

# REACH and Substances Recovered from Waste

## Summary

- REACH applies to substances recovered from waste once they cease to be waste;
- Recovery businesses are considered to be manufacturers under REACH, so may have registration obligations, unless certain exemptions apply;
- Where any recovered substances qualify as “phase-in” substances (e.g. they are listed in EINECS), they may be eligible for the phased registration deadlines available in REACH. Companies must pre-register their substances to use the phased registration deadlines. Pre-registration is now open only to companies who are recovering a substance at 1 tonne or more per annum for the first time after 1<sup>st</sup> December 2008. Those companies undertaking recovery operations before 1 December 2008 should have already pre-registered;
- It is important to think about how to (pre-)register recovered materials consisting of two or more substances – either as a single variable composition (UVCB) substance or as individual substances within a mixture;
- There are some exemptions from registration obligations within REACH which could apply to recovered substances; these can be invoked for most recovered metals, for some recovered solvents, and for some recovered plastics;
- Compost, biogas and anaerobic digestate are exempt from registration under Annex V of REACH.

## Introduction

This advice on the REACH requirements for recovered waste substances is based on the guidance published by the European Chemicals Agency (ECHA). It is intended to help businesses involved in waste recovery to understand the possible obligations placed on them by the REACH Regulation.

It is important to note that waste itself, as defined by the Waste Framework Directive (2006/12/EC), is specifically excluded from REACH; it considers waste not to be a substance, mixture, or article (Article 2(2) of the REACH Regulation). Therefore, the REACH requirements for substances, mixtures, and articles – such as registration, authorisation, and communication of information along the supply chain - do not apply to waste. There is a requirement in REACH for the manufacturers and importers of substances in quantities of 10 tonnes or more per annum, to prepare a Chemical Safety Report. These must include exposure scenarios based on declared uses of the substances, which also take account of hazards present in the waste stage and make recommendations on appropriate risk management measures. For the avoidance of doubt, this does not mean that REACH has any jurisdiction within the waste stage, but that REACH provides hazard information which can be used when waste is being handled.

However, where waste is recovered back into substances that are placed on the market for further commercial use, REACH applies, as it does to any other substance placed on the market. This obligation starts from the point a recovered substance ceases to be waste and waste management controls no longer apply. The point at which waste ceases to be waste is a matter for waste legislation, and REACH does not have any bearing on that. You should check with your local regulatory authority responsible for waste if you are unsure of your specific situation.

## Manufacturer or not?

Just because your recovery operations may not be classed as manufacturing under waste or other legislation, you should not assume that you are not a manufacturer under REACH. The REACH definition

# REACH and Substances Recovered from Waste

of manufacturer is taken to include those producing recovered substances for placement back on the market; meaning that all such businesses may have the obligations of manufacturers. This does not conflict with the definition of manufacturer in other legislation, since it concerns only the functions set out by REACH. So for example, Pollution Prevention and Control legislation makes a distinction between chemical recovery and chemical manufacture – i.e., chemical recovery is not considered manufacturing under that regime. However, since REACH applies only once waste ceases to be waste, and it is placed back on the market, REACH takes a different view of what a manufacturer is for the purpose of controls in the post-waste situation, without compromising the definition or situation under other legislation.

## REACH Obligations

As with any other non-waste manufacturer or importer, the REACH obligations on waste recovery businesses may vary. The main obligation under REACH is to register substances. This duty can be deferred until a later date if a substance is pre-registered (see later). For a company to register substances, it must be a legal entity established in the Community (EU/EEA). Non-EU-based companies cannot (pre-)register substances, but their EU-based subsidiaries or branches can. It is also important to remember that each individual legal entity of a business or company has to submit a (pre-)registration – a single submission by one company or a trade association on behalf of everyone dealing with a substance cannot be made. As the initial pre-registration period ended on 1<sup>st</sup> December 2008, pre-registration is now only available under in certain circumstances (see below).

## REACH Exemptions

Provision is made in REACH for exemptions from some or all of its requirements, under certain conditions. These are possible because either regulatory regimes in other legislation are considered to be equivalent to REACH in terms of substance information provision and controls, or certain substances or categories of substances are already known to pose little or no risk to health or the environment, or their registration is not considered appropriate (e.g. because they are naturally occurring). More information on exemptions generally is available in [UK REACH CA Information Leaflet Number 8 – Exemptions](#).

For recovered substances, three REACH exemptions are most likely to be possible:

Specific substance exemption under Annex IV, because sufficient information is known to be sure that it presents little or no risk to human health or the environment;

General categories of substances under Annex V, for which registration is deemed unnecessary or inappropriate, and their exemption does not compromise the objectives of REACH; or

An exemption under Article 2(7)(d) of REACH, if the recovered substance is the same as its virgin equivalent that has been previously registered (not necessarily in the same supply chain).

### **Compost, biogas, and anaerobic digestate**

Annex V of REACH includes compost and biogas as a specific category of exemption in the legal text. Guidance on Annex V has been published by the European Chemicals Agency (ECHA) and clarifies that anaerobic digestate is also exempt.

# REACH and Substances Recovered from Waste

## ECHA guidance on recovered waste substances

ECHA has published guidance on REACH and recovered waste substances. This explains in more detail how REACH applies to substances recovered from waste. It contains specific sections that deal with: paper; glass; metals; aggregates; polymers; rubber; base oils; & solvents.

## Pre-registration

Pre-registration is a free and simple process involving the electronic transmission of some basic data to the European Chemicals Agency.

You will first need to decide how you are going to categorise the substance(s) you recover (and should therefore (pre-)register). There are three possible options:

- As a single well-defined substance, e.g. recovered solvents (toluene, ethanol, etc) or single metals (copper, lead).
- As a mixture consisting of a mixture of various well-defined substances, each of which has to be identified and separately registered if appropriate (N.B. mixtures themselves are not registered, only their constituent substances).
- As a UVCB substance (unknown or variable composition, complex reaction products, or biological materials), where the waste streams used may be variable.

It should be remembered that impurities do not require separate registration if they are not intended to be present in the final mixture (despite being present in the waste stream), **and** are present at less than 20%.

More information is available in [UK REACH CA Information Leaflet Number 7 – Pre-registration](#).

For substances recovered from waste, it is likely that pre-registration will only be applicable for substances/materials subject to a new end-of-waste protocol. If this affects one of your products, we advise that you contact your national helpdesk.

## Further information

For advice on the application of REACH obligations, you can contact the UK REACH Competent Authority's national helpdesk:

Email: [UKREACHCA@hse.gov.uk](mailto:UKREACHCA@hse.gov.uk)

Website: [www.hse.gov.uk/reach](http://www.hse.gov.uk/reach)

