EUROPEAN CHEMICALS AGENCY

Decision number: CCH-D-0000003865-65-05/F Helsinki, 5 August 2014

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

For Humic acids, potassium salts, CAS No 68514-28-3 (EC No [redacted]), 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 Humic acids, potassium salts, CAS No 68514-28-3 (EC No 271-030-1), submitted by [redacted] (Registrant). The scope of this compliance check is limited to the standard information requirements of Annex VIII, Section 8.4.3., Annex IX, Sections 8.6.2 and 8.7.2, and Annex X, Section 8.7.3 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 per year. This decision does not take into account any updates submitted after 31 October 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 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 15 May 2013.

On 13 August 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.

By 12 September 2013 the Registrant did not provide any comments on the draft decision to ECHA.

On 31 October 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 a proposal for amendment to the draft decision.

The ECHA Secretariat reviewed proposals for amendments received and amended the draft decision by moving one of the information request from this draft decision to a separate draft decision.

On 5 December 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.

On 16 December 2013 ECHA referred the draft decision to the Member State Committee.

By 7 January 2014 the Registrant did not provide any comments on the proposals for amendment.

A unanimous agreement of the Member State Committee on the draft decision was reached on 21 January 2014 in a written procedure launched on 10 January 2014. ECHA took the decision pursuant to Article 51(6) of the REACH Regulation.

The present decision relates solely to a compliance check examination for In vitro gene mutation study in mammalian cells (Annex VIII, 8.4.3), Sub-chronic toxicity study (90-day) (Annex IX, 8.6.2), and a Pre-natal developmental toxicity study (Annex X, 8.7.2). The compliance check requirement for a two-generation reproductive toxicity study is addressed in a separate decision although all endpoints were initially addressed together in the same draft decision.

II. Information required

Pursuant to Articles 41(1), 41(3), 10(a)(vii), 12(1)(e), 13 and Annexes VIII, IX and 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. *In vitro* gene mutation study in mammalian cells (Annex VIII, 8.4.3.; test method: EU B.17/OECD 476);

2. Sub-chronic toxicity study (90-day), oral route (Annex IX, 8.6.2.; test method: EU B.26./OECD 408) in rats;

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

Pursuant to Article 41(4) of the REACH Regulation the Registrant shall submit the information in the form of an updated registration dossier containing the information required by this decision to ECHA by **12 August 2016.** 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.

Pursuant to Articles 10(a)(vi) and (vii), 12(1)(e) of the REACH Regulation, a technical dossier for a substance manufactured or imported by the Registrant in quantities of 1000 tonnes or more per year shall contain as a minimum the information specified in Annexes VII, VIII, IX, and X of the REACH Regulation.

1. Mutagenicity, *in vitro* gene mutation study in mammalian cells (Annex Annex VIII, 8.4.3.)

The *in vitro* gene mutation study in mammalian cells is an information requirement as laid down in Annex VIII, Section 8.4.3. of the REACH Regulation if there is a negative result in the *in vitro* studies specified under Annex VII, Section 8.4.1. and Annex VIII, Section 8.4.2. The registration dossier reports negative results for both *in vitro* studies. Therefore the REACH Regulation requires that information on *in vitro* gene mutation in mammalian cells (Annex VIII, 8.4.3.) is provided in the dossier.

ECHA notes furthermore that an *in vitro* or *in vivo* cytogenicity study cannot be used to cover the information requirement for an *in vitro* or *in vivo* mammalian cell gene mutation study. Cytogenicity studies and gene mutation studies are corresponding to two distinct mechanisms of genotoxicity: cytogenicity studies detect structural and numerical chromosome aberrations whereas gene mutation studies detect gene or point mutations. ECHA concludes that the Registrant has neither provided this standard information nor adapted the 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: *In vitro* mammalian cell gene mutation test (test method: EU B.17./OECD 476).

2. Sub-chronic toxicity study (90-day), oral route (Annex IX, 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.

The Registrant has provided a study record of a short-term repeated dose toxicity study (28 days) by the oral route that fulfils the information requirement of Annex VIII, Section 8.6.1. However, the Registrant has not provided any study record of a sub-chronic repeated dose toxicity study in the dossier that would meet the information requirement of Annex IX, Section 8.6.2.

The Registrant justified waiving of repeated dose toxicity studies via the inhalation and dermal route with "exposure consideration" with the justification that "inhalation long-term toxicity is not supposed" and "dermal long-term toxicity is not supposed". However, the Registrant has not provided a justification to adapt the information requirement for the sub-chronic repeated dose toxicity study (Annex IX, Section 8.6.2.). Furthermore, some PROCs provided by the Registrant (e.g., PROC 5 and PROC 8a) indicate potential exposure.

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 (water soluble dust with 99% of

non-inhalable size not classified as irritating to skin or eyes), 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 rodent species. ECHA considers this species as being appropriate

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.

3. Pre-natal developmental toxicity study (Annex IX, 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.

The Registrant has provided a study record of a reproduction/developmental toxicity screening test (OECD 421) under IUCLID section 7.8.1 "Toxicity to reproduction" However, the Registrant has not provided any study record of a pre-natal developmental toxicity study in the dossier that would meet the information requirement of Annex IX, Section 8.7.2.

Instead, the Registrant has sought to adapt the information requirement for a prenatal developmental toxicity study (Annex IX, 8.7.2.). The Registrant has justified the proposal for adaptation: "No significant reproduction parameters were not found in the study Reproduction/Developmental Toxicity Test (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.

Notes for consideration by the Registrant

In addition, a pre-natal developmental toxicity study on a second species is part of the standard information requirements as laid down in Annex X, Section 8.7.2. for substances registered for 1000 tonnes or more per year (see sentence 2 of introductory paragraph 2 of Annex X).

The Registrant should firstly take into account the outcome of the pre-natal developmental

toxicity on a first species and all other relevant available data to determine if the conditions are met for adaptations according to Annex X, 8.7. column 2, or according to Annex XI; for example if the substance meets the criteria for classification as toxic for reproduction Category 1B: May damage the unborn child (H360D), and the available data are adequate to support a robust risk assessment, or alternatively, if weight of evidence assessment of all relevant available data provides scientific justification that the study in a second species is not needed. If the Registrant considers that the conditions for these adaptations are not fulfilled, he should include in the update of his dossier a testing proposal for a pre-natal developmental toxicity study on a second species. If the Registrant comes to the conclusion that the conditions for these adaptations can be fulfilled, he should update his technical dossier by clearly stating the reasons for adapting the standard information requirement of Annex X, 8.7.2. of the REACH Regulation.

Deadline for submitting the information

In the draft decision communicated to the Registrant the time indicated to provide the requested information was 36 months from the date of adoption of the decision. This period of time took into account the fact that the draft decision also requested another study (Two-generation reproductive toxicity study or Extended one-generation reproductive toxicity study, Annex X, 8.7.3). As this study is not addressed in the present decision, ECHA considers that a reasonable time period for providing the required information in the form of an updated IUCLID5 dossier is 24 months from the date of the adoption of the decision. The decision was therefore modified accordingly.

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 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://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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