

Health and Safety Executive Board		Paper No: HSE/09/89	
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Chief Executive's Report to the Board			

International Atomic Energy Agency (IAEA) International Regulatory Review Mission to UK

1. From 5 to 13 October HSE's Nuclear Directorate (ND) hosted the second in a series of four IAEA International Regulatory Review Service (IRRS) peer review missions to the UK. An IRRS mission offers a unique opportunity for international benchmarking by very experienced nuclear regulators from other countries. The first modular IRRS mission to the UK took place in 2006 and was principally focused on HSE's capability to regulate potential new reactor build. The IAEA team's report of that mission was put in the public domain along with HSE's response. Such reviews are conducted against IAEA Safety Standards and nearly all major nuclear power countries have been subjected to them.
2. This second mission considered:
 - significant developments since the first mission;
 - general regulation of operating power plants and fuel cycle facilities;
 - a wider scope than the first mission that includes inspection and enforcement, and emergency preparedness and response;
 - ND's move to a Statutory Corporation (one reviewer, the Chief Regulator of the Swiss nuclear regulatory authority, has recently completed a similar change);
 - progress in addressing the IAEA findings from 2006.
3. ND undertook a detailed self-assessment in accordance with the arrangements for countries to prepare for such reviews. The results of that self-assessment and the advice coming from the IAEA's review are being fed into the programme for ND's transition into statutory corporation status. We will advise the Board of the outcome of the IAEA review

Callaghan Review - Implementation of Single Regulatory Framework for Work With Human and Animal Pathogens

4. The Callaghan Review recommended that HSE become the single regulatory body for work with human and animal pathogens, which is currently regulated by three separate sets of legislation: Genetically Modified Organisms (Contained Use) Regulations, Specified Animal Pathogens Order (SAPO) and Control of Substances Hazardous to Health 2002. The current licensing regime under the SAPO falls within the competence of the Devolved Administrations and specific arrangements are needed to ensure that HSE have the vires to make new GB-wide regulations for animal pathogens through the implementation of the single regulatory framework. The original intention was that Scotland would formally transfer back to Westminster the power in the Animal Health Act 1981 that allows them to make such orders. Scotland recently proposed that their ministers

should retain their ability to make secondary legislation in relation to contained use of animal pathogens even though the functions are conferred on Westminster Ministers by the amendments to Health and Safety at Work Act proposed in the Legislative Reform Order.

5. This proposed approach presents an alternative solution for progressing the implementation of a GB single regulatory framework for the regulation of human and animal pathogens. This approach has been ratified with Defra and GB Devolved Administrations and will be proceeded with.

Striking the Balance Between Operational and Health and Safety Duties in the Police Service

6. The statement was launched on October 7 at an ACPO Cabinet meeting by Judith Hackitt, Sir Hugh Orde, President of the Association of Chief Police Officers and Peter Fahy, Chief Constable of Greater Manchester and Head of the ACPO Workforce Development Group. It has been endorsed by ACPO, the Association of Chief Police Officers in Scotland (ACPOS), the Association of Police Authorities, the Police Superintendents' Association, the Police Federation and the National Policing Improvement Agency.
7. HSE, ACPO and ACPOS issued a joint press release following the launch and the vast majority of media coverage of the event consisted of largely balanced reporting, with the exception of one newspaper.
8. A copy of the statement has been sent to all Chief Constables and the Chairs of all Police Authorities. Work has already begun on guidance to underpin the statement and ACPO has provided police officer resource to work with HSE to produce this material.

Outbreak of *E. coli* 0157

9. HSE has been supporting the Health Protection Agency in dealing with by far the biggest outbreak of *E. coli* 0157 in the UK and the wider implications. The outbreak at Godstone Farm is still being investigated by the HPA and Local Authority, as are other 'open farms' in Surrey, Devon, Nottinghamshire and North Yorkshire. These are primarily visitor attractions whose purpose is to facilitate direct contact between members of the public and a range of farm animals, rather than commercial working farms, and as such the Local Authorities have enforcement responsibility under health and safety legislation [the Health and Safety (Enforcing Authority) Regulations 1998] for compliance with current HSE guidance [Agriculture Information Sheet 23 (rev) and teachers supplement (AIS23)]. The investigations have resulted in the voluntary closure to the public of a number of the premises.
10. The HPA recommended to LACORS that all local authorities in Great Britain should inspect open/petting farms within their boundaries. The HPA considered that this was important both to protect public health and ensure public confidence. HSE agreed to extend this programme to include visits to those few working farms which, as a minor or secondary activity, also attract members of the public to have direct contact with the animals; such activities fall to HSE's enforcement responsibility.

