

Helsinki, 2 November 2012

Final decision: TPE-D-0000002381-82-05/F

DECISION ON A TESTING PROPOSAL SET OUT IN A REGISTRATION PURSUANT TO ARTICLE 40(3) OF REGULATION (EC) NO 1907/2006**For hexaboron dizinc undecaoxide, CAS No 12767-90-7 (EC No 235-804-2), 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 40(1) of the REACH Regulation, ECHA has examined the following testing proposals submitted as part of the registration dossier in accordance with Articles 10(a)(ix) and 12(1)(e) thereof for hexaboron dizinc undecaoxide, CAS No 12767-90-7 (EC No 235-804-2), by [REDACTED] (Registrant).

- 90-day toxicity study (OECD 408) in rats, oral route (gavage);
- Pre-natal developmental toxicity study (OECD 414) in rats, oral route (gavage);
- Two-generation reproduction toxicity study (OECD 416) in rats, oral route (gavage); and
- Carcinogenicity study (OECD 451) in rats, oral route (diet).

This decision is based on the registration dossier 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 after 14 June 2012, 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 decision does not imply that the information provided by the Registrant in his registration dossier is in compliance with the REACH requirements. The decision does not prevent ECHA to initiate a compliance check on the present dossier at a later stage.

The present decision relates solely to the examination of the testing proposal for a 90-day toxicity study, a pre-natal developmental toxicity study and a carcinogenicity study. The testing proposal for the two-generation reproductive toxicity study is addressed in a separate decision although all testing proposals were initially addressed together in the same draft decision.

On 16 December 2010, pursuant to Article 40(1) of the REACH Regulation, ECHA initiated the examination of the testing proposals set out by the Registrant in the registration dossier for the substance mentioned above.

ECHA held a third party consultation for the testing proposals from 29 April 2011 until 14

June 2011. ECHA did receive information from third parties (see section III below).

On 23 March 2012 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 24 April 2012 the Registrant did not provide any comments on the draft decision to ECHA.

On 14 June 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 18 June 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 to amend the draft decision.

On 30 July 2012 ECHA referred the draft decision to the Member State Committee.

On 14 August 2012, the Registrant provided comments on the proposed amendments. 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 the testing proposal for a two-generation reproductive toxicity study and one relating to the testing proposals for a 90-day toxicity study, a pre-natal developmental toxicity study and a carcinogenicity study.

After discussion in the Member State Committee meeting on 19-21 September 2012, a unanimous agreement of the Member State Committee on the draft decision as modified at the meeting was reached on 21 September 2012. ECHA took the decision pursuant to Article 51(6) of the REACH Regulation.

II. Testing required

The Registrant shall carry out the following proposed tests pursuant to Article 40(3)(a) of the REACH Regulation using the indicated test methods and the registered substance subject to the present decision:

1. Sub-chronic toxicity study (90-day) in rats, oral route (Annex IX, 8.6.2.; test method: EU B.26/OECD 408);
2. Pre-natal developmental toxicity study in rats or rabbits, oral route (Annex IX, 8.7.2.; test method: EU B.31/OECD 414);

while the originally proposed test for a Carcinogenicity study Annex X, 8.9.1 (test method: OECD 451) proposed to be carried out using the registered substance is rejected pursuant to Article 40(3)(d) of the REACH Regulation. If the conditions of Annex X, 8.9.1 column 2 of the REACH Regulation are met at a later stage, the Registrant shall include in an update of

his dossier a testing proposal for a carcinogenicity study.

Based on the information given by the Registrant in the chemical safety report that the registered substance hydrolyses to zinc hydroxide and boric acid, and based on the harmonised classification of boric acid as toxic to reproduction, category 1B (H360FD) in accordance with Regulation (EC) No 1272/2008, the Registrant should perform the 90-day toxicity study first. The information from this test may allow the Registrant to adapt the standard information requirement for the pre-natal developmental toxicity study in accordance with Annex IX, 8.7. column 2 and Annex XI, 1.5., of the REACH Regulation. Where the conditions for adaptations are met, these shall be documented in the registration dossier and the Registrant will no longer be required to perform the pre-natal developmental toxicity study (test number 2 above). ECHA will assess the compliance with the present decision in accordance with Article 42 of the REACH Regulation after the deadline set below has passed.

