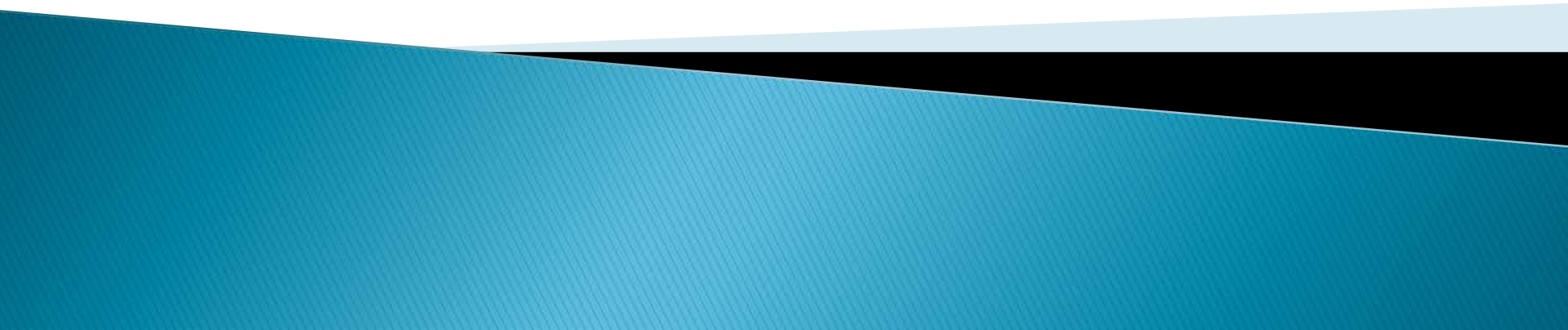
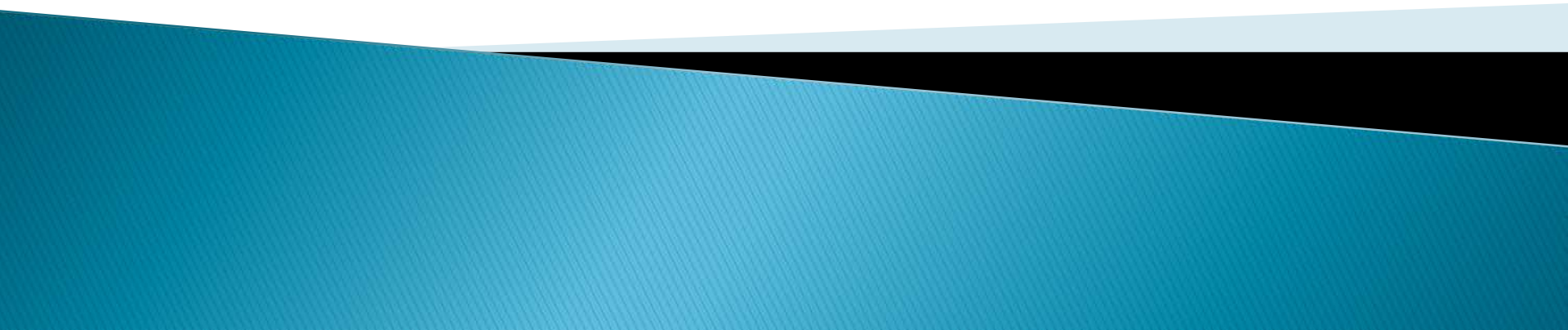


Further options to improve information and communication on articles containing SVHC

Andreas Hermann, Dirk Bunke (Öko-Institut)



3 further options

1. **Standardised communication format for articles**
Communication duties according to REACH Art. 33
 2. **Information requirements for a registered use:**
Registration and notification obligations accord. to Art. 7
 3. **Labelling obligations for articles containing SVHC**
- 

Part 1:

Communication duties – REACH Art. 33

Article 33

Duty to communicate information on substances in articles

1. Any supplier of an article containing a substance meeting the criteria in Article 57 and identified in accordance with Article 59(1) in a concentration above 0,1 % weight by weight (w/w) shall provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article including, as a minimum, the name of that substance.

