

Right to information about hazardous substances in articles

The REACH Regulation gives consumers and professional users the right to be informed if an article contains more than 0.1 per cent by weight of particularly hazardous substances. Such substances of very high concern, SVHC, are listed in the candidate list in accordance with the REACH Regulation. The candidate list includes substances that are carcinogenic, mutagenic and toxic for reproduction and which are harmful to the environment. The objective is to eventually phase out the use of substances on the candidate list.

Information about safe use of the article shall be provided by the supplier to recipients that are professional users and shall, as a minimum, contain the name of any substance that is on the candidate list. On request by a consumer, the corresponding information shall be provided to the consumer, free of charge, within 45 days. The provisions are stated in Article 33 of Regulation (EC) No 1907/2006, REACH.

In a guidance document published by the European Chemicals Agency, "Guidance on requirements for substances in articles", the interpretation is given that the question whether the 0.1 per cent limit in Article 33 is exceeded shall be determined by comparing the weight of the substance with the weight of the composite article in which the substance is contained. Sweden and five other EU states (Belgium, Denmark, France, Germany and Austria) support another interpretation, according to which the concentration shall be calculated by relating the weight of the substance to the weight of the individual part of the composite article that contains the substance. This part is what is defined as an "article" in Article 3.3 of REACH. A composite article can consist of many such individual parts or "articles".

According to this interpretation, an object fulfilling the definition of an "article" in REACH shall always be regarded as a separate article, covered by the information requirement in Article 33, irrespective of whether it is joined to another object to create a composite article or not.

The Swedish Chemicals Agency's evaluation of articles on the market

During the spring of 2010, the Swedish Chemicals Agency (KemI) analyzed sixteen articles to establish their content of harmful phthalates (plasticizers) and polyaromatic hydrocarbons (PAHs), namely shoes, handles of tools, bicycles and weights. One objective of the examination was to test Sweden's interpretation of the information requirement in Article 33 of REACH and to find out how the result varies depending on the interpretation applied.

The result of KemI's analyses shows that five of the fourteen articles contained the harmful phthalates DBP or DEHP in concentrations above 0.1 per cent, see the table below.

The choice of articles was made in order to investigate to what extent the information requirement is diluted when a composite article is considered, without justification as regards exposure or risk. An example of this is handles on metal objects, such as tools. A handle that has been joined with a tool means that a user will be exposed to the chemicals in the handle, irrespective of the weight of the composite article and irrespective of how the calculation is made of the concentration of the dangerous substances of the whole article.

Applying the interpretation in the guidance document referred to above would have as a result that no obligation would exist to inform professional users and consumers about the phthalates in the handles of the examined tools, despite the fact that there is exposure through them. The other interpretation of the requirement in Article 33 of Reach, supported by Sweden and five other Member States, would lead to an obligation to provide information to professional users and also to consumers that requested it.

KemI has contacted the concerned companies and required them to provide information about what facts their suppliers have given on the content of hazardous substances (SVHC) in the articles and what information they hand out to their customers.

Table: Analysed articles containing SVHC in concentrations above 0.1 per cent and which require information to customers.

Article	Analysed material	Concentration SVCH estimated from material	Concentration SVHC calculated from the whole article
Pincers	Black rubber handle	21 % DEHP ⇒ <i>Information requirement</i> 6.3 % DBP ⇒ <i>Information requirement</i>	1.1 % DEHP ⇒ <i>Information requirement</i> 0.3 % DBP ⇒ <i>Information requirement</i>
	Red rubber handle	22 % DEHP ⇒ <i>Information requirement</i> 6.3 % DBP ⇒ <i>Information requirement</i>	
Universal pliers	Black rubber handle	1.3 % DEHP ⇒ <i>Information requirement</i> 0.2 % DBP ⇒ <i>Information requirement</i>	0.1 % DEHP ⇒ <i>Information requirement</i> 0.02 % DBP ⇒ <i>No information requirement</i>
	Red rubber handle	1.6 % DEHP ⇒ <i>Information requirement</i> 0.2 % DBP ⇒ <i>Information requirement</i>	
Hammer	Handle	0.2 % DEHP ⇒ <i>Information requirement</i>	0.02 % DEHP ⇒ <i>No information requirement</i>
Rubber boot	Rubber outsole	0.23 % DBP ⇒ <i>Information requirement</i>	0.18 % DBP ⇒ <i>Information requirement</i>
Dumbbell	Rubber cover	40 % DEHP ⇒ <i>Information requirement</i>	2.8 per cent DEHP ⇒ <i>Information requirement</i>