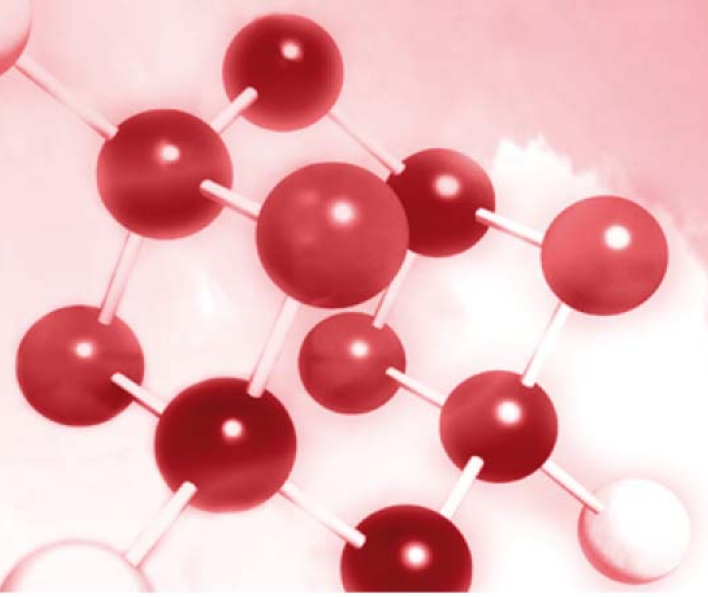

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**Guidance** *Fact Sheet*

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# Guidance on waste and recovered substances

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**If you have questions or comments in relation to this Fact Sheet please send them by e-mail to info@echa.europa.eu quoting the Fact Sheet reference, issue date and language version, shown above.**

## WHO SHOULD READ THE GUIDANCE DOCUMENT?

For the purpose of REACH substances that after having being part of waste materials, have ceased to be waste according to the Waste Framework Directive[1], should be understood to be recovered substances. In the same way as any other substance falling under the scope of REACH, these are in principle subject to REACH registration requirements.

The guidance on waste and recovered substances is addressed to all companies recovering substances from waste within the European Economic Area that wish to benefit from the exemption to register recovered substances under Article 2(7)(d) of REACH.

[1] Directive 2008/98/EC of the European Parliament and of the Council published on the Official Journal of the European Union on 22 November 2008 (L 312/3).

## WHAT IS THIS GUIDANCE ABOUT?

The guidance document describes the conditions under which recovery operators can benefit from the exemption from the requirement to register a recovered substance. Furthermore the document elaborates on the obligation to share information on recovered substances in the supply chain, a requirement which is not obviated by the exemption.

The guidance clarifies that all forms of recovery, including mechanical processing, whenever they result in one or more substances as such or in a mixture or in an article that have ceased to be waste after one or more recovery steps, are considered as a manufacturing process.

For the recovery operator it will be essential to clearly identify whether a particular recovered material is a substance as such, a mixture or an article[2] in order to assess potential registration requirements. A recovery may result in the generation of one or several substances as such or a mixture containing several substances. When the recovered material is to be considered as an article, a general registration requirement of the contained substances would only apply when specific conditions are met[3].

An identity needs to be assigned to the recovered substance in the same way as for any other substance subject to registration, following the guidance on substance identification. Due to the complex composition of the input waste material the recovery operator may need to collect specific information relevant to the recovered substance. Whether the recovered material is a substance or a mixture, the recovery operator has to ensure that the individual substances/mixtures have been registered before.

Once the identity of the recovered substance has been sufficiently established, the legal entities undertaking the recovery can examine whether the conditions to benefit from the exemption under Article 2(7)(d) of REACH are fulfilled:

- The recovered substance must be the same as a substance that has already been registered. The sameness should be assessed on the basis of the rules explained in the guidance on substance identification. The decision has to be based on the sameness of the main constituents.

- The recovery operator must ensure that certain information on the registered substance is available to him. The information needs to comply with the requirements of Articles 31 or 32 of REACH concerning information provision. The recovery operator must have available one of the following, depending on the case:

    - a Safety Data Sheet (SDS) for the registered substance, with, if applicable, the annexed exposure scenario;

    - other information sufficient to enable users to take protection measures for the registered substance in case no SDS is required; or

    - the registration number, if available, the status of the substance under any authorisation, details of any applicable restriction and information to allow appropriate risk management measures to be identified and applied.

Regarding the first condition, one needs to know the registration status of the substance. It is sufficient that a registration has been filed for the same substance by any registrant. The originally registered substance and the recovered substance do not have to be part of the same supply chain leading to generation of the waste. Furthermore, since the life cycle of a registered substance ends with the waste stage, the uses of a recovered substance do not have to be covered in the exposure scenario of the “original” substance.

The main sources of information on the registration status of substances for the recovery operator are: the SIEF (if the substance to be recovered has been pre-

[2] The distinction shall be based on the definitions as per Article 3 of REACH.
[3] Articles 7(1) and 7(5) of REACH Regulation.

registered), ECHA[4]'s dissemination website and information provided by recovery associations.

