

Regulatory Alert

Registration Deadlines under the Act on the Registration and Evaluation of Chemicals (K-REACH)

Country: South Korea

Please see the Disclaimer box at the end of the alert

INTENDED AUDIENCE

This Regulatory Alert is intended for companies who do business with or in South Korea. K-REACH could impact IAEG members who have operations in or with South Korea requiring the supply (including import) and/or use of process materials containing regulated chemical substances.

EXECUTIVE SUMMARY

Background on Regulation:

K-REACH prescribes the requirements for the registration of chemical substances, the review and assessment of the hazards and risks of chemical substances and products containing hazardous chemical substances, and the designation of hazardous chemical substances, to protect public health and the environment. The Ministry of Environment (MoE) is responsible for the registration and evaluation of chemicals under K-REACH. Based on hazard risk assessments, chemicals are classified into one of these four categories: toxic substance, authorization substance, restricted substance, or prohibited substance.

The Act on the Registration and Evaluation of Chemicals (K-REACH) was passed on 30 April 2013, took effect on 1 January 2015, and replaced the Toxic Chemicals Control Act (TCCA). The legislation was revised on 20 March 2018 and the amendments came into force on 1 January 2019. The revisions apply to the production and import of products containing key management substances.

K-REACH manages:

- phase-in (existing) chemical substances (chemical substances publicly notified by the MoE, which were domestically distributed for commercial purposes before February 2, 1991 and chemical substances publicly notified by the MoE and where the hazard reviews have been conducted pursuant to the former TCCA after February 2, 1991);
- non-phase in (new) chemical substances (i.e., those not considered to be existing chemical substances);
- designated toxic substances;
- substances subject to permission, restriction, prohibition; and
- key management substances in products.

Generally speaking, chemical substances can be identified as “existing” by being listed on the Korean Existing Chemical Inventory (KECI) and having a KE number or a hazardous substance category number (unless it is indicated as being a new hazardous substance).

The 1 January 2019 amendment added the requirement to submit a pre-notification to Korea Environment Corporation (KECO) for existing chemical substances manufactured or imported in quantities of 1 tonne/year or greater. The pre-notification deadline was 30 June 2019. After the 30 June 2019 deadline, companies importing or manufacturing existing substances must complete a ‘late pre-notification’ before the tonnage exceeds 1 tonne/year. Only companies that have pre-notified existing substances can benefit from registration grace periods, during which

business entities can manufacture or import those pre-notified substances without full registrations. There are four tonnage bands (1-10; 10-100; 100-1000; 1000+ tonne/year) with different registration deadlines.

Companies with non-phase-in (new) substances manufactured at less than 0.1 tonne/year need to notify the National Institute of Environmental Affairs before manufacture/import. Also, non-phase-in substances expected to be manufactured/ imported at or above 0.1 tonne/year need to be registered before exceeding the tonnage threshold.

APPLICABILITY

- The obligation to register with the MoE to manufacture or import chemical substances applies to all manufacturers and importers.
- The obligation to register with the MoE within the registration grace periods to continue to manufacture or import existing chemical substances beyond the established deadlines applies to companies who submitted a pre-notification before 30th June 2019.
- The obligation to notify of new chemical substances (<0.1 tonne/year) or register new chemical substances (≥0.1 tonne/year) before manufacture/import reaching the tonnage threshold applies to manufacturers and importers of these substances.
- The following exemption categories may be relevant to the aerospace and defense industries:
 - i Radioactive materials pursuant to Article 2 (5) of the Nuclear Safety Act;
 - ii Explosives pursuant to Article 2 (3) of the Control of Firearms, Swords, Explosives etc. Act.; and
 - iii Military goods pursuant to Article 2 of the Military Service Control Act and Article 3, Subparagraph 2 of the Defense Business Act (except ordinary goods under Article 3 of the Military Service Control Act).
- The following chemicals are exempt from registration and pre-notification:
 - i Chemicals that fall outside the scope of K-REACH (above);
 - ii Imported chemical substances contained in machinery;
 - iii Chemical substances imported along with machinery or equipment for testing purposes;
 - iv Chemical substances contained in products and the chemical substances are not released during use; and
 - v Chemical substances with very low risk that have been designated and notified by the MoE.