Art. 33 Communication: present situation / 1

- ▶ No details within the legal text regarding the information which has to be exchanged
- ▶ „Minimal communication“, not sufficient to calculate the total amount, to ensure „safe use“ and to support substitution
 - „Article contains DEHP“.
 - „Article contains no Candidate Substances“
- ▶ No information about exact content
- ▶ No advice on safe use

Art. 33 Communication: present situation / 2

- ▶ Lack of administrative framework: in general no systematic gathering and analysis of information in purchased raw materials
- ▶ Inadequate reliability of information
- ▶ Standardised communication format only for substances and mixtures (Safety data sheet)
- ▶ No standardised communication format for articles

Option: Introduction of a standardised communication format for articles

- ▶ Support for the exchange of sufficient information on SVHC
- ▶ No extension of duties, only specification
- ▶ Not comparable to safety data sheet for substances and mixtures, because less comprehensive
- ▶ Modular approach: add-on for existing systems
- ▶ for Art. 33.1 supply chain communication
- ▶ for Art. 33.2 communication to consumers, on request

Items to communicate

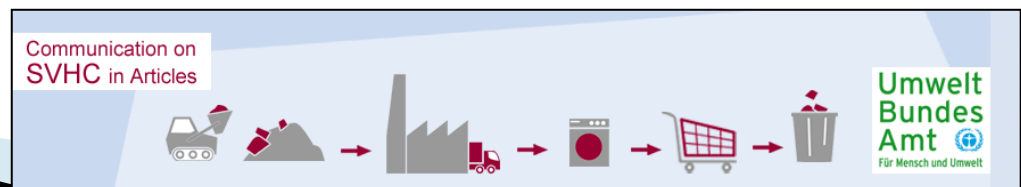
- ▶ Information: SVHC yes / no
- ▶ Name + CAS-Number
- ▶ Hazard properties
- ▶ Concentration and Location
- ▶ Instructions for safe use
- ▶ Instructions for safe disposal

Ready-to-use proposal for a template: already available – see printout.

- ▶ Template: [contact Johanna Wurbs \(johanna.wurbs@uba.de\)](mailto:johanna.wurbs@uba.de)

<http://www.umweltbundesamt.de/en/topics/economics-consumption/products/building-products/eu-law-for-construction-products/format-for-the-mandatory-designation-of>

- ▶ UBA R&D Project, Supply chain communication on SVHC in articles, contact: Christopher Blum (christopher.blum@uba.de) <http://svhc-in-articles-communication.de/index.php?id=web-tool>



Template	Data to be filled in by the manufacturer (here exemplary)
Substance information	
Substance name ^{a)}	Hexabromocyclododecane (HBCDD)
EC Number	247-148-4, 221-695-9
CAS Number	25637-99-4, 3194-55-6
SVHC property or properties in accordance with REACH regulation ^{b)}	PBT (article 57d of REACH)
Classification in accordance with CLP regulation ^{c)}	Repr. 2 (H361); Lact. (H362); Aquatic Acute 1 (H400); Aquatic Chronic 1 (H410)
Concentration ^{d)} in product or its part ^{e)}	0,7 % w/w in whole product
Amount in product ^{f)}	210 g/m ³
Function of the substance	Flame retardant
Instructions for safe use (here exemplary; information to be added when needed)	
Avoid direct contact with water through encased mounting.	
When cutting and processing the product at the construction site, avoid temperatures over 200°C and release of particles from the product.	
Instructions for safe disposal (here exemplary)	
Construction waste that is produced as cutting scrap on the building site to be collected separately and disposed of professionally.	
Incineration in waste incineration plants according to the state-of-the-art	

