

Case report 01/2023: Producer failed to file declaration of completeness

Osnabrück, 31 March 2023

What is the reason for our case report?

Companies that place a lot of packaging on the German market together with their goods must submit a declaration of completeness about their packaging volumes to the Zentrale Stelle Verpackungsregister (Central Agency Packaging Register – ZSVR). These declarations of completeness must have been checked by an auditor and be filed no later than 15 May of any given year for the previous year. Every calendar year, a large number of the declarations that must be filed by law remain outstanding. That means that the companies involved are failing to meet their extended producer responsibility in whole or in part and are not observing legal requirements. Only producers below the thresholds set out in section 11 (4) VerpackG are exempt from the requirement to submit a declaration of completeness.

Producers must instruct an independent auditor to confirm their declaration of completeness. Applying the ZSVR's guidelines, this auditor checks whether the statutory requirements have been complied with – in particular full system participation for all packaging subject to system participation. Sometimes auditors discover cases where system participation has not been undertaken. The relevant company then has to cure the omission.

Many hundreds of producers located in Germany and abroad do not fulfil the statutory obligation or fail to do so on time, despite the fact that the obligation has existed for quite some time. As an example of similar cases, an individual suspected case is presented here.

What happened?

Declaration of completeness



A large food producer from the Netherlands that exports its goods to Germany did not fulfil its obligation to file a declaration of completeness. The producer placed significant quantities of packaging on the German market every year, but did not file a declaration of completeness with the ZSVR for the years 2020, 2019 and 2018.

The ZSVR reported its suspicion that multiple administrative offences had been committed to the responsible enforcement authorities in Germany, who then initiated administrative offence proceedings. At the same time, the producer was asked to submit declarations of completeness for the missing years.

The producer had to pay a fine of several thousand euros and submitted the outstanding declarations of completeness. The declaration of completeness for 2021 was subsequently filed on time in 2022.

Producers that do not independently fulfil their obligation on time are committing an administrative offence and face considerable additional costs. Not only do they still have to submit their declaration of completeness, they also have to pay a severe fine.

What are the grounds to suspect breaches of statutory packaging law obligations that are subject to a fine?

The obligation to submit a declaration of completeness for the previous year is triggered for companies when the volume of the packaging subject to system participation they placed on the German market in the previous calendar year meets or exceeds at least one of the following three thresholds:

- Glass: 80,000 kg
- Paper, paperboard, cardboard (PPC) in total: 50,000 kg
- Ferrous metals + aluminium + plastics + beverage cartons + other composites (lightweight packaging) in total: 30,000 kg

Roughly 6,300 large producers with very considerable packaging volumes are required to file. Producers are released from this obligation if their volumes do not meet the thresholds set out for the different types of packaging materials under section 11 VerpackG.

When a company has met or exceeded a DoC threshold but has not filed a declaration of completeness by the statutory filing date (generally 15 May for the previous year), this constitutes a specific ground to suspect an administrative offence. The relevant data set underlying suspected cases includes in particular the annual volumes reported in the LUCID Packaging Register by the producer and by one or more system(s) referencing this producer.

What are the repercussions?

The ZSVR informed the responsible state enforcement authorities about specific grounds to suspect that administrative offences have been committed. Possible repercussions of these administrative offences include the imposition of a fine and monitoring whether the declaration of completeness is eventually filed. Failing to file a declaration of completeness on time or at all is punishable with a fine of up to 100,000 euros per incident.

The ZSVR will report all producers not complying with the statutory obligation to file a declaration of completeness to enforcement authorities. Producers that place larger packaging volumes on the German market are urged to independently comply with the statutory obligation to file a declaration of completeness.

Read more

For further information about the system participation requirement and other obligations under the Verpackungsgesetz, please refer to <https://www.verpackungsregister.org/en/information-orientation/knowledge-base/check-do-the-requirements-apply-to-me>. Information on the declaration of completeness in particular can be found at <https://www.verpackungsregister.org/en/information-orientation/instructions-further-information/faq-index/category/09-what-is-the-process-for-submitting-a-declaration-of-completeness>.