11. HSE is currently represented on the Outbreak Control Team (OCT) into the outbreak at Godstone Farm in Surrey and is working with the HPA and LACORS at a strategic level through a Joint Working Group to monitor developments, maintain oversight of the wider actions, and facilitate progress. HSE's Agriculture & Food Sector and Biological Agents Unit have worked together to prepare and present a paper to the ACDP meeting on 13 October as the basis for a formal review of AIS23 requested by the HPA. AIS23 is the information sheet which provides guidance to dutyholders on risks and control measures with respect to *E. coli* on open farms. The Sector, FOD and LACORS are collaborating to issue practical (including enforcement) guidance to FOD and LA inspectors.

Advertising Standards Authority upholds a complaint in relation to asbestos awareness campaign

12. HSE has now formally submitted a request for an independent review of the ASA decision which was reported to the Board at its last meeting. An application for review can be requested on two grounds:- that additional relevant evidence has come to light that was available at the time that the commercial appeared but could not reasonably have been submitted in the course of the investigation and/or there has been a substantial flaw in the adjudication or in the process by which that adjudication was made.

13. HSE's campaigning work to raise awareness of the dangers of asbestos will continue as planned with the re-launch of the campaign on 2 November. This will involve national and regional advertising, PR and stakeholder involvement. The figures used in the adverts, which have been updated using the most current data available, will be qualified as requested by the ASA through the use of such terms as 'approximately' and 'on average'. The RACC, the copy clearance body for UK commercial radio, will not authorise our adverts for clearance without these 'qualifiers' at the current time.

Meeting with UKLPG

14. On 9 October colleagues and I met with Board level representatives of the UKLPG industry to discuss progress with the buried metallic pipework replacement programme and associated work. The industry explained that they have already started a number of replacement projects and also set out their plans to obtain further data from their clients. We agreed the principles and process by which the industry would provide detailed customer data to HSE. These workstreams will underpin the next 3 month phase of the pipework replacement plan - the development of a more accurate assessment of the overall risk from corroded pipework, and the associated prioritisation and completion of more replacement work. It will also inform the delivery of the complimentary HSE/LA inspection campaign. We agreed to meet again in December.

Consultation on the Restructuring of HSE's Nuclear Directorate (ND)

15. The Government's proposals for restructuring ND to establish a Nuclear Statutory Corporation were published in a joint DECC/DWP consultative document in June 2009 and the consultative period ended on 22 September. Officials of those Departments advise us that some 50 responses were received containing the

views of nuclear licensees, individuals, professional associations, trade unions and non-governmental organisations. An initial assessment suggests that the majority of respondents were broadly supportive of the proposals, although some were opposed to it. Work is continuing on a detailed analysis of the responses, with a view to the Government publishing a considered report on the results of the consultation in due course.

HSE Live 2009

16. An internal exhibition showcasing HSE's work took place on 14 and 15 October organised by HSE's "Better...Together" team. This is part of HSE's work to develop a more collaborative organisation that routinely shares knowledge, best practice and successes and is one of our goals in the HSE Business Plan for 2009/10. 46 exhibition stands lined both sides of the Street in Redgrave Court. Every Directorate and many Divisions in HSE took part to showcase their work. Representatives from all parts of HSE across the country also attended – either helping to run the stands or as visitors to the exhibition. I am grateful to Board members who gave up time to attend.
17. Feedback from attendees has been extremely positive. The "Better...Together" team will be carrying out a full evaluation over the next few weeks.

GEOFFREY PODGER

Operations

Fatality Details

Following a recommendation made by the Information Commissioner, HSE extended its policy to include the names of the deceased and additional details on these fatal incidents on our webpages. Accordingly, since 1 April 2009, the names of the deceased plus additional details may be viewed at:

<http://www.hse.gov.uk/foi/fatalities/in-year-names.htm>.

To ensure that details are not released prior to inquest, HSE delays publication until at least one month from the date of notification to HSE has elapsed. Occasionally owing to a period of latency between an accident being reported and the death of the injured person, details of incidents that occurred prior to the current reporting period may be included in the statistics.

Since the last update to the HSE Board, 13 fatal accidents reported to HSE under RIDDOR were published to HSE's website; please see [Annex 2](#) for details.