RELEVANT DATES

- ❖ Act on the Registration and Evaluation of Chemicals published: 30th April 2013
- ❖ Act on the Registration and Evaluation of Chemicals effective: 1st January 2015
- ❖ Act on the Registration and Evaluation of Chemicals (Revised) published: 20th March 2018
- ❖ Act on the Registration and Evaluation of Chemicals (Revised) effective: 1st January 2019
- ❖ **Pre-notification grace period for all existing substances ≥1,000 tonne/year: 31st December 2021**
- ❖ **Pre-notification grace period for carcinogenic, mutagenic, or toxic to reproduction (CMR) substances ≥1 tonne/year: 31st December 2021**
- ❖ **Pre-notification grace period for all existing substances 100-1,000 tonne/year: 31st December 2024**
- ❖ **Pre-notification grace period for all existing substances 10-100 tonne/year: 31st December 2027**
- ❖ **Pre-notification grace period for all existing substances 1-10 tonne/year: 31st December 2030**

REGULATORY OBLIGATIONS

Restricted and Prohibited Substances

All substances restricted or prohibited in the former TCCA are deemed restricted and prohibited under K-REACH. All substances that are prohibited or restricted under K-REACH can be found in the most recent publication of the list found in Designation of Restricted Substances and Prohibited Substances (Ministry of Environment Notice No. 2019-214, 2019. 11. 25.) under Appendices 2, 4, and 5 (available in Korean). This list may be updated with new chemicals by the MoE after consultation with the relevant committees.

Companies must abide by the restriction and prohibition conditions, in addition to any registration requirements.

Notification and Registration

Registration is required by any entity who intends to manufacture or import 0.1 tonne or more per year of a new chemical substance or mixture or 1 tonne or more per year of an existing chemical listed on the KECI. New substances manufactured in quantities less than 0.1 tonne/year only require notification, which requires less data to be submitted than a full registration. Companies who are eligible may need to apply for exemption from registration before using any restricted substances.

Those companies who have successfully submitted a pre-notification for the use of existing chemicals by 30 June 2019 may continue to use these chemicals without registration during the registration grace periods listed in previous section. Following the registration deadlines, companies may only use existing chemicals following full registration.

Points of Note

- The use of any new chemicals over 0.1 tonne/year is prohibited until full registration is completed. The use of any new chemicals below 0.1 tonne/year is prohibited until a notification is completed.
- Full registration will be a time- and resource-intensive process due to the amount of data required, especially if an importer or manufacturer deals with a large number of prohibited or restricted substances. The list of substances that require registration will continue to be updated, which may cause a further time and cost burden.
- Failure to comply with the registration obligations before manufacturing or importing any restricted or prohibited substances may result in penalties, such penalties include up to 5 years' imprisonment or a fine up to 100 million won.

RISKS TO AEROSPACE AND DEFENSE

Aerospace companies with operations in South Korea should make sure that their suppliers have followed appropriate notification and registration of chemicals. Otherwise, those suppliers may not be able to provide chemicals and machineries to support the aerospace manufacturing processes, potentially disrupting operations. Aerospace companies that directly import or produce chemicals should have internal notification and registration procedures and resources to avoid disruptions to operations and fines.

South Korea is included in the scope of the Aerospace and Defense Declarable Substances List (AD-DSL), and substances regulated under K-REACH with aerospace industry uses are included in the AD-DSL.

USEFUL LINKS**Act on the Registration and Evaluation of Chemicals (K-REACH available in Korean):**

<http://www.law.go.kr/LSW/lsInfoP.do?lsiSeq=203195#0000>

K-REACH official English translation:

http://elaw.klri.re.kr/kor_service/lawView.do?hseq=31605&lang=ENG

National Chemical Information System (NCIS) database

<https://ncis.nier.go.kr/en/main.do>

DISCLAIMER

THIS DOCUMENT IS PROVIDED BY INTERNATIONAL AEROSPACE ENVIRONMENTAL GROUP, INC. ("IAEG") FOR INFORMATIONAL PURPOSES ONLY. ANY INACCURACY OR OMISSION IS NOT THE RESPONSIBILITY OF IAEG. DETERMINATION OF WHETHER AND/OR HOW TO USE ALL OR ANY PORTION OF THIS DOCUMENT IS TO BE MADE IN YOUR SOLE AND ABSOLUTE DISCRETION. PRIOR TO USING THIS DOCUMENT OR ITS CONTENTS, YOU SHOULD REVIEW IT WITH YOUR OWN LEGAL COUNSEL. NO PART OF THIS DOCUMENT CONSTITUTES LEGAL ADVICE. USE OF THIS DOCUMENT IS VOLUNTARY. IAEG DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THIS DOCUMENT OR ITS CONTENTS. IAEG HEREBY DISCLAIMS ALL WARRANTIES OF ANY NATURE, EXPRESS, IMPLIED OR OTHERWISE, OR ARISING FROM TRADE OR CUSTOM, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, QUALITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, COMPLETENESS OR ACCURACY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, IAEG SHALL NOT BE LIABLE FOR ANY LOSSES, EXPENSES OR DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL, PUNITIVE, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOST INCOME OR PROFITS, RESULTING FROM OR ARISING OUT OF A COMPANY'S OR INDIVIDUAL'S USE OF THIS DOCUMENT, WHETHER ARISING IN TORT, CONTRACT, STATUTE, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.