

Health and Safety Executive Board		Paper No: HSE/11/64	
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Chief Executive's Report to the Board			

Update on colliery fatalities

1. HSE Mines Inspectors continue to investigate the deaths of four miners at Gleision Colliery in Wales and one at Kellingley in Yorkshire.
2. At Gleision, the investigation team left site on 7 October. A Prohibition Notice has been served on the mine owner to prohibit the mining of coal until the adequacy of the ventilation and risk of inrush of the mine has been re-assessed and all necessary precautions are in place to enable mining to take place safely. Primacy in the investigation remains with South Wales Police, who on 18 October arrested the mine manager on suspicion of four counts of gross negligence manslaughter.
3. At Kellingley, the investigation is focusing on the reasons for a fall of ground which led to the death of one miner. The collapse occurred while roof supports were being advanced. Kellingley Mine is one of 7 deep coal mines left in the UK. Primacy in the investigation is with HSE, having been handed over by North Yorkshire Police. Remedial work has been carried out in the area where the accident occurred and production has restarted. Two improvement notices have been served, one on UK Coal as the employer and one on the mine manager. Both notices require a reassessment of the ground conditions in the area where the fall occurred. HSE is meeting members of the Board of UK Coal week beginning 17 October to discuss their health and safety management arrangements across all their deep mines.

Explosion and fire at Hobbs Barracks Industrial Estate, Newchapel, Surrey

4. HSE is investigating the explosion and fire that occurred at the eReco EMEA Corporation Ltd premises on Hobbs Barracks Industrial Estate, Newchapel, Surrey on Monday 3 October. The site was engaged in the recycling of used printer cartridges. Five factory units were affected by the fire and eight workers were injured in the incident, five employees and three from an adjacent company. One remains in a serious condition in hospital. The building is in an unsafe condition and will have to be partially demolished.
5. The investigation is being carried out jointly with Surrey Police. The Health and Safety Laboratory has carried out blast mapping of the scene, and HSE inspectors have been collecting evidence with the Police. It appears that the process carried out in the factory was unique, but further enquiries are being made to ensure no similar facilities exist elsewhere.

Asbestos in schools

6. In 2010/11 HSE undertook an inspection initiative targeting asbestos management arrangements in 164 randomly selected schools outside local authority control. The aim of the initiative was to assess the level of compliance with the Control of Asbestos Regulations and was a follow-up to a similar exercise carried out in 2009/10 in schools within local authority control.
7. On 14 October HSE published a summary report of the results. While most of the 164 schools were able to indicate good levels of awareness of the requirements, improvement notices were served at 28 schools - 17% of those visited. The highest rate of enforcement was in the independent sector, involving 17 out of 59 schools visited. The findings makes clear that an asbestos management plan is a key requirement of the regulations - almost a third of the schools had no written plan. The report emphasises the importance of effective systems to inform staff or contractors who may disturb asbestos of its presence. In a similar pattern to the work HSE completed in 2009/10 in local authority schools, this initiative flags up the need for schools to ensure that staff are suitably trained for any work that could disturb asbestos.
8. HSE has written to organisations across the education sector to raise awareness of the findings, and to ask that those organisations use their communication networks with schools to advise them of the availability of the report, and to encourage all schools to take account of the findings when reviewing their asbestos management arrangements. HSE is also working with Department for Education (DfE) on an asbestos training package for school managers, and we understand that the DfE is likely to publish this in January 2012.

HSE use of Government Procurement Card (GPC)

9. On 3 October, the Daily Telegraph published an article on HSE's use of the Government Procurement Card that was sensationalist and misleading. HSE has published a rebuttal letter setting out the facts on its website:
www.hse.gov.uk/press/record/2011/telegraph031011.htm
10. HM Treasury has promoted the controlled use of GPCs over the last ten years in order to cut the costs of processing high volume, low value invoices. Scrutiny of all the transactions that the Daily Telegraph raised shows that there was no individual benefit in any case and all the transactions were for proper public purposes. At the request of HSE's Audit Committee HSE's Internal Audit Department is reviewing the controls on the GPC's use to ensure that the balance between reducing costs and the risk of abuse has been struck appropriately.