Significant Prosecutions for September 2009

- [A London-based docks company](#) was fined £266,000 plus £75,000 costs when an employee was fatally struck by a reversing vehicle.
- [A Durham-based storage unit supply company](#) was fined £80,000 plus £8,000 costs when a worker fell from height and was fatally injured.
- [A Dumfries & Galloway horticulture company](#) was fined £23,000 when an employee was fatally crushed by a tip bucket.
- [British Waterways and a Hampshire-based diving contractor](#) were fined £87,000 plus £75,000 costs and £15,000 plus £6,000 respectively, when a diver drowned during construction work on a temporary dam.
- [An East Yorkshire-based meat processing company](#) was fined £160,000 plus £40,452 costs when an employee sustained fatal head injuries after being crushed in machinery.
- [Powys local health board](#) was fined £30,000 plus £46,849 costs failed to carry out an adequate risk assessment on a mentally ill patient who subsequently hanged herself.
- [A Northamptonshire-based engineering company](#) was fined £7,500 plus £6,690 costs when an employee was fatally crushed.
- [A West Yorkshire care home](#) was fined £15,000 plus £10,500 costs when an elderly patient fell sustaining fractures and subsequently died. The fall was found to have resulted from inadequate staff training.
- [A Kent-based plant hire company](#) was fined £100,000 plus £33,196 costs when a crane collapsed causing serious multiple injuries to the driver.
- [Thames Valley Police](#) were fined £40,000 plus £25,000 costs when a civilian member of staff was injured during a firearms awareness training session.
- [A West Yorkshire roofing company](#) was fined £23,500 plus £3,452 costs when an untrained employee was instructed to erect scaffolding and subsequently fell from height sustaining head injuries.

- [A Hampshire-based building company](#) was fined £15,000 plus £31,139 costs when inadequate traffic control systems resulted in a serious collision between a motorcyclist and an oncoming car.
- [A Hampshire-based cable manufacturer](#) was fined £27,500 plus £10,700 costs when an employee developed severe dermatitis owing to a failure to control the risk of exposure to hazardous substances.
- [A Staffordshire-based training company](#) was sentenced to a 1-year conditional discharge plus £22,000 costs for failing to ensure an adequate risk assessment was in place at premises where a 14-year old child was placed on work experience and subsequently injured.

Myth of the Month October 2009 – Graduates are banned from throwing mortar boards

This is likely to have arisen from hiring companies' concern to have their property returned in good condition.

FOI Requests made to HSE

There were 503 FOI requests during September.

Events, Campaigns and Publications in September 2009

Joint Scottish event for workers from overseas – Between HSE, Moray Council, Moray CAB and ESOL services providing advice on employment rights and access to training and education.

TUC Conference 14-17 September - HSE used last month's TUC conference to promote employee involvement in health and safety in their workplace.

New Zealand officials share lessons with their HSE counterparts - A Senior Manager from New Zealand's Department of Labour in was in Great Britain to learn lessons from, and share knowledge with the Health and Safety Executive. Spending one week at HSE's headquarters in Bootle, Merseyside, was an opportunity for New Zealand officials to see in detail how Great Britain's health and safety regulator carries out its duties and discussed how it is prepared to continue to drive down death and injury rates in the workplace.

Big brother's star builder 'steps up' to promote ladder safety - builder and TV personality Craig Phillips gave his support to the ladder safety campaign for 2009. Over 5000 ladders have been exchanged under the ladder exchange scheme since it first launched in 2007.

National Back Exchange Conference – Board member Sayeed Khan advised business on the most common form of occupational ill health.

Parliamentary Business

There were no PQs during September as Parliament was on recess.

In-year work-related deaths reported to HSE

The following table is an extract of all 2009/10 work-related deaths notified to HSE since the last update to the Board on 23 September 2009. It is taken from the latest "Names and details of fatalities" update published on HSE's website on 12 October 2009. HSE's internet publication is the collated picture of 'as reported' information on fatalities. It does not purport to be a formal statistical release. Subsequent investigation may determine that some are not reportable under RIDDOR, for example deaths due to natural causes. Other deaths shown here may have been caused by gas incidents in the home. In such cases these deaths will not be counted in our statistics for workplace fatal injuries. Provisional quarterly figures for workplace fatal injuries are available from our latest quarterly injury figures and validated figures and information will only be available on publication of the annual fatality statistics for Great Britain.

