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**COMMISSION IMPLEMENTING DECISION**

**of 14.12.2018**

**granting an authorisation for a use of 1,2-dichloroethane (EDC) under Regulation (EC)  
No 1907/2006 of the European Parliament and of the Council (emp Biotech GmbH)**

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC<sup>1</sup>, and in particular Article 64(8) thereof,

Whereas:

- (1) 1,2-dichloroethane (EDC) is listed in Annex XIV to Regulation (EC) No 1907/2006 and is therefore subject to the authorisation requirement referred to in Article 56(1) of that Regulation.
- (2) On 2 May 2016, emp Biotech GmbH ('the applicant') submitted, in accordance with Article 62 of Regulation (EC) No 1907/2006, an application for authorisation for the use of EDC as a solvent in manufacture of polymeric particles for pharmaceutical and research purification processes.
- (3) On 30 May 2017, the Commission received the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-economic Analysis (SEAC) of the European Chemicals Agency on the application<sup>2</sup>, pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006.
- (4) In its opinion, RAC confirmed that it is not possible to determine a derived no-effect level (DNEL) for the carcinogenic properties of EDC in accordance with Section 6.4 of Annex I to Regulation (EC) No 1907/2006 and therefore that EDC is a non-threshold substance. In accordance with Article 60(3)(a) of Regulation (EC) No 1907/2006, Article 60(2) of that Regulation does not apply to that substance, and therefore an authorisation may only be granted on the basis of Article 60(4) of that Regulation.
- (5) In its opinion, RAC concluded that the risk management measures and operational conditions as described in the application are appropriate and effective in limiting the risks to workers. However, due to the absence of risk management measures preventing releases of EDC to air during short-term tasks not performed under closed

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<sup>1</sup> OJ L 396, 30.12.2006, p. 1.

<sup>2</sup> <https://echa.europa.eu/documents/10162/48404794-fcd2-692e-6093-8c7fdc919219>

systems, RAC recommended conditions and monitoring arrangements to reduce the release of EDC into the air

- (6) In its opinion, SEAC concluded that the overall socio-economic benefits arising from the use of EDC applied for outweigh the risk to human health or the environment arising from that use and that there are no suitable alternative substances or technologies for the applicant before the sunset date. The Commission, having evaluated SEAC's assessment, concurs with that conclusion.
- (7) Therefore, in accordance with Article 60(4) of Regulation (EC) No 1907/2006, it is appropriate to authorise the use of EDC applied for, provided that the risk management measures and operational conditions described in the application and, in particular, in the chemical safety report<sup>3</sup>, as well as the conditions set out in this Decision, are fully applied.
- (8) In its opinion, SEAC recommended the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 to be set at 12 years. The Commission takes into account the relevant elements from RAC's and SEAC's assessment, and in particular the risk arising from the continued use of the substance and its conclusion that the implemented risk management measures and operational conditions are appropriate and effective in limiting the risk for workers, the recommended additional conditions to reduce the release into air, the time necessary to implement an alternative process, including the time necessary for the initial research and development, for the testing of new synthetic strategies, for the optimisation of the chosen synthesis process, for the qualification of the products and for the industrialisation of the process, as well as the fact that the socio-economic benefits of continued use clearly outweigh the risk to human health. The Commission concurs with the SEAC's recommendation.
- (9) Therefore, the Commission considers appropriate that, as regards the use of EDC applied for, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 is set at 12 years as from the sunset date set out in Annex XIV to that Regulation.
- (10) The language used for the description of the risk management measures and operational conditions included in the application for authorisation may be different from the official languages of the Member State where the use takes place. Therefore, in order to facilitate the enforcement of the authorisation, it is appropriate to include a monitoring arrangement requiring the authorisation holder to submit, upon request, a succinct summary of those risk management measures and operational conditions in an official language of the Member State concerned.
- (11) This Decision does not affect the obligation of the authorisation holder to ensure that the use does not adversely affect human health or the environment pursuant to Article 1(3) of Regulation (EC) No 1907/2006. Furthermore, it does not affect either the obligation of the authorisation holder to ensure that the exposure to the substance is reduced to as low a level as is technically and practically possible pursuant to Article 60(10) of Regulation (EC) No 1907/2006 or the obligation of the employer to reduce the use of a carcinogen or mutagen at the place of work, in particular by replacing it, in so far as is technically possible in accordance with Article 4(1) of Directive 2004/37/EC of the European Parliament and of the Council<sup>4</sup>, or to prevent and reduce

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<sup>3</sup> <http://ec.europa.eu/docsroom/documents/23663>

<sup>4</sup> Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual

exposure in accordance with Article 5 of that Directive. Furthermore, this Decision is without prejudice to the application of the Union Directives in the area of health and safety at work, in particular Council Directive 89/391/EEC<sup>5</sup>, Council Directive 98/24/EC<sup>6</sup>, Directive 2004/37/EC, Council Directive 92/85/EEC<sup>7</sup> and Council Directive 94/33/EC<sup>8</sup>.

