

Swedish interpretation of the 0.1% limit for giving information according to Articles 7.2 and 33

According to Sweden's interpretation, which is based on the definition of "article" in Article 3.3¹ in REACH, an object that in a certain step in its life cycle has become an article, will normally remain an article until it eventually becomes waste after end use ("once an article, always an article")².

This includes articles incorporated into a "complex article" as parts, and implies that the 0.1% limit will apply equally to an article irrespective of if it is sold separately, e.g. as a "spare part", or if it already constitutes a part of a larger "complex" article.

Thus, in the case of a "complex article", the 0.1% limit must in principle be applied to any individual part that fulfills the definition of "article" in REACH, and any calculation of the concentration must relate to the weight of such an individual part and not to the whole complex article. Therefore:

- The obligation to notify ECHA according to Article 7.2 is triggered as soon as such individual parts - which fulfills the definition of "article" - contains 0.1% or more of a Candidate List SVHC, and the total amount of the SVHC in such parts is 1 ton or more per year for an importer or manufacturer.
- The obligation to provide information according to Article 33 is triggered as soon as such an individual part - which fulfills the definition of "article" - contains 0.1% or more of a Candidate List SVHC.

The Swedish enforcement authority will enforce Articles 7.2 and 33 according to this interpretation of the legal text, in a manner that is proportionate to the intentions behind the provisions.

Example of how to apply Article 33 and 7.2 according to the Swedish interpretation:

Belts consisting of a leather strap and a metallic buckle are imported to EU by a company who supplies these belts to the EU market. The company is thus both an importer and a supplier.

Preconditions:

1. A substance known as a SVHC on the candidate list is contained in the buckle in a concentration of 0.2 % weight by weight, i.e. above the limit of $\geq 0.1\%$.
2. The total amount of the SVHC contained in buckles is 1.5 ton per year for that importer, i.e. above the limit of ≥ 1 ton.

The company shall:

- In its role as an importer notify ECHA on the presence of the SVHC in the belts (in accordance with Art. 7.2, and because of preconditions 1 and 2)
- In its role as a supplier provide recipients, and on request consumers, with sufficient information, available to the supplier, to allow safe use of the belts including, as a minimum, the name of the SVHC (in accordance with Art. 33, and because of precondition 1.)

Remark: That the average concentration in the whole belt though it is below the 0.1% limit has no relevance for the application of Art. 33 and 7.2 with this interpretation.

¹ Article 3.3 in Reach reads: "An article is an object which during production is given a special shape, surface, or design which determines its function to a larger degree than does its chemical composition"

² The interpretation "once an article, always an article" is shared by Austria, Belgium, Denmark, France, Germany, and Norway. Thus, ECHA's Guidance on Substances in Articles refers to and link to the protocol from the 6th meeting of the Competent Authorities for REACH and CLP (CARACAL) where the interpretation was presented. In the protocol, there is a link to the presentation.