Date of incident	Name	Age	Description of incident	Location of incident	Local Authority	LA code	General Industry Sector	Detailed Standard Industry Classification (SIC)	SIC Code	Employment status
02/08/2009	William Margersai	89	The deceased fell from a window	Derbyshire	Chesterfield	1015	Service	Other human health activities	85140	Member of the public
04/08/2009	Gareth Young	60	The deceased was crushed by falling machinery	Imco Ltd.	Newport UA	6935	Manufacturing	Manufacture of other containers	21219	Employee
06/08/2009	Christopher Beard	52	The deceased fell from a stack of pallets on trailer bed	Nantwich Cheshire	Flintshire UA	6835	Manufacturing	Manufacture of household and sanitary goods and of toilet requisites	21220	Employee
10/08/2009	Joe Murphy	41	The deceased fell from scaffolding	St Leonards on Sea	Hastings	1415	Construction	Other construction work involving special trades	45250	Employee
10/08/2009	Branislav Blasko	33	The deceased was overcome by carbon monoxide	London	Barnet	5090	Construction	Construction	45210	Employed by other
12/08/2009	Mark Hanford	25	The deceased was struck by an excavator bucket	Redditch	Sandwell	4620	Construction	Construction of commercial buildings	45211	Employee
12/08/2009	Andrew Stubbs	41	The deceased fell in hospital and later died	Stafford	Stafford	3425	Service	Public sector hospital activities including NHS trusts	85111	Member of the public
12/08/2009	Nicholas Bowyer	24	The deceased died whilst diving	Orkney	-	-	Service	Other business activities not elsewhere classified	74879	Member of the public
18/08/2009	Andrew Prater	46	The deceased was erecting pens when fencing fell onto him	Gillingham, Dorset	North Dorset	1215	Agriculture	Mixed Farming	01300	Employee
20/08/2009	Barnaby Richard Taggart	23	The deceased was struck by a tractor bucket	Thirsk	Hambleton	2710	Agriculture	Mixed Farming	01300	Employee
21/08/2009	Nicolajs Naumous	57	The deceased fell from height	Aberdeenshire	Aberdeenshire UA	9052	Construction	Construction	45210	Employee
23/08/2009	Martin Simpson	39	The deceased was fatally injured by farming machinery	Lockington E Yorkshire	Hull City UA	2004	Service	Agents involved in the sale of machinery, industrial equipment, ships and aircraft	51140	Employed by other
30/08/2009	Wallace Ewen	46	The deceased was killed when his tractor overturned	Banff	Aberdeenshire UA	9052	Agriculture	Mixed Farming	01300	Employee

Footnotes

Third parties provide this information when notifying these incidents to HSE. We will verify its accuracy (e.g. the name and age of the deceased) when the incident is investigated and as more information becomes available. Although we may have done some validation of the notifier's information prior to publication on HSE's web pages we cannot guarantee the accuracy of all of the above details.

All possible work-related fatalities are separately notified to the Coroner and the Coroners Court release the name of the deceased when they open the inquest. To ensure that this release has taken place, we do not publish this information until at least a month after the date of the reported incident.

UPDATE ON EU HEALTH AND SAFETY DOSSIERS

This annex to the Chief Executive’s Report provides the Board with a monthly update on progress with EU health and safety dossiers that HSE leads on for HMG or other dossiers that HSE has an interest in but not the lead. To help the Board keep track of developments, each dossier is either marked ‘**UNCHANGED FROM LAST BOARD UPDATE**’ or ‘**NEW DEVELOPMENTS**’. For further information about this annex, please contact Stephen Taylor, EU Coordinator in HSE’s International Unit (Tel: 020 7227 3830 or e-mail: stephen.taylor@hse.gsi.ov.uk)

ON THE HORIZON:

Initiative on Carcinogens and Mutagens Directive (2004/37/EC)	
Current status (NEW DEVELOPMENTS) The second stage of social dialogue on potential amendments to the Directive ended without agreement. The European Commission has engaged a contractor to undertake an impact assessment to help decide the next steps for the Directive. HSE will be engaging with the contractor to offer assistance.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

SOCIAL DIALOGUE:

Social Partners Agreement on Needlestick Injuries	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The social partners in the public health sector have come to a collective agreement on working safely with sharp instruments. Implementation is likely to be by Council Directive. The European Commission is currently working on turning the agreement into a legislative proposal that can go to the Council.	
Lead Department HSE contact	HSE SCS Lead – Susan Mackenzie Policy Lead – Paul Logan, Specialised Industries Division, 0151 951 4767, paul.logan@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

PRE-PROPOSAL STAGE:

Proposed Directive on Musculoskeletal Disorders	
Current status (NEW DEVELOPMENTS): The European Commission (EC) is working on a draft Directive to cover all musculoskeletal disorders that would include the provisions in the existing Directives on Manual Handling and Display Screen Equipment. Recent indications suggest that the EC hopes to be able to publish a legislative proposal by late Spring 2010. Belgium has said that any proposal would be a priority for its Presidency during the second half of 2010.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Nick Snelham, Work Environment, Radiation and Gas Division, 0151 951 3691, nicholas.snelham@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Future of Electromagnetic Fields Directive (2004/40/EC)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The European Commission is now considering the final report delivered by FICETTI in September. A paper for the November Board meeting will seek approval for the influencing strategy in response to the report's recommendations.

