EUROPEAN CHEMICALS AGENCY

Decision number: TPE-D-0000002376-73-06/F Helsinki, 25 July 2012

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

For Polysulfides, bis[3-(triethoxysilyl)propyl], CAS No [redacted] (List No 915-673-4), 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 testing proposals set out in the registration dossier for Polysulfides, bis[3-(triethoxysilyl)propyl], CAS No [redacted] (List No 915-673-4) submitted by [redacted] (Registrant), submission number [redacted], for 1000 tonnes or more per year.

In accordance with Articles 10(a)(ix) and 12(1)(e) of the REACH Regulation, the Registrant submitted the following testing proposal as part of the registration dossier to fulfil the information requirements set out in Annex IX and X, 8.7.2 and 8.7.3:

Reproduction /Developmental Toxicity Screening Test (OECD Guideline 421)

The present decision relates solely to the request to carry out a Pre-natal developmental toxicity study. The request to perform a Two-generation reproductive toxicity study is addressed in a separate decision although the request to carry out the two tests was initially addressed together in the same draft decision.

The examination of the testing proposals was initiated on 25 August 2010.

ECHA opened a third party consultation for the testing proposals including testing on vertebrate animals that was held from 22 December 2010 until 7 February 2011 and from 15 July 2011 until 29 August 2011. ECHA did receive information from third parties (see section III below).

On 4 January 2012 ECHA notified the Registrant of its draft decision and invited him pursuant to Article 50(1) of the REACH Regulation to provide comments within 30 days of the receipt of the draft decision. The draft decision referred to submission number [redacted].

By 3 February 2012 the Registrant did not provide any comments on the draft decision to ECHA. On 8 February 2012 the Registrant submitted an updated dossier (submission

number [redacted]) providing further information on substance identity while the testing proposals remained unchanged.

ECHA reviewed the further information received and did amend the current draft decision modifying the deadline for providing the required information, in accordance with ECHA current understanding and standard policy.

On 2 March 2012 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 4 April 2012 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 16 April 2012 ECHA referred the draft decision to the Member State Committee.

On 23 April 2012 the Registrant provided comments on the proposals for amendment. The Member State Committee took the comments of the Registrant into account.

The draft decision was split into two draft decision documents: one relating to request to carry out a two-generation reproductive toxicity study and one relating to the request to carry out a pre-natal developmental toxicity study.

The Member State Committee reached unanimous agreement on the draft decision relating to the testing proposal for a pre-natal developmental toxicity study on 21 May 2012 in a written procedure launched on 10 May 2012.

This decision does not imply that the information provided by the Registrant in his registration dossier is in compliance with the requirements of the REACH Regulation. The decision does not prevent ECHA to initiate a compliance check on the present dossier at a later stage.

II. Testing required

Pursuant to Article 40(3)(c) of the REACH Regulation, the Registrant shall carry out the following additional tests using the indicated methods and the registered substance.

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

While the originally proposed test for a Reproduction/Developmental Toxicity Screening Test (OECD Test Guideline 421) is rejected pursuant to Article 40(3)(d) of the REACH Regulation.

Pursuant to Articles 40(4) and 22 of the REACH Regulation, the Registrant shall submit to ECHA by **25 July 2013** an update of the registration dossier containing the information required by this decision.

Data from a second pre-natal developmental toxicity study on another species is a standard information requirement according to Annex X, 8.7.2. of the REACH Regulation. 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. If the Registrant considers that testing is necessary to fulfil this information requirement, he should include in the update of his dossier a testing proposal for a pre-natal developmental toxicity study on a second species.

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 of the Registrant for the registered substance and scientific information submitted by third parties.

1. Pre-natal developmental toxicity

a) Examination of the testing proposal

Pursuant to Article 40(3)(c) of the REACH Regulation, ECHA may require the Registrant to carry out one or more additional tests in case of non-compliance of the testing proposal with Annexes IX, X and XI of the REACH Regulation.

Pre-natal developmental toxicity studies are part of the standard information requirements as laid down in Annexes IX and X, section 8.7.2. of the REACH Regulation. The information on this endpoint is not available for the registered substance but needs to be present in the technical dossier to meet the information requirements. Consequently there is an information gap and it is necessary to generate the data for this endpoint.