Regarding the second condition, the legal entity performing the recovery must have available the information required by Article 31 or 32 of REACH. With the exception of the SDS, the format in which the information has to be available is not specified. Recovery operators will usually not receive an SDS or other safety information. Whenever required, they need either to prepare an SDS themselves or agree with the owners of existing SDSs on using those. They can use any available information, starting with the information on the ECHA website. However, the recovery operator must ensure that he does not violate any intellectual property rights and make sure that he has legitimate access to the information.

Recovery operators need to assess themselves the appropriate source of information and how to document that they can rely on the exemption under Article 2(7)(d) of REACH.

Irrespective of whether or not such an exemption applies, the supplier of the recovered substance has to provide the recipient with relevant and adequate information on how to use the recovered substance safely. Depending on the case this may consist of an SDS (and, where relevant, the annexed ES) or other information to allow safe use of the substance or of the article containing a substance of very high concern[5]. Even if according to Article 31 of REACH an SDS is not automatically required[6], the Article 32 obligation to provide information to allow safe use will remain applicable.

In addition, to comply with the registration obligations, recovery operators need to ensure that recovered substances comply with the restriction and authorisation requirements. Communication obligations concerning substances in articles and notification obligations may also apply for substances included in the 'candidate list' and that are present in articles[7].

## WHAT IS THE STRUCTURE OF THE GUIDANCE DOCUMENT?

The **introductory Chapter 1** addresses the concepts of waste under REACH and the borderline between waste and material that has ceased to be waste.

The second chapter explains in detail the requirements for recovered substances under REACH:

- **Chapter 2.1** illustrates the benefits of pre-registering a recovered substance in terms of continuing business before any registrations have been filed and access to relevant information on the manufacturer of the same substance.

- **Chapter 2.2** explains the preliminary issues to be taken into account with respect to general REACH registration requirements. Equivalence between recovery and manufacturing processes and the identification of recovered substances are detailed.

- **Chapter 2.3** addresses the criteria to be met in order to benefit from the exemption under Article 2(7)(d). Sameness of the recovered substance and a registered substance and required information are explained.

- **Chapter 2.4** describes the information that recovery operators should make available to users of recovered substances, and what considerations on relevance and adequacy of such information should be taken into account.

- **Chapter 2.5** provides an overview of other obligations recovery operators may need to comply with.

- **Chapter 2.6** summarises the basic assessment steps which should be

[4] As described in Article 77(2)(e) of REACH Regulation. Information on registered substances will be made publicly available under the provision of Article 119 of REACH.

[5] The information that may have to be provided by a recovery operator is based on Articles 31, 32 or 33 of REACH.

[6] The substance does not meet the criteria for classification as dangerous or PBT/vPvB and is not on the candidate list and not subject to restrictions.

[7] For more information consult the Guidance on substances in articles.

undertaken by the recovery operator and that are described in the previous chapters.

- **Appendix 1** provides examples of particular streams of recovered materials: paper, glass, metals, aggregates, polymers, rubber, base oils, solvents.

## KEY TERMS USED IN THE GUIDANCE DOCUMENT

### Waste

Waste is defined in Directive 2008/98/EC (Waste Framework Directive) as *"any substance or object which the holder discards or intends or is required to discard".* Waste is not a substance, mixture or article under REACH and therefore the requirements of REACH, in principle, do not apply. However, manufacturers and importers of substances as such, in mixtures and articles subject to registration under REACH have to provide some information on waste occurring from manufacture and use of the substance. Furthermore they have to take into account the waste life-cycle stage, where relevant, when performing a chemical safety assessment[8].

### Recovered substance

For the purposes of REACH, recovered substance should be understood to be substance that, after having been part of waste materials, have ceased to be waste according the Waste Framework Directive. Recovery processes may consist of several steps whereby only the last will result in a material which is no longer classified as waste. If waste ceases to be waste, a new life-cycle of the substance starts, which is not part of the life-cycle of the original substance.

### End of waste criteria

The point at which a waste "ceases to be waste" is an issue to be discussed for specific waste streams. Certain specified waste shall cease to be waste when it has undergone a recovery operation and meets the so-called end-of-waste-criteria to be developed in accordance with the legal conditions laid down in the Waste Framework Directive:

*(a) the substance or object is commonly used for specific purposes;*

*(b) a market or demand exists for such a substance or object;*

*(c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and*

*(d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.*

### Impurities

It may be difficult to conclude whether a constituent of a recovered material is a substance or an impurity. Impurities will not have to be registered separately. However, they need to be:

- identified to the extent needed and allocated to the recovered substance(s) in order to facilitate the comparison with (an)other already registered substance(s); and

- identified and evaluated to the extent needed for establishing the hazard profile as well as the classification and labelling of the substance as such or in a mixture in which it occurs.

The concept of impurities applies to well defined substances on their own or in a mixture but does not apply to UVCB substances.

[8] See Chapter R.18 on "Estimation of exposure from the waste life stage" of the Guidance on IR&CSA available on the Guidance web site.

## LINKS TO RELATED MATERIAL

REACH Regulation EC No 1907/2006.

REACH & CLP Guidance website is a single point of access to general and detailed technical guidance on REACH and CLP.

Guidance Fact Sheets can be found in the publications section of the ECHA website.

## BIBLIOGRAPHIC INFORMATION OF THE GUIDANCE DOCUMENT

**Guidance on waste and recovered substances** can be downloaded from the website of the European Chemicals Agency.

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