified in accordance with Annex VI, Section 2 of the REACH Regulation.

In relation to the information required by the present decision, the sample of substance used for the new study 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 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 by each registrant. If the registration of the substance by any registrant covers different grades, the sample used for the new study 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 study 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://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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