Update on Mid Staffordshire NHS Foundation Trust Public Inquiry

11. The inquiry has now finished hearing formal evidence and is currently holding a series of seminars. The purpose of the seminars is to help the Inquiry with the 'forward looking' part of its terms of reference by providing an opportunity to develop and share ideas and information to assist the Chairman in drafting his final report. HSE was invited to the first of these Seminars, held on 13th October, covering Regulation and Kevin Myers, Deputy Chief Executive, represented HSE.
12. Subsequent Seminars cover: development and training for trust leaders; information; organisational culture; nursing; patients experience, and; commissioning. Whilst HSE has not been formally invited to participate in these, arrangements have been made for observers to attend some of them. Relevant papers and a report on each seminar will be made available on the Inquiry website at:
www.midstaffspublicinquiry.com/inquiry-seminars
13. A final report on the Seminars will be produced by the 16th November and HSE will have an opportunity to comment on it.
14. The final stage of the Inquiry process involves core participants preparing and delivering oral submissions. HSE is not a core participant and will not be involved in this stage.

Significant Prosecution: Marks and Spencer plc fined £1million

15. On 27 September 2011 Marks and Spencer plc and three of its contractors were fined for putting members of the public, staff and construction workers at risk of exposure to asbestos-containing materials during the refurbishment of two stores in Reading and Bournemouth between 2006 and 2007. The defendants were found guilty in July 2011.
16. Marks and Spencer plc were fined £1 million and ordered to pay costs of £600,000. PA Realisations Ltd were fined £200, and Styles & Wood Limited (who pleaded guilty at an earlier hearing in January 2010) were fined £100,000 and ordered to pay costs of £40,000, all for breaches that took place at the Marks and Spencer plc store in Broad Street, Reading. Willmott Dixon Construction Ltd was fined £50,000 and ordered to pay costs of £75,000, for breaches that took place at the Marks and Spencer plc store in Commercial Road, Bournemouth. Willmott Dixon Construction Ltd is applying for permission to appeal against conviction.

Changes to the Work Related Deaths Protocol for England and Wales

17. Changes to the Work Related Deaths Protocol (England and Wales) came into effect from 1 October 2011. The main change enables regulators in England and Wales, including HSE, to take prosecutions in relation to work-related deaths before inquest in appropriate cases, and where it is in the interest of justice to do so. HSE supported the Work Related Death National Liaison Committee (NLC) in agreeing this permissive change.
18. On 26 September 2011 HSE, on behalf of the NLC, announced the changes, published the revised protocol and supporting guidance, and amended HSE's internal procedures and guidance. The Chair of HSE contacted a number of key stakeholders and interested organisations to forewarn them of the imminent change. A supporting revised Memorandum of Understanding between the Coroners' Society and HSE was also agreed on 26 September 2011.

Update on the FASe Programme

19. The Infoline service closed on 30th September. A recorded message has been placed on the old Infoline telephone number directing enquirers to the HSE website to find health and safety information and guidance. There have been no major issues arising and the small number of concerns that have been raised internally and from external sources are currently being resolved. By the end of September, call volumes to Infoline had dropped to 5,469 for the month compared to 15,530 in September 2010. This represents a drop of 65% over 12 months and an 11% drop since August 2011 and was within our target range prior to closure.
20. Santia Consulting Limited, who ran Infoline on behalf of HSE, has decided to continue to provide a similar helpline service to UK businesses free of charge on a 3 month trial basis in order to gauge demand.
21. Over the last few months a number of changes to the HSE website have been implemented to help the public/dutyholders find the health and safety information and guidance they need more easily. These have included updates to the 50 most used topic/industry based micro-sites (eg agriculture, construction, first aid etc). A plan is also in place to update the top 100 most popular pieces of guidance by autumn 2012. In addition, a short website survey has just been undertaken to identify any further improvements that could be made quickly to improve access to our guidance. The recommendations are being taken forward in consultation with HSE's Publications Governance Group.

KEVIN MYERS – ACTING CHIEF EXECUTIVE

Operations

Fatality details

Since the last update to the HSE Board on 28 September 2011, 15 fatal accidents for 2011/12 were reported to HSE under RIDDOR and subsequently published on HSE's website. Please see [Annex 2](#) for details.

In some cases, the publication of a fatality on the HSE website and notification to the Board may be some months after the actual date of the initial incident. This is due to the verification checks that are carried out to ensure that the fatality is within HSE's enforcement remit and if so, the correct information is subsequently published. The complex nature of some fatality investigations may mean that it can take some time to verify this information.

Of the 15 fatalities listed in the current report, 3 occurred prior to August 2011.

12 fatalities occurred in August 2011, compared with 25 which occurred in August 2010.

The full list of the names of the deceased plus additional details may be viewed at: <http://www.hse.gov.uk/foi/fatalities/in-year-names.htm>.