**Lead Department
HSE contact****HSE**

SCS Lead – Peter Brown

Policy Lead – Matthew Penrose, Work Environment, Radiation and Gas Division, 0151 951 4909, matthew.penrose@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed “Omnibus Directive” to modify New Approach Directives in line with EC Regulation 768/200**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The European Commission (EC) plans to introduce a horizontal "Omnibus Directive" to bring all New Approach Directives that need minor modification in line with EC Regulation 768/2008 (this deals with the harmonisation of New Approach Supply Directives). A first draft may be forthcoming later this year.

**Lead Department
HSE contact****BIS**

HSE SCS Lead – Marcia Davies

HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk

HSE SCS Lawyer – Abigail Dean

Proposed revision of Seveso II Directive (96/82/EC)**Current status (UNCHANGED FROM LAST BOARD UPDATE)**

The European Commission has committed itself to drafting a paper with suggestions for revisions of the Directive for discussion at the Committee of Competent Authorities meeting in October.

**Lead Department
HSE contact****HSE**

SCS Lead – Peter Baker

Policy Lead – Sandra Ashcroft, Chemicals Industries Division, 0151 951 3531, sandra.ashcroft@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed recast of Basic Safety Standards Directive (96/29/EURATOM)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

A working party (WP) of the European Commission's Article 31 (A31) Group of Scientific Experts is currently considering a recast of the Directive. The WP expects to produce a full report by late 2009. A legislative proposal is not likely until mid 2010. In the UK, three stakeholder-working groups (WG) are in place to help with preparing our position during the development of the proposal. HSE leads the Occupational Exposures WG, the Department for Energy and Climate Change leads the Public and Environmental Exposures WG, and the Health Protection Agency leads the Medical Exposures WG.

Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Kate Haire, Work Environment, Radiation and Gas Division, 0151 951 3792, kate.haire@hse.gsi.gov.uk SCS Lawyer – Abigail Dean
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Proposed simplification of Pressure Equipment Directives**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The European Commission plans to conduct a future review of the Directive, with no decision taken yet on the timing.

Lead Department HSE contact	BIS HSE SCS Lead – Marcia Davies HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean
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UNDER NEGOTIATION:**Proposed EC Regulation concerning the placing on the market and use of biocidal products (replacing Directive 98/8/EC)****Current status (NEW DEVELOPMENTS):**

The European Commission (EC) has published a formal legislative proposal for a major review of the Biocidal Products Directive. This proposes that an EC Regulation, which will be directly applicable in Member States, will revise and replace the current Directive. The proposal identifies five policy areas for change: scope, product authorisation, data sharing, data requirements and fees. **HSE consulted stakeholders between 26 July and 5 October on the proposal and is currently considering consultation responses to inform the UK's negotiating position at the December Environment Council meeting and beyond.**

Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean
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Proposed amendment of Pregnant Workers Directive (92/85/EC) on introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The previous European Parliament (EP) voted to reject its Women's Rights Committee report on the Directive, which contained proposed health and safety amendments, with it referred back to the Committee for further work. The reconstituted Women's Rights Committee, under the new EP, has yet to timetable any deliberations on this proposal. Negotiations in Council have continued under the Swedish Presidency.

Lead Department

BIS

HSE contact

HSE SCS Lead – Peter Brown

HSE Policy Lead – Marion Evans, Work Environment, Radiation and Gas Division, 020 7717 6428,

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HSE SCS Lawyer – Navroza Ladha

Proposed Directive on 3rd List of Indicative Occupational Exposure Limit Values (IOELVs)

Current status (UNCHANGED FROM LAST BOARD UPDATE):

A Technical Progress Committee meeting of Member States took place on 31 March 2009. The meeting was inconclusive because of differences of opinion concerning one substance, with no vote taken. The European Commission (EC) subsequently withdrew the substance with concerns against it from the annex of the draft Directive, pending consideration of the results of an on-going study. Following a vote in favour, the European Parliament and Council will now subject the draft Directive to scrutiny, before adoption by the EC towards the end of 2009. Member States will then have 2 years in which to implement the Directive.

