

## **REACH Exemption Position Paper for Natural Graphite (EINECS 231-955-3, CAS 7782-42-5)**

The purpose of this document is to summarize the common position of the supporting parties (hereafter referred to as 'Signatories') on the exemption of Natural Graphite (EINECS 231-955-3, CAS 7782-42-5) from registration under the REACH Regulation (EC) No 1907/2006 and to communicate this position to the REACH competent authorities (European Commission, ECHA and national authorities) for their evaluation and response.

The Signatories of this Position Paper are: Euromines, the European Association of Mining Industries, Metal Ores and Industrial Minerals; ECGA, the European Association for Carbon and Graphite; and several manufacturers, importers and only representatives that have pre-registered Natural Graphite for safety reasons. They are listed in Attachment 1 to this Position Paper (List of Signatories).

The production process of the Natural Graphite covered by this Position Paper is as follows: Graphite is a naturally occurring mineral which is mined from graphite ores with various element C concentrations and afterwards floated (flotation process) to remove other mineral impurities to reach higher C contents. Afterwards, a chemical treatment of the impurities either by bases or acids is added in order to remove them and to obtain a C content with sufficiently high purity as end product. The removal of impurities using an acid treatment reduces to very low percentage the amount of mineral impurities that are mined with the graphite. The removal of such impurities, mainly silica (SiO<sub>2</sub>), results in a purer graphite substance free of any potential impurity that could be harmful to human health and the environment.

In all steps, no chemical reaction or modification of the graphite takes place which leaves its crystal structure totally unchanged. Only the impurities are reacted away. Due to a thorough washing procedure, neither soluble salts nor used acid or base additives remain in the treated graphite. Graphite is known to be chemically extremely inert and only reacts under very specific and extreme processing conditions with concentrated acids together with oxidants (which will be registered under a different EINECS number). Because such reagents are not used in the purification process, the final isolated substance is not chemically modified in whatever way.

**The Signatories are of the following position:**

- **Natural Graphite (EINECS 231-955-3, CAS 7782-42-5) is exempted from registration in accordance with Annex V No. 7 of Commission Regulation (EC) No 987/2008 of 8 October 2008 amending the REACH Regulation as regards Annexes IV and V, since it is a naturally occurring mineral and is not chemically modified.**
- **A chemical treatment of the mined graphite, namely with bases or acids, to remove impurities and by this achieve higher carbon contents (purification), where these bases or acids are completely removed from the final product, does not hinder the exemption, as long as the substance is not chemically modified in the sense of REACH Article 3 (40).**

This position is underpinned by the initial SIEF meeting for Graphite on 31 March 2009 in Brussels, held by ECGA, where the participants agreed on Natural Graphite to be exempted unless chemically modified according to Annex V. As a result of this SIEF meeting, a SIEF and Consortium has only been formed for Synthetic Graphite and Expanded (Natural) Graphite, both having the same EINECS number 231-955-3 as Natural Graphite. For not chemically modified forms of Natural Graphite, no SIEF has been formed and no registration dossier is being prepared to date.

There are sound legal arguments for the exemption of the aforementioned case of Natural Graphite in accordance with Annex V (7):

The purification step (i.e. chemical treatment of the impurities, namely with bases or acids, to remove these impurities) is covered by the definition of 'not chemically modified substance' in REACH Article 3 (40), which explicitly allows a chemical process or treatment to remove impurities. This possibility of removing impurities while preserving the exemption status cannot be undermined and rendered meaningless with regard to REACH Article 3 (39), where such a process is not mentioned.

In addition, it can be also argued that in the purification step only the impurity itself is chemically treated ("reacted away") in line with REACH Article 3 (40) and a process covered by REACH Article 3 (39) – here extraction with water – is then used to separate it out. Hence, one has not strayed outside either definition. This is consistent both with the spirit of the REACH Regulation and the juxtaposition of the two phrases.

**In order to have final clarity on the exemption status of purified Natural Graphite in the aforementioned case, the Signatories hereby ask the REACH competent authorities (European Commission, ECHA and national authorities) for their evaluation and response, which should be given in due time considering the approaching registration deadline of 30 November 2010.**

Sincerely yours,

On behalf of the Signatories



Tim Becker  
Legal Counsel  
REACHLaw Ltd.