The Registrant proposed to fulfil the information requirement for this endpoint by performing a reproduction/developmental toxicity screening test according to OECD 421. However, since the screening study is a requirement under Annex VIII, 8.7.1. and pre-natal developmental parameters such as skeletal and visceral malformations are not examined in such study, the study proposed is not compliant with the information requirement for pre-natal developmental toxicity according to Annex IX, 8.7.2. of the REACH Regulation.

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 as a first species to be used.

Therefore, pursuant to Article 40(3)(c) of the REACH Regulation, the Registrant is required to carry out the study: Pre-natal developmental toxicity study in rats, oral route (test method: EU B.31/OECD 414) using the registered substance, while the originally proposed test (a reproduction/developmental toxicity screening test according to OECD 421) is rejected.

When considering the need for a testing proposal for a prenatal developmental toxicity study in a second species, the Registrant should take into account the outcome of the pre-

natal developmental toxicity study on the first species and all 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.

b) Consideration of third party information

ECHA received third party information concerning the testing proposal during the public consultation. For the reasons explained further below the information provided by third parties is not sufficient to fulfil this information requirement.

Third party information 1:

A third party has proposed to use the results of the QSAR model Nonlinear classification ANN QSAR Model for prenatal developmental toxicity to fulfil the information requirement for developmental toxicity.

The result from the QSAR classification model (i.e. "toxic" or "non-toxic") is not suitable for the purposes of classification and labelling and/or risk assessment for the endpoint for which testing has been proposed to meet the information requirement (X, 8.7.2). Compliance with the Annex XI section 1.3 requirements could not be established as the required information concerning the validity, adequacy for classification & labelling and documentation of the model was not provided.

Therefore, ECHA concludes that on this occasion, the information submitted does not meet the conditions for the adaptation on the basis of QSAR models set out in Annex XI, Section 1.3. of the REACH Regulation. Therefore, it cannot constitute an acceptable adaptation to standard information requirements.

Third party information 2:

A third party has proposed a strategy for ECHA to consider before further tests on animals are requested. As part of this strategy, the third party provided results from an OECD 414 study by using the read-across substance dimethylsulfoxside.

However, third parties were invited, as specified by Article 40(2) of the REACH Regulation to submit "scientifically valid information and studies that address the relevant substance and hazard end-point, addressed by the testing proposal". The read across justification provided by the third party is not robust enough to allow the conclusion that the requirements of Annex XI 1.5. of the REACH Regulation are met, and as a strategy as such cannot be regarded as information or studies ECHA concludes that this is not a sufficient basis to fulfil the data/information requirement.

2. 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 the adoption of the decision. As the Registrant was invited to determine the appropriate order of the studies taking into consideration the possible outcomes and considering adaptation of the standard information requirements, ECHA's current understanding and standard policy was that a

reasonable time period for providing the required information in the form of an updated IUCLID5 dossier was 30 months from the date of the adoption of the decision. The decision was therefore modified accordingly after the commenting period of the Registrant.
This period of time (30 months) took into account the fact that the draft decisions also requested a reproductive toxicity study according to the standard information requirement of Annex X, 8.7.3 of the REACH Regulation. As the testing request for this study is not any longer 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 12 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

The process of evaluation of testing proposals set out in Article 40 of the REACH Regulation aims at ensuring that the generation of information is tailored to real information needs in order to prevent unnecessary testing. The information submitted in the registration dossier was sufficient to confirm the identity of the substance for the purpose of assessing the testing proposal. It is noted, however, that this information, or the information submitted by other registrants of the same substance, has not been checked for compliance with the substance identity requirements set out in Section 2 of Annex VI of the REACH Regulation.

In relation to the proposed tests, 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 the joint registrants of the same substance to agree with the tests proposed in the testing proposal (as applicable to their tonnage level) and to document the necessary information on its composition. The substance identity information of the registered substance and of the sample tested must enable ECHA to confirm the relevance of the testing for the substance actually registered by each joint registrant. Finally, the studies must be shared by the joint registrants concerned.

V. General requirements for the generation of information and Good Laboratory Practice

ECHA always 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). National authorities monitoring GLP maintain lists of test facilities indicating the relevant areas of expertise of each facility.

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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