Lead Department

HSE

HSE contact

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed Directive codifying directives relating to protection of workers from the risks related to exposure to asbestos at work

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The Commission, in 2006, published a proposal to codify directives relating to the protection of workers from the risks related to exposure to asbestos at work. The purpose of a codification is to bring together a number of instruments into one codified text, not to make substantive amendments. A draft Directive is currently progressing through the Council's Codification Working Group.

Lead Department

HSE

HSE contact

SCS Lead – Steve Coldrick

Policy Lead – Sarah Mallagh, Long Latency Health Risks Division, 0151 951 4560, sarah.mallagh@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed EC Regulation to replace Directive 91/414/EEC the on authorisation and marketing of pesticides	
Current status (UNCHANGED FROM LAST BOARD UPDATE): In January 2009, the European Parliament agreed a new Regulation to replace Directive 91/414/EEC, which establishes a framework for the authorisation and marketing of plant protection products in the European Union. It follows a second reading agreement reached with the Council in December 2008. The Regulation includes provisions to increase the level of protection given to human health, animal welfare and the environment. It also aims to speed up decision-making and provide clearer rules for the crop protection industry. We anticipate that the Council to endorse the agreement in October.	
Lead Department HSE contact	DEFRA (Policy Lead) HSE (UK Competent Authority) HSE SCS Lead – Dave Bench HSE Policy Lead – Mark Hawkins, Chemicals Regulation Directorate, 01904 455 759, mark.hawkins@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Proposed Directive on the sustainable use of pesticides	
Current status (NEW DEVELOPMENTS): In January 2009, the European Parliament agreed a new Directive on the sustainable use of pesticides, which establishes a framework for greater harmonisation of controls on the use of plant protection products in the European Union. It follows a second reading agreement reached with the Council in December 2008. The Directive requires Member States to develop national action plans to reduce the risk associated with the use of pesticides and dependency on these chemicals. The Directive goes on to list a number of measures that will populate the plans. These include provisions relating to: training of users, distributors and advisors; controls on sales; testing of application equipment; protection of watercourses, amenity and conservation areas; handling and storage; and use of integrated pest management approaches. The Council endorsed the agreement on 24 September.	
Lead Department HSE contact	DEFRA (Policy Lead) HSE (UK Competent Authority) HSE SCS Lead – Dave Bench HSE Policy Lead – Adrian Dixon, Chemicals Regulation Directorate, 01904 455 701, adrian.dixon@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Proposed EC Regulation on pesticide statistics	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The proposed Regulation will require Member States to collect data on pesticides sales and use. The data will populate models developed under an associated European Union project to assess the risks that can arise from the use of pesticides. The former European Parliament (EP) failed to ratify the deal at its final April Plenary. We understand that responsibility for making progress on the dossier lies with the Council. The Swedish Presidency has indicated that it will seek a meeting with the new EP to determine a way forward.	
Lead Department HSE contact	DEFRA (Policy Lead) HSE (UK Competent Authority) HSE SCS Lead – Dave Bench HSE Policy Lead – Grant Stark, Chemicals Regulation Directorate, 01904 455 983, grant.stark@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Proposed EC Regulation amending Annex 1 to EC Regulation on the Export and Import of Dangerous Chemicals (689/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): A meeting of Member States Designated National Authorities voted to approve this proposal on 29 April 2009. The European Parliament will subject the dossier to scrutiny before adoption by the European Commission – we expect this to happen towards the end of 2009. A review of Annex I will take place at least annually with substances proposed for inclusion in or deletion from the annex.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

EC Regulation on Classification, Labelling and Packaging of Substances and Mixtures (1272/2008) – 1st Adaptation to Technical Progress

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The 1st Adaptation to Technical Progress (ATP) of European Commission's (EC) Regulation on Classification, Labelling and Packaging was published in the Official Journal on 5 September 2009 as EC Regulation No. 790/2009. It will take legal effect in all Member States 20 days later. Duty holders will have to comply with the new substance classifications by 1 December 2010.

In December 2008, ETIME SA, a Turkish borate producer, issued proceedings against DWP seeking Judicial Review and referral from a British Court to the European Court of Justice (ECJ), challenging the classifications for borate substances that appear in the 30th ATP. This followed similar action initiated by the nickel industry against DWP in September 2008, seeking Judicial Review of the classification of certain nickel compounds also in the 30th ATP, and referral to the ECJ. On 6 May, Rio Tinto joined the action initiated by ETIME. Rio Tinto is opposed to the re-classification of borate substances.

Lead Department
HSE contact

HSE

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, Long latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Proposed amendment of the Machinery Directive (2006/42/EC)

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The European Parliament agreed the text of a proposed amendment to the Machinery Directive to introduce environmental protection requirements for pesticides application machinery at first reading on 21-24 April. The amendment will go next for adoption by the Council at a date yet confirmed.

