



## Duties of Batteries Importers under REACH

This position paper summarizes the most recent information relative to the impact of requirements under of REACH<sup>1</sup> for Batteries Importers.

It covers three items.

1. The definition of Batteries as "**articles**" under REACH.
2. Importers of Batteries are subject to Article 7 § 2 of REACH relative to **articles**.
3. Information Communication by Importers of Batteries according to Article 33.

### 1. BATTERIES = "articles" under REACH

In May 2008, the European Chemicals Agency (EChA) published the final "Guidance on requirements for substances in articles"<sup>2</sup> "with the objective of supplying Guidance for the implementation of REACH". This Guidance Document delivers clarification on the definition of batteries under REACH and it confirms that Batteries are considered as "**articles**"<sup>3</sup>.

### 2. DUTIES FOR IMPORTERS OF ARTICLES.

Importers of articles (that are not intended to release their substance during normal and foreseeable conditions of use) such as batteries have to fulfil the requirements described in Article 7 § 2 of REACH.

#### 2.1. Notification of Substance of Very High Concern (SVHC).

In particular they are subject to a notification procedure to EChA of any substance contained in the battery when this substance is considered as a Substance of Very High Concern and when it is mentioned on the candidate list of substances subject to Authorization according to Article 58 of REACH.

***The notification of the substance to the ECHA needs to be done within six months after its introduction on the candidate list but not before June 1, 2011.***

This list of substances will be published by EChA before June 2009.

Such a notification requirement applies to substances imported in quantity superior to 1.0 Tonne / year (per importer and per country) and in a concentration superior to 0.1 % by weight within the article (NB. Refer to Figure 1 below for the description of "**article**").

In the case of incorporated batteries, it is necessary to consider the total weight of the Equipment in which the battery is incorporated as a basis for the calculation of the composition ratio of substances contained in the imported article (equipment + battery).

There is no need for notification of substances that are already registered.

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<sup>1</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

<sup>2</sup> [http://reach.jrc.it/docs/guidance\\_document/articles\\_en.htm](http://reach.jrc.it/docs/guidance_document/articles_en.htm)

<sup>3</sup> Reference 2, Table 5 (p73) and Appendix 2 (Borderline Case Analysis : Batteries (p 80)).



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### 2.3. Registration of substances in articles under Article 7 § 2 of REACH.

The Agency may take decisions requiring producers or importers of articles to submit a registration, in accordance with this Title, for any substance in those articles, if all the following conditions are met:

- (a) the notified substance has not been registered for the battery application,
- (b) the substance is present in those articles in quantities totalling over one tonne per producer or importer per year,
- (c) the Agency has grounds for suspecting that:
  - (i) the substance is released from the articles, and
  - (ii) the release of the substance from the articles presents a risk to human health or the environment;

### 3. COMMUNICATION of INFORMATION down the SUPPLY CHAIN under REACH.

The following rules will only apply *during the first half of 2009 immediately after the publication<sup>4</sup> of the list of substances* concerned by Article 59 (1) by the new European Chemical Agency (EChA). NB These rules apply immediately and are not subject to the time delay proposed for the notification (Refer to § 2.1. above).

According to Article 33 of REACH Regulation 1907/2006, any supplier of an article (such as a battery) containing a substance of very high concern which meets the criteria of Article 57 and is identified in accordance with Article 59 (1) in a concentration above 0.1 % by weight in the article (the battery), shall provide the recipient of the battery with sufficient information, available to the supplier, to allow safe use of the battery including as a minimum, the name of that substance. Such information should consider the entire life cycle of the **battery**.

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**Figure 1. The concept of "article" under REACH**  
(illustrative examples / non exhaustive).

#### CELLS & PACKS



1 cell = 1 article  
&  
1 pack = 1 article

#### INCORPORATED CELLS & PACKS



1 LapTop = 1 article

<sup>4</sup> The list of substances falling under Article 59 (1) will only be published during the first half of 2009. Therefore, until the date of publication of this list of substances, there is no obligation under REACH for communicating to recipients of batteries about the nature of their content beyond the voluntary information that is currently communicated by major batteries companies under e.g. Materials Safety Data Sheets.