Template	Daten vom Hersteller / Lieferanten einzugeben (hier beispielhaft)
Stoffinformationen	
Stoffname ^{a)}	Hexabromocyclododecane (HBCDD)
EC Nummer	247-148-4, 221-695-9
CAS Nummer	25637-99-4, 3194-55-6
SVHC Eigenschaft(en) in Übereinstimmung mit der REACH-Verordnung ^{b)}	PBT (Article 57d von REACH)
Einstufung entsprechend der CLP-Verordnung ^{c)}	Repr. 2 (H361); Lact. (H362); Aquatic Acute 1 (H400); Aquatic Chronic 1 (H410)
Konzentration ^{d)} im Produkt oder in einem bestimmten Teil des Produkts ^{e)}	0,7 % w/w im gesamten Produkt
Menge im Produkt ^{f)}	210 g/m ³
Funktion des Stoffes	Flammschutzmittel
Hinweise zur sicheren Verwendung (hier beispielhaft; bei Bedarf zu ergänzen)	
Der Direktkontakt mit Wasser ist durch eingekapselten Einbau zu vermeiden.	
Bei der Verarbeitung sind Temperaturen über 200°C und Freisetzung von Partikeln aus dem Produkt zu meiden.	
Hinweise zur sicheren Entsorgung (hier beispielhaft)	
Bauabfälle, welche als Verschnitt auf der Baustelle anfallen, sind getrennt zu sammeln und fachgerecht zu entsorgen.	
Entsorgung in Abfallverbrennungsanlagen, die dem Stand der Technik entsprechen.	
Quelle: Umweltbundesamt, mit Änderungen	

Option: Introduction of a standardised communication format for articles

Benefits

- ▶ Effective support of existing duties
- ▶ Standardisation of communication
- ▶ Integration into existing communication systems
- ▶ Support of faster response to information request

Option: Introduction of a standardised communication format for articles

- ▶ Legal option: implement a new Annex XVIII
- ▶ Amendment covered by the current legal content of Art. 33
- ▶ Proposal already published! Available in E and DE
- ▶ Further option: requirement for suppliers to answer information request even if no SVHC present

Part 2:

Information requirements for a registered use

Registration and notification obligations according to Art. 7.

Registration and notification obligations ac. to Art. 7

REACH Art. 7(1): Registration by producer of articles

REACH Art. 7(2): Notification by producer of articles

2. Any producer or importer of articles shall notify the Agency, in accordance with paragraph 4 of this Article, if a substance meets the criteria in Article 57 and is identified in accordance with Article 59(1), if both the following conditions are met:
 - (a) the substance is present in those articles in quantities totalling over 1 tonne per producer or importer per year;
 - (b) the substance is present in those articles above a concentration of 0,1 % weight by weight (w/w).

Registration and notification obligations ac. to Art. 7

- ▶ **Art. 7.3: No exposure? Supply appropriate instructions...**

3. Paragraph 2 shall not apply where the producer or importer can exclude exposure to humans or the environment during normal or reasonably foreseeable conditions of use including disposal. In such cases, the producer or importer shall supply appropriate instructions to the recipient of the article.

- ▶ ...standardised information format could be used for this purpose!

Registration and notification obligations ac. to Art. 7

REACH Art. 7(6): No duties – if already registered by producer of the substance!

6. Paragraphs 1 to 5 shall not apply to substances that have already been registered for that use.

Clarification need: „...that have already been registered for that use....“

How to assess for the producer of the article?

Which information **is** needed to decide whether a use has already been registered?

- ▶ Same substance
- ▶ Type of article
- ▶ Quantity of SVHC contained
- ▶ Material specific migration and release rates
- ▶ Emission pattern over time
- ▶ Exposure potential

Where to give information on registered uses? How to find them?

- ▶ Requirements to inform about the use of a substance:
- ▶ REACH Art. 10 (a) (iiii), r. Annex VI, section 3.5
- ▶ Technical dossier /
- ▶ chemical safety report section 2

Only short description of the uses (UDS)

- ▶ Detailed information: exposure scenarios, chemical safety report, section 9
- ▶ Communication of relevant information with extended safety data sheet (annexes or chapter 1– 16)

Where to give information on registered uses? How to find them?