Lead Department
HSE contact

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HSE SCS Lawyer – Abigail Dean

Proposed EC Regulation on Type Approval of Agricultural Vehicles (Replacement for Directive 2003/37/EC)

Current status (UNCHANGED FROM LAST BOARD UPDATE):

The proposed European Commission Regulation would align agricultural vehicles in the same regulatory framework as other vehicles in line with European policy. The Regulation is a direct replacement for the current Type Approval Directive (2003/37/EC) which came fully into force on 1 July 2009. We do not expect the Regulation to affect significantly HSE's activities but we maintain a watching brief to ensure that relevant safety aspects are not diluted.

Lead Department

DfT

HSE contact

HSE SCS Lead – Marcia Davies

HSE Policy Lead – Tony Mitchell, Operational Strategy Division, 01604 73 8321, tony.mitchell@hse.gsi.gov.uk

HSE SCS Lawyer – Abigail Dean

Proposed amendment of Directive 86/415/EEC (Installation, location and operation of the controls of agricultural tractors) to include specifications for external power take-off controls

Current status (NEW DEVELOPMENTS):

This proposal would amend the existing Directive relating to external power take-off (PTO) controls, allowing hold-to-run control for the first 3 seconds, after which full activation of the PTO could occur. The UK has raised an objection to this as there is no good reason for full PTO activation with the operator in the danger zone and the clause is inconsistent with the current limitations placed on external hydraulic controls already contained in the Directive. **A comitology committee has subsequently approved the draft-amending Directive and it will now be subject to regulatory procedure with scrutiny in the Council and the European Parliament.**

Lead Department

DfT

HSE contact

HSE SCS Lead – Marcia Davies

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HSE SCS Lawyer – Abigail Dean

UNDER IMPLEMENTATION:

Directive amending the transitional deadline to allow for completion of the review of active substances used in biocidal products that were already on the market before the Biocidal Products Directive (98/8/EC) came into force	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Member States are required to transpose the Directive by 14 May 2010. The Board approved plans to consult stakeholders on proposals to implement the Directive at its 26 August meeting. The consultation began on 1 September and will continue until 23 November, with a view to the implementing regulations coming into force on the 6 April 2010.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Directive Establishing a Community Framework for the Nuclear Safety of Nuclear Installations (2009/71/EURATOM)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Member States are required to transpose the Directive by 22 July 2011. HSE and DECC are working up a transposition strategy.	
Lead Department HSE contact	DECC (Policy Lead) HSE (UK Competent Authority) HSE SCS Lead – Les Philpott HSE Policy Lead – Graham Collins, Nuclear Directorate, 020 7556 3553, graham.collins@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Artificial Optical Radiation Directive (2006/25/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Member States are required to transpose the Directive by 27 April 2010. The Board agreed a transposition strategy at its 23 June meeting. A paper for the October Board meeting will seek approval for the consultation document for stakeholders.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Matthew Penrose, Work Environment, Radiation and Gas Division, 0151 951 4909, matthew.penrose@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)

Current status (NEW DEVELOPMENTS):

The Regulation came into force on 1 June 2007. At European Union level, the UK is working with other Member States, the European Commission and key stakeholders in a number of committees and other groups to complete the REACH framework and establish the working principles for the Regulation. Key recent developments include:

- HSE and TSoL are working closely with DEFRA to resolve unintended consequences from the move to REACH on the control of waste specifically containing asbestos. DEFRA has now produced, in co-operation with HSE and TSoL, a draft Statutory Instrument making the necessary legal changes to REACH enforcement and the control of asbestos laws. We are now awaiting the consultation, impact assessment and timing of the proposal from DEFRA for passage of the draft. **DEFRA has indicated December as the target date for entry into force, although this may be subject to change.**
- **We have seen significant progress in dialogue with the European Commission on its proposed redraft of Annex II of the REACH Regulation, relating to the content of Safety Data Sheets (SDS). It looks like comitology will happen in early November, with the Commission hoping to have an agreed text in force early in 2010, to give industry and other stakeholders sufficient time to implement appropriate changes before legal duties apply in mid-2010.**

Lead Department

DEFRA (Policy Lead) HSE (UK Competent Authority)

HSE contact

HSE SCS Lead – Steve Coldrick

HSE Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk

HSE SCS Lawyer – Navroza Ladha

Directive (2006/121/EC) amending Directive 67/548/EEC relating to classification, packaging and labelling of dangerous substances in order to adapt it to the REACH Regulation

