

Enforcement of the deadlines concerning the downstream user duties

Introduction:

REACH includes a number of deadlines related to supply chain communication, in particular for Downstream users to comply with their obligations:

- Article 39.1: **12 months** to comply with the conditions included in the Exposure Scenarios received from the supplier in the extended SDS.
- Article 39.2: **6 months** to notify to ECHA if your use is not covered and you plan to prepare your own DU CSR
- Article 37.3: if a new use is communicated, the CSR needs to be updated by the registrant to include the new ES within **1 month** of the request of making a new use known, or at least one month before the next delivery (whichever is the later date).

The issues is how will these deadlines be calculated? When does the clock start to tick?

Explanation:

The actions above cover the situation when a use has not been (fully) covered in the Exposure Scenarios that the Downstream user receives. However, the actions may often be preceded by a dialogue between supplier and downstream user in order to ensure that the use is indeed not covered. The deadlines are very tight therefore they should be considered as the time following the conclusion of a supply chain dialogue when the situation is finally clear.

Industry is indeed advising **to have a dialogue with the supplier** in order to analyse the situation. In some cases the outcome of the dialogue may imply an update of the registrant's CSR which requires time.

In some cases, it may turn out that the use was indeed covered, it was just not clear to the Downstream user. Scaling possibilities may be part of this dialogue.

In addition, with regards to article 37.3, in order to make a use known to a supplier "sufficient information" needs to be provided¹ so the deadline should only begin once both parties are satisfied that "sufficient information" is available.

With regards to article 39.1 and 39.2, the 12 months or 6 months respectively should start to count for the DU when he receives an extended SDS including the registration number AND the ES.

Background document:

Industry paper on supply chain communication:

http://www.cefic.org/Documents/IndustrySupport/Cefic%20communication%20on%20extSDS_130711.pdf

¹ article 37.2 of the REACH Regulation

