

REACH and penalty provisions

The REACH regulation is a European Community regulation and applies directly in EU member states and in the EES countries Norway, Iceland and Liechtenstein. However, penalty provisions for infringement of REACH are determined on a national level.

Sweden has national penalty provisions in the Environmental Code (1998:808), chapter 29. The supervisory authority shall report infringements of the provisions of this Code or rules issued in pursuance thereof to the police or public prosecution authorities where there are grounds for suspicion that an offence has been committed. According to the Environmental Code the sanctions for infringement of REACH are generally a fine or imprisonment for a maximum of two years.

The Environmental Code contains the following penalty provisions for infringement of REACH

Article in REACH	Infringement	Penalty
5,6, 7.1 or 7.5 6, 7.1, 7.5, 20.1, 22.1, 22.2, 40.4 or 40.2 12.2 or 22	<ul style="list-style-type: none"> • Manufacture or import of a substance either on its own or in one or several preparation(s) or a substance contained in an article, in quantities of one tonne or more per year and neglects to submit a registration to the Agency. • Submits incorrect information in a registration or in a document which completes a registration. • Neglects to update the registration with new information. 	<p>Fine or imprisonment for a maximum of two years.</p> <p>If the offence is serious, the penalty shall be a term of imprisonment of not less than six months or more than six years.</p>
31	<ul style="list-style-type: none"> • Neglects to provide the recipient of a substance or a preparation with a safety data sheet. • Submits incorrect or insufficient information in the safety data sheet. 	<p>Fine or imprisonment for a maximum of two years.</p> <p>No penalty shall be imposed if the negligence or the incorrect or insufficient information was not obstructing the risk assessment of the damage to human health or the environment.</p>

33	<ul style="list-style-type: none"> • Neglects to provide information about a substance contained in an article which is included in the candidate list. 	<p>Fine or imprisonment for a maximum of two years.¹</p> <p>No penalty shall be imposed if the negligence or the incorrect or insufficient information was not obstructing the risk assessment of the damage to human health or the environment.</p>
32, 34 or 36	<ul style="list-style-type: none"> • Neglects to communicate information down the supply chain or neglects to keep information. 	Fine
37.4 and 39.1	<ul style="list-style-type: none"> • Neglects to prepare a chemical safety report (downstream user).² 	Fine or imprisonment for a maximum of two years.
38, 39.2 and 66.1	<ul style="list-style-type: none"> • Neglects to report information to ECHA (downstream user). 	Fine or imprisonment for a maximum of two years.
56	<ul style="list-style-type: none"> • Uses or places a substance on the market which is included in Annex XIV without authorisation from the Commission. • Infringes a condition or a provision stated in the authorisation. 	Fine or imprisonment for a maximum of two years.
67	<ul style="list-style-type: none"> • Infringes a restriction to produce, place on the market or use a substance on its own in a preparation or in an article. 	Fine or imprisonment for a maximum of two years.

For the following infringement of REACH, an environmental sanction charge can be imposed according to the Environmental Sanction Charges Ordinance (1998:950)

Article in REACH	Infringement	Environmental sanction charge
31.5	Not supplying a safety data sheet in Swedish.	5 000 SEK

¹ It is only allowed to start a public prosecution if it is necessary from a public point of view.

² According to article 3.13 downstream user means any natural or legal person established within the Community who uses a substance, either on its own or in a preparation, in the course of his industrial or professional activities.