Pursuant to Articles 40(4) and 22 of the REACH Regulation, the Registrant shall submit to ECHA by **3 November 2014** 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 fulfill 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 proposals submitted by the Registrant for the registered substance and scientific information submitted by third parties.

1. Sub-chronic toxicity study

a) Examination of the testing proposal

Pursuant to Article 40(3)(a) of the REACH Regulation, ECHA may require the Registrant to carry out the proposed test.

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. 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 specified the rat as the species to be tested. According to the test method EU B.26/OECD 408 the rat is the preferred rodent species. ECHA considers this species as being appropriate.

The Registrant proposed testing by the oral route. In the light of the physico-chemical

properties of the substance and the information provided on the uses and human exposure, ECHA considers that testing by the oral route is appropriate.

b) Consideration of the information received during third party consultation

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

The third party has proposed a strategy for ECHA to consider before further tests on animals are requested. 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". As the proposal for a strategy as such cannot be regarded information or studies, ECHA concludes that this is not a sufficient basis to fulfil the data/information requirement.

c) Outcome

Therefore, pursuant to Article 40(3)(a) of the REACH Regulation, the Registrant is required to carry out the proposed study: Sub-chronic toxicity study (90-day) in rats, oral route (test method: EU B.26/OECD 408) using the registered substance.

2. Pre-natal developmental toxicity

a) Examination of the testing proposal

Pursuant to Article 40(3)(a) of the REACH Regulation, ECHA may require the Registrant to carry out the proposed test.

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. 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 specified the rat as species and the oral route to be used for testing. 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.

b) Consideration of the information received during third party consultation

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

The third party has proposed a strategy for ECHA to consider before further tests on animals are requested. 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". As the proposal for a strategy as such cannot be regarded information or studies, ECHA concludes that this is not a sufficient basis to fulfil the data/information requirement.

c) Outcome

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

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.

3. Carcinogenicity

a) Examination of the testing proposal

Pursuant to Article 40(3)(d) of the REACH Regulation, ECHA may reject a proposed test.

According to the provisions of Annex X, 8.9.1. column 2 of the REACH Regulation a carcinogenicity study may be proposed by the Registrant or required by ECHA in accordance with Articles 40 or 41 of the REACH Regulation if the substance subject to the present decision has a widespread dispersive use or there is evidence of frequent or long-term human exposure, and the substance is classified as mutagen category 2 or there is evidence from the repeated dose study(ies) that the substance is able to induce hyperplasia and/or preneoplastic lesions.

According to the Registrant, the registered substance has a wide dispersive outdoor use (ERC 8e, 8f, 9b, 10a and 11a). The registered substance is classified Eye irrit. 2 and Aquatic Acute 1, but is neither classified as mutagen category 2 nor is there evidence from the repeated dose study submitted by the Registrant that the substance is able to induce hyperplasia and/or preneoplastic lesions. Consequently, at this point in time the conditions of Annex X, section 8.9.1 of the REACH Regulation to propose or to require a carcinogenicity study are not fully met. If at a later stage the outcome of the sub-chronic toxicity study (test required under Section II, 1.) provides such evidence and if the listed conditions are met the Registrant shall include in an update of his dossier a testing proposal for a carcinogenicity study.

b) Consideration of the information received during third party consultation

ECHA received third party information concerning the testing proposal during the third party consultation.

The third party suggested that it should be evaluated whether the provisions of Annex X, section 8.9.1. of the REACH Regulation are fulfilled and argues that this is not the case. ECHA, due to the abovementioned considerations, comes to the same result.

c) Outcome

Therefore, pursuant to Article 40(3)(d) of the REACH Regulation, the proposal of the

Registrant to carry out the study: Carcinogenicity study (test method: OECD 451) in rats, oral route, is rejected.

4. 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 a reproductive toxicity study according to the standard information requirement of Annex X, 8.7.3 of the REACH Regulation. As the testing proposal for 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

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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