Current status (NEW DEVELOPMENTS):

Member States were required to transpose the Directive by 31 May 2008. The UK was late in transposing and the European Commission issued infringement proceedings against us. The UK has notified the European Commission (EC) that it has completed all its transposition measures. **The EC has closed the infraction case against the UK.**

Lead Department

HSE

HSE contact

SCS Lead – Steve Coldrick

Policy Lead – Robin Foster, Long Latency Health Divisions, 020 7227 3814, robin.foster@hse.gsi.gov.uk

SCS Lawyer – Navroza Ladha

Decision on restrictions on marketing and use of dichloromethane (455/2009/EC)	
Current status (NEW DEVELOPMENTS): The Council adopted the Decision on 6 May 2009, and published in the Official Journal on 3 June. HSE is currently looking at what legislative measures will be necessary in order for the UK to benefit from the permitted derogation for certain professional uses, and is in contact with manufacturers and producers of dichloromethane based paint-strippers about this. Any legislation would need to be in place by December 2010.	
Lead Department HSE contact	HSE SCS Lead – Steve Coldrick Policy Leads – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk Anthony Lees, Construction Division, 020 7556 2191. anthony.lees@hse.gsi.gov.uk SCS Lawyer – Navroza Ladha

Identification and Traceability of Explosives for Civil Uses Directive (2008/43/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): Member States were required to transpose the Directive by 5 April 2009. The UK expects to complete transposition in Great Britain by January 2010, with Northern Ireland to follow shortly after. Following Board approval for an amended transposition strategy, we are currently consulting on draft implementing regulations. Consultation ends in early November after which we will seek Board approval for the finalised regulations.	
Lead Department HSE contact	HSE SCS Lead – Susan Mackenzie Policy Lead – David Pascoe, Specialised Industries Division, 0151 951 4241, david.pascoe@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Services Directive (2006/123/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The Department for Business, Innovation and Skills (BIS) is currently considering the responses it received to its consultation on proposed implementing measures and will be putting revised regulations before Parliament for debate in the autumn. Development of the UK Point of Single Contact is continuing.	
Lead Department HSE contact	BIS HSE SCS Lead – Clive Fleming HSE Policy Lead – Kevin Walkin, Strategic Interventions Division, 020 7227 3831, kevin.walkin@hse.gsi.gov.uk HSE SCS Lawyer – Navroza Ladha

EC Regulation on Accreditation and Market Surveillance (RAMS) (765/2008)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The Regulation sets accreditation and market surveillance obligations relating to the marketing of products in the European Union. It applies from 1 January 2010. Following agreement between HSE and the Department for Business, Innovation and Skills (BIS) on existing gaps in enforcement powers in UK legislation to meet the requirements of RAMS, BIS wrote to HSE asking if it should introduce legislation to give us and other authorities these powers. They also asked HSE if the Placing on the Market and Supervision of Transfers of Explosives Regulations (POMSTER) 1993 should be included in the list of applicable legislation. The SMT has agreed that POMSTER be included as relevant legislation.

**Lead Department
HSE contact****BIS**

HSE SCS Lead – Marcia Davies

HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk

HSE SCS Lawyer – Abigail Dean

EC Regulation on Mutual Recognition of Goods in the European Union (764/2008)**Current status (UNCHANGED FROM LAST BOARD UPDATE):**

The Regulation defines the rights and obligations of, on the one hand, competent authorities and, on the other, enterprises wishing to sell in a Member State products lawfully marketed in another Member State, when competent authorities intend to take restrictive measures concerning a product in accordance with national technical rules. It applied from 13 May 2009. We do not expect the Regulation to affect significantly HSE's activities as the majority of work products already come under specific supply directives, but the full effects will take some time to become evident.

**Lead Department
HSE contact****BIS**

HSE SCS Lead – Marcia Davies

HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk

HSE SCS Lawyer – Abigail Dean

Agency Workers Directive (2008/104/EC)**Current status (NEW DEVELOPMENTS):**

The main purpose of the Directive is to ensure the appropriate protection of temporary agency workers. After 12 weeks in a given job, an agency worker will be entitled to equal treatment (at least the basic working and employment conditions that would apply to the worker concerned if s/he was recruited directly by that undertaking to occupy the same job). BIS is seeking amendments to the Management of Health and Safety at Work Regulations 1999 to implement requirements in relation to new and expectant mothers, **and changes to the Safety Representatives and Safety Committees Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996 regarding the provision of information to safety representatives regarding the employment of agency workers.**

**Lead Department
HSE contact****BIS**

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