

EXAMPLE for information letter to recipients according to REACH Regulation, Article 33(1)

[Producer ABC Ltd
Address]

To:

[Customer XYZ Ltd
Address]

1

[Date]

Re: Information in relation to REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) – in short ‘REACH Regulation’

Dear customer,

REACH Regulation states in Article 33 that any supplier of an article containing a substance being included in *REACH Regulation’s* so-called *Candidate List of Substances of Very High Concern for authorisation* (in short ‘*Candidate List of SVHC*’) in a concentration above 0.1 % weight by weight (w/w) shall provide the recipient respectively the consumer of the article with relevant information.

2

On June 27th, 2018 the heavy metal lead (Pb) was added to this *Candidate List of SVHC*.

The substance identity numbers of lead are:

CAS no.: 7439-92-1

EC / List no.: 231-100-4

3

In accordance with *REACH Regulation*, Article 33, and to the best of our knowledge based on information received from our suppliers and our own product data we herewith inform you that we supply certain products of which components – or the products themselves – contain lead as a minor addition to the alloy they are made of. The relevant products are listed in the Attachment A to this letter.

4

As a courtesy, we would like to draw your attention to the fact that the duty to communicate information on substances in articles under *REACH Regulation*, Article 33 applies to all suppliers in the supply chain (e.g. producers, wholesalers, retailers, installers, locksmiths, carpenters, etc.). In case you as a supplier would wish to obtain further information on this duty, please refer e.g. to the website of the *European Chemicals Agency (ECHA)*, which is an agency of the *European Union* (www.echa.europa.eu – see section SUPPORT).

5

In case of any queries concerning this information letter please don’t hesitate in contacting us: [email address]

Yours

[Producer ABC Ltd]

Attachment A

Products of which components – or the products themselves – contain lead as a minor addition to an alloy:

Mortice Locks (Series 123 – 456)

6

Cylinders (Series 234 – 567)

Window tilt & turn furniture (Series 345 – 678)

...

...

...

Comments to this example for an information letter to recipients:

1

It is recommended to keep evidence that a specific customer (*'recipient'*) has received the information letter and when this information was provided. There is no specific format and way of transmission defined. The information letter can be sent by post, by e-mail or by facsimile.

In case a supplier opts for not addressing a specific customer in the letter (e.g. by just writing 'to whom it may concern' or 'dear customer'), evidence to which customer the information letter was submitted, and when, should be kept.

The information letter has to be submitted to a customer only once. It is not required to attach it to e.g. every delivery or invoice. It has to be noted, that in case that a change in the composition of the relevant component or product has taken place in relation to the content of lead, a new information letter has to be provided. ARGE as an industry association recommends having a pragmatic approach towards this obligation.

2

It is important to understand that the concentration threshold of 0.1 % weight by weight (w/w) does not consider the weight of the whole product (when consisting of more than one component a product is regarded as a so-called *'complex object'*) but concerns each individual component (*'article'*). Hence, if at least one component of e.g. a lock contains lead in a concentration above 0.1 % weight by weight (w/w), the duty to provide information according to *REACH Regulation*, Article 33 applies.

In the *REACH Regulation* the term *'recipient'* is defined in Article 3(35) as follows: *'Recipient of an article: means an industrial or professional user, or a distributor, being supplied with an article but does not include consumers.'* Consequently, also e.g. public authorities, health care institutions, etc are *'recipients'*. The term *'consumer'* is not defined in the *REACH Regulation*, but in interpretation of the *Council Directive 93/13/EEC* one can assume that all customers who are not *'recipients'* are *'consumers'*. *'Consumers'* are, colloquially speaking, private end-users.

Whilst *'recipients'* have to be provided with an information letter pro-actively, information to *'consumers'* is required upon their request only (within 45 days). Further guidance concerning *'recipients'* and *'consumers'* can be found in the document *'ARGE Recommendation concerning the heavy metal lead (Pb) being on REACH's Candidate List of Substances of Very High Concern (SVHC)'*.

3

In order to refer unambiguously to lead (Pb) as included in *REACH Regulation's Candidate List of SVHC*, the CAS no. and potentially also the EC / List no. of lead should be stated in the information letter.

REACH Regulation Article 33 states that a *'supplier ... 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.'* When drafting this recommendation for an information letter, ARGE was assuming that no such specific *'information to allow safe use of the article'* is available to a supplier of building hardware products issuing such an information letter. Hence, the only reference was made to the minimum information content required, namely the name of the substance. In case that – as assumed – a supplier does not possess such *'information to allow safe use of the article'*, this should be documented, by e.g. a brief internal memo.

4

As the *REACH Regulation* refers to *'the article'* when outlining the *'duty to communicate information'*, it could be assumed that for each component of a building hardware product for which this duty applies such an information letter should be provided. As this would be unfeasible for the building hardware business, it is recommended that the relevant product lines, described as precisely as possible, are listed in an attachment.

Information on the concentration (in % weight by weight) of lead in the respective alloy(s) used for the components or the products is not required.

5 The ‘*duty to communicate information*’ concerns not only the producer and importer of an article, but all suppliers in the supply chain. As a matter of courtesy, a producer of building hardware products might wish to draw the attention of their customers who are ‘*recipients*’ of the articles to fact that they – the ‘*recipients*’ – have the same ‘*duty to communicate information*’ as the ‘*producer*’ and ‘*importer*’ has. Obviously, informing ‘*recipients*’ about their duty as included in the example for the information letter is not necessary and the respective paragraph can be omitted.

There might be few cases where producers of building hardware products sell to a ‘*consumer*’ (private end-user) directly. As stated under [2] such an information letter has to be provided to a ‘*consumer*’ upon request only. For informing ‘*consumers*’ the same information letter can be used as shown in the example, whereby the paragraph informing about the duty of ‘*recipients*’ has to be omitted in order to avoid confusion.

6 The list of products should be as descriptive as possible. It should allow clear identification whether a specific product of a supplier is included in the list or not.

Comment on information letters in other languages

When translating the example for an information letter or when preparing an information letter in another language it should be considered that some terms used in this information letter are terms as defined in the *REACH Regulation*. The *REACH Regulation* is available on EUR-Lex’ website in 23 out of the 24 official languages of the European Union:
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1907>

DISCLAIMER

This document contains recommendations, explaining obligations of the *REACH Regulation* for the Building Hardware Industry and how to fulfil them. It is offered in good faith and reflects ARGE’s knowledge on this subject at the time of its publication. However, users of this document are reminded that the text of the *REACH Regulation* is the only authentic legal reference and that a binding interpretation of EU legislation is the exclusive competence of the European Court of Justice. Therefore, the information and guidance in this document are in no way legally binding.

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Document ‘ARGE Recommendation REACH – lead (Pb) – Information letter with comments – v_1’

19th December 2018