

Importer Coverage through the Only Representative Facility

REACH has introduced a new area of chemicals management, not only in Europe but globally. This legislation applies only to legal entities in the European Community, companies located outside but exporting products into the customs territory of the EU are not bound by the obligations. However, the Regulation allows for the Non-Community Manufacturer, to appoint someone established in the EU to act as his Only Representative (OR). This provides some advantages for the Non-Community Manufacturer (NCM), within the supply chain and for the EU-Importer. The OR has the right to act on behalf of a NCM to fulfil several obligations of REACH. In doing this, the OR prevents a distortion of competition between EU and non-EU manufacturer.

REACH Article 8 outlines the Only Representative facility. The OR operates on the grounds of an appointment by the NCM. The legal consequence of the appointment is that the OR has the right to act on behalf of the NCM and, thereby, must fulfil the „obligations of importers“. Formally, he acts as the pre-/registrant of the particular substance, and he is legally responsible for the registration. Therefore, the OR has to fulfil the registration obligations and all other obligations of importers under REACH. At the same time, the importer within the same supply chain is relieved from his obligations under REACH: The importer is regarded as a downstream user.

When an importer receives information from a NCM in his supply chain that an OR has been appointed to cover the registration obligations, this importer will be regarded as a downstream user of the Only Representative for the tonnage covered by the pre-/registration of the OR. This change of status from importer to downstream user only pertains to the same supply chain, i.e. to the tonnage imported from NCM having appointed the OR. If this importer also imports the substance from other non-EU suppliers, he still has to register the tonnage imported



from this or these non-EU suppliers. Although the importer will receive confirmation from his NCM on the appointment of the OR, he should preferably also obtain confirmation in writing from the Only Representative that his imported tonnage (and use) is indeed covered by the pre-/registration submitted by the Only Representative. It is of utmost importance for EU-Importers to integrate REACH responsibilities into the sourcing agreements with their non-Community suppliers. Additionally, they should request Coverage Statements or Import Certificates of the OR through their Non-EU suppliers. If no verifiable certificates can be provided the importer remains responsible for the imports.

If an own (pre-)registration is not an option, the EU-importer should only import from Non-EU sources with verifiable REACH (pre-)registered chemicals. Moreover, a REACH compliant Safety Data Sheets should be requested. Furthermore, the Only Representative is now eligible to submit a C&L Group Notification for imported substances according to CLP-Regulation.

Despite these crucial functions, the term OR appears only four times in REACH – in Article 8 and in Annex II. Rights and responsibilities of ORs have not been well defined, the duties are scarce and imprecise described in REACH guidance documents. To address the lack of recognition some leading ORs founded the Only Representative Organisation AISBL (ORO), seated in Brussels.

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ECHA Eighth Stakeholders' Day 26 March 2013 Registrations Open!

The European Chemicals Agency organises its Eighth Stakeholders' Day Conference on 26 March 2013 in the Helsinki Exhibition and Conference Centre.

The conference offers participants the chance to hear the latest news and updates from ECHA, European industry associations and NGOs. The event takes place close to the second REACH Registration Deadline of 31 May 2013, providing a platform for registrants, in particular those preparing individual submissions to receive last-minute advice and guidance.

Participation to the conference is free of charge. The Stakeholders' Day can be followed on the internet live via web-streaming.

A link to the web-stream will be available on this page 24 hours prior to the event. Access to the web-stream is free of charge.

The programme will focus on registration 2013 and on supply chain communication.

More information and registration on: echa.europa.eu



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