Please send your answer to this Position Paper to the following contact address, preferably by e-mail:

REACHLaw Ltd. Mr Tim Becker, Legal Counsel			
Postal address	E-mail	Phone	Fax
HTC Keilaniemi Keilaranta 15 02150 Espoo Finland	<a href="mailto:tim.becker@reachlaw.fi">tim.becker@reachlaw.fi</a>	+358-40-773-8143	+358-9-412-3049

**Enclosed: List of Signatories of the REACH Exemption Position Paper for Natural Graphite (EINECS 231-955-3, CAS 7782-42-5) as Attachment 1**

**Attachment 1: List of Signatories of the REACH Exemption Position Paper for Natural Graphite (EINECS 231-955-3, CAS 7782-42-5) by 12 October 2009**

Signatory	Country	Role under REACH	Potential Registration Deadline (if applicable)
Euromines, the European Association of Mining Industries, Metal Ores and Industrial Minerals	Belgium	Industry Association	
ECGA, the European Association for Carbon and Graphite	Belgium	Industry Association	
Asbury Carbons, Inc	USA	Non-Community Manufacturer	30.11.2010 (Via OR: Kiralia S. L. Barcelona)
BiPRO GmbH	Germany	Only Representative	30.11.2010
Dominik Georg Luh Technogرافit GmbH	Germany	Importer	30.11.2010
Georg H. Luh GmbH	Germany	Importer	30.11.2010
Graphit Kropfmühl AG	Germany	Manufacturer	30.11.2010
Grafitbergbau Kaisersberg Ges.m.b.h	Austria	Manufacturer	30.11.2010
Hargreaves raw material services GmbH	Germany	Importer	30.11.2010
Laviosa Chimica Mineraria Spa	Italy	Manufacturer/Importer	30.11.2010
Nacional De Grafite Ltda	Brazil	Non-Community Manufacturer	30.11.2010 (via Only Representative)
NGS Naturgraphit GmbH	Germany	Importer	30.11.2010
Normag GmbH	Germany	Importer	30.11.2010
REACHLaw Ltd.	Finland	Only Representative	30.11.2010
Richard Anton KG	Germany	Importer	30.11.2010
Rio Tinto Alcan	UK, France	Manufacturer/Importer	30.11.2010

Schunk Kohlenstofftechnik GmbH	Germany	Manufacturer/Importer/Downstream User	30.11.2010
Skaland Graphite AS	Norway	Manufacturer	30.11.2010
Timcal Ltd	Switzerland	Non-Community Manufacturer	30.11.2010 (via Only Representative)
Vesuvius Group	Czech Republic, France, Germany, Italy, Netherlands, Poland, Spain, United Kingdom	Importer and/or Downstream User depending on legal entity	From 2010 to 2018 depending on legal entity
"Armex Trade" EOOD	Bulgaria	Importer	31.05.2013
CHINAREACH Service (Europe) Ltd.	UK	Only Representative	31.05.2013
INCA AB - International Carbide Technology	Sweden	Importer / Only Representative	31.05.2013
RHI AG	Austria	Importer	31.05.2013
SILCOREX SA	Romania	Importer	31.05.2013
AMR Refractarios S.A.u	Spain	Only Representative	31.05.2018
CCCMC EUROPE OY LTD	Finland	Only Representative	31.05.2018
Chemtura Europe Ltd	UK	Only Representative	31.05.2018
EURO-TRADE PHZ Golińscy Sp. J.	Poland	Importer	31.05.2018
MEGA Brands Europe NV	Belgium	Importer	31.05.2018
Nippon Graphite Industries Co Ltd	Japan	Non-Community Manufacturer via Only Representative (The REACH Centre Ltd, UK)	31.05.2018
Panacol-Elosol GmbH	Germany	Importer	31.05.2018
Refratechnik Cement GmbH	Germany	Importer	31.05.2018
Refratechnik Steel GmbH	Germany	Importer	31.05.2018
VWR International	Germany	Importer	31.05.2018