

EPBA Statement on Batteries as Articles under REACH

2 October 2008

Batteries are considered articles under REACH (RIP 3.8)¹ – “an object which during production is given a special shape, surface or design which determines its function to a greater degree than its chemical composition”. Articles, and therefore batteries, are only subject to REACH if they contain substances of very high concern as explained below.

Specific rules apply for substances of very high concern in articles according to the regulation. Manufacturers and importers of articles containing such substances that are not intended to be released during normal and foreseeable conditions of use have to fulfil the requirements described in Articles 7 § 2 (**notification**) and 33 (**communication** to the recipient of the article/consumer) of REACH.

These two requirements will only apply to substances of very high concern (SVHC) in articles and which will be found in the candidate list for inclusion in Annex XIV of the regulation by the European Chemicals Agency – ECHA, expected by the end of 2008. Additionally, the requirements apply to substances in quantity greater than 1 tonne per producer or importer per year and in a concentration greater than 0.1 % by weight within the article. Article 33 applies to any article with concentration of SVHC > 0.1% without limitation on the tonnage band. 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). For producers of batteries the calculation should be made on the basis of the weight of the battery alone.

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. There is no need for notification of substances that are already registered. It is therefore crucial that producers of articles inform the registrants of the substances they buy on their use in batteries.

The *communication* requirement in Article 33 demands that any supplier of an article containing substances of very high concern > 0.1% by weight shall provide the recipient of the battery with sufficient information to allow safe use of the battery including as a minimum, the name of that substance, considering the entire life cycle of the battery. This rule applies immediately after the inclusion of a substance in the candidate list, a first version of which should be published by ECHA by the end of 2008.

In conclusion, whether the requirements of REACH apply to batteries as articles can only be finally determined once the ECHA publishes the candidate list for inclusion in Annex XIV, which is expected by the end of 2008. Therefore, this notice will be updated after publication of the candidate list.

¹ Guidance on requirements for substances in articles, http://reach.jrc.it/docs/guidance_document/articles_en.pdf