- (12) This Decision is without prejudice to any obligation to comply with emission limit values set in accordance with Directive 2010/75/EU of the European Parliament and of the Council<sup>9</sup> and Directive 2008/50/EC of the European Parliament and of the Council<sup>10</sup>, as well as with emission limit values set to achieve compliance with the environmental quality standards established both in Directive 2008/105/EC of the European Parliament and of the Council<sup>11</sup> and by Member States in accordance with Directive 2000/60/EC of the European Parliament and of the Council<sup>12</sup>. Compliance with the provisions of this Decision should not necessarily result in compliance with emission limit values or environmental quality standards under other Union legislation, which may include separate or more onerous requirements.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006,

HAS ADOPTED THIS DECISION:

#### *Article 1*

An authorisation is granted in accordance with Article 60(4) of Regulation (EC) No 1907/2006 for the following use of 1,2-dichloroethane (EDC) (EC No 203-458-1; CAS No 107-06-2) provided that the risk management measures and operational conditions described in the chemical safety report submitted pursuant to Article 62(4)(d) of that Regulation, as well as the conditions set out in this Decision are fully applied:

Authorisation number

Authorised use

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Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC (OJ L 158, 30.4.2004, p. 50).

<sup>5</sup> Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

<sup>6</sup> Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

<sup>7</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 ( 1 ) of Directive 89/ 391 / EEC) (OJ L 348, 28.11.1992, p. 1).

<sup>8</sup> Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12).

<sup>9</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)(OJ L 334, 17.12.2010, p. 17).

<sup>10</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

<sup>11</sup> Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

<sup>12</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

### *Article 2*

The authorisation referred to in Article 1 shall be subject to the following conditions:

- (a) the authorisation holder shall adopt without delay risk management measures during short-term tasks not performed under closed systems to reduce releases to air of 1,2-dichloroethane. Any changes to the manufacturing process in case of the expansion plans mentioned in the application shall include risk management measures to limit workers' and humans' exposure via the environment;
- (b) the risk management measures introduced shall be documented and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006 and, upon request, be submitted to the competent authority of the Member State where the authorised use takes place.

### *Article 3*

1. As regards the authorised use of 1,2-dichloroethane, the review period referred to in Article 60(9)(e) of Regulation (EC) No 1907/2006 shall expire on 22 November 2029.
2. The present authorisation shall cease to be valid on 22 November 2029 in case the review report referred to in Article 61(1) has not been submitted by 22 May 2028, unless a decision to withdraw the authorisation is adopted earlier in application of paragraphs 2 and 3 of Article 61 of Regulation (EC) No 1907/2006.

### *Article 4*

The following monitoring arrangements shall apply:

- (a) the authorisation holder shall conduct regular occupational exposure measurements related to the use described in Article 1. Those measurements shall:
  - (i) take place at least annually. The first measurements shall be performed without delay and at the latest by 14 June 2019;
  - (ii) be based on relevant standard methodologies or protocols and use the method with lowest detection limit;
  - (iii) include contextual information about and be representative of the range of tasks with possible exposure to 1,2-dichloroethane and of the total number of workers that are potentially exposed;
- (b) the authorisation holder shall regularly (at least annually) measure emissions of 1,2-dichloroethane to ambient air through the central exhaust outlet;
- (c) the information gathered via the measurements required by points (a) and (b) shall be used to regularly review the effectiveness of the risk management measures and operational conditions and to take action, as appropriate, to further reduce workers' exposure to 1,2-dichloroethane and its emissions to ambient air;

- (d) the results of the measurements referred to in points (a) and (b), as well as the outcome and conclusions of the review and any actions taken in accordance with point (c), shall be documented, submitted, upon request, to the competent authority of the Member State where the authorised use takes place and included in the review report referred to in Article 61(1) of Regulation (EC) No 1907/2006.

*Article 4*

The authorisation holder shall submit, upon request, to the competent authority of the Member State where the authorised use takes place a succinct summary of the applicable risk management measures and operational conditions described in the chemical safety report in an official language of that Member State.

*Article 5*

This Decision is addressed to emp Biotech GmbH, Robert-Roessle-Str. 10, D-13125, Berlin, Germany.

Done at Brussels, 14.12.2018

*For the Commission*  
*Elżbieta BIENKOWSKA*  
*Member of the Commission*