- ▶ State of the art: no detailed description of uses in articles
- ▶ Unsufficient information to decide whether use is registered or not , often only information from the Use Descriptor System
- ▶ Example Shampoo, plastic bottle, information needed:
 - material of bottle
 - amount of softeners in the material
 - migration rate into shampoo
 - exposure of consumers

Option 2:

Clarification of the information requirements for registration of use in an article

- ▶ Specification of information in Annex VI and Annex I
- ▶ Clarification: following data have to be given and have to be communicated:

Type of article

Quantity of SVHC contained

Material specific migration and release rates

Emission pattern over time

Exposure potential

- ▶ Priority item within dossier evaluation

Option 2:

Clarification of the information requirements for registration of use in an article

Benefits

- ▶ Improvement of exposure scenarios for substances used in articles (not only for SVHC)
- ▶ Improvement of protection of workers, consumers, environment
- ▶ Support of article producers to assess whether use has already been registered

Option 3: Labelling obligation for articles containing SVHC

Option 3:

Labelling obligations for articles containing SVHC

Background:

- ▶ Present information duties (Art. 33 (2)) do not efficiently serve need for information of consumers.
- ▶ No labelling requirements for SVHC in articles exist.

Aim:

- ▶ Information: SVHC is present in a concrete article.
- ▶ Regarding parts/components for industrial users and final article for consumers.
- ▶ Enable downstream users and consumers to avoid exposure with SVHC.

Option 3:

Labelling obligations for articles containing SVHC

Options to implement labelling duties:

1) In existing product specific regulations:

- ▶ No general product regulation
- ▶ Which are the relevant product groups – regulatory gap?

2) In CLP Regulation:

- ▶ No general „SVHC“-label, but C&L criteria for CMR.
- ▶ C&L for PBT and vPvB are so far not regulated and need international harmonisation.

Option 3:

Labelling obligations for articles containing SVHC

Options to implement labelling duties:

3) In Art. 33 REACH:

- ▶ Substances in articles on the interface of substance-regulation and product regulation.
- ▶ REACH already contains regulation for SVHC in articles and criteria to identify PBT and vPvB.
- ▶ Labelling is triggered by inclusion of SVHC on the Candidate List.

Option 3:

Labelling obligations for articles containing SVHC

Compatible with TBT:

- ▶ A technical regulation (Art. 1.2/ Annex 1 No. 1 TBT).
- ▶ Imported and domestic SVHC-products are like products.
- ▶ Even if they are not like products, obligatory labelling does not violate Art. 2.1 TBT (MFN), because labelling applies equally.

Option 3:

Labelling obligations for articles containing SVHC

Compatible with TBT:

- ▶ Not a unnecessary obstacle to international trade under Art. 2.2 TBT.
- ▶ Serves the legitimate objective to „protect human health and the environment“ and is necessary to fulfill these objectives.
- ▶ Art. 33 REACH is not equally suitable to inform recipients & consumers).

Option 3:

Labelling obligations for articles containing SVHC

Compatible with Freedom to conduct a business
(Art. 16 CFR – Charter of Fundamental Rights of the EU):

- ▶ Labelling as a description and presentation of products is an intervention (cf. ECJ C-306/93).
- ▶ Justified by legitimate objectives „protection of environment“ and „health protection“ (cf. Art. 35 CFR).
- ▶ Less restrictive measure than a registry or ban for SVHC-articles and is not disproportionate.

Back up slides

Registration and notification obligations ac. to Art. 7

REACH Art. 7(1): Registration by producer of articles

Article 7

Registration and notification of substances in articles

1. Any producer or importer of articles shall submit a registration to the Agency for any substance contained in those articles, if both the following conditions are met:
 - (a) the substance is present in those articles in quantities totalling over 1 tonne per producer or importer per year;
 - (b) the substance is intended to be released under normal or reasonably foreseeable conditions of use.