Significant Prosecutions for September 2011

- [GJ Orr farming partnership](#) was fined £112,500 at Cupar Sheriff Court after a worker was killed when he was crushed between the rollers of a potato harvester
- [Duco International Limited](#) was fined £200,000 and ordered to pay costs of £43,352 at Reading Crown Court after a night shift worker died when he was trapped in a machine at a factory in Berkshire.
- [Epsco Ltd](#) fined a total £35,000 and ordered to pay costs of £120,000 at Mold Crown Court after a man drowned after falling into a water filled sump at a North Wales power station.
- [Newport City Council](#) was fined £100,000 and ordered to pay full costs of £60,108.02 pence at Newport Crown Court after a disabled man died when he was trapped in a ceiling track hoist installed in his home.
- [Tallent Automotive Ltd-Gestamp Automocion \(formerly ThyssenKrupp Tallent Ltd\)](#) was fined £100,000 and ordered to pay £44,000 costs at Durham Crown Court after a worker was crushed to death while clearing a jam on a production line.
- [Ness Engineering Ltd](#) was fined £26,700 at Lerwick Sheriff Court after a worker was severely injured when he fell while dismantling a redundant aerial mast.

- [Pitmachie Garage Ltd](#) was fined £15,000 at Banff Sheriff Court after one of its workers was fatally injured when a metal oil drum he was working on exploded.
- [W.E. Roberts \(Corrugated\) Ltd](#) was fined £20,000 and ordered to pay costs of £12,190 at Dartford Magistrates' Court after an incident in which a delivery driver suffered severe head injuries after a fall.

Events, Campaigns and Publications in September 2011

Paralysed worker urges Merseyside firms to stay safe

A father-of-two, who was paralysed in a fall, urged small construction firms in Merseyside to make sure they stay safe.

Jason Anker made the plea to nearly 400 construction bosses and self-employed workers at a free event at Haydock Park Racecourse in Newton-le-Willows. Specialists from the construction industry and the Health and Safety Executive (HSE) were also on hand to give the latest safety advice

The free safety event at Haydock Park Racecourse on 15 September was held as part of the Working Well Together initiative - a partnership between HSE and the construction industry - which aims to improve health and safety in the sector.

FOI Requests made to HSE

There were 531 FOI requests made to HSE in September 2011.

Parliamentary Business

There were 5 PQs dealt with by HSE during the month of September 2011

The following table is an extract of all 2011/12 work-related deaths notified to HSE since the last update to the Board on 28 September 2011. It is taken from the latest "Names and details of fatalities" update published on HSE's website on 7 October 2011.

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	General Industry Sector	Detailed Standard Industry Classification	Employment status
10/06/2011	Frederic March	52	The deceased died after being struck by an object	Wiltshire	Swindon UA	Construction	Construction of civil engineering constructions	Employee
06/07/2011	Jon Valbuena	21	The deceased died from electrocution	London	City of Westminster	Construction	Construction of Commercial Buildings	Employee
15/07/2011	Craig Whipps	27	The deceased was asphyxiated	Essex	Epping Forest	Agriculture	Farming of cattle, dairy farming	Employee
05/08/2011	Colin Ellwood	38	The deceased died after being trapped under an overturned vehicle	Cumbria	Barrow-in-Furness	Agriculture	Growing of crops combined with farming of animals (mixed farming)	Self-Employed
08/08/2011	James Steel	32	The deceased died following a fall	Argyll and Bute	Argyll and Bute UA	Agriculture	Farming of sheep, goats, horses, asses, mules and hinnies	Employee
09/08/2011	Odediyah Eastwood	57	The deceased was crushed by a vehicle	Kent	Ashford	Agriculture	Growing of crops combined with farming of animals (mixed farming)	Self-Employed
10/08/2011	Ronald Gerver	64	The deceased died from drowning	Kent	Tunbridge Wells	Services	Health & Social Work	Member of the Public
17/08/2011	Nigel Hall	47	The deceased was struck by a moving object	Sheffield	Sheffield	Manufacturing	Manufacture of basic iron and steel and of ferro-alloys	Employee
18/08/2011	Barry Tyson	52	The deceased fell from height	North Yorkshire	Harrogate	Construction	Erection of roof covering and frames	Self-Employed

Date of incident	Name	Age	Description of incident	Location of incident	Local Authority	General Industry Sector	Detailed Standard Industry Classification	Employment status
18/08/2011	Adrian Roberts	49	The deceased was trapped by machinery	Wiltshire	Wiltshire UA	Agriculture	Slaughtering of animals other than poultry and rabbits	Employee
18/08/2011	Steven Conway	33	The deceased was asphyxiated	Dundee	Dundee UA	Services	Maintenance and repair of motor vehicles	Employee
20/08/2011	Violet Shirmer	80	The deceased died whilst under medical care	Essex	Basildon	Services	Public sector hospital activities including NHS trusts	Member of the Public
24/08/2011	Ieuan Evans	75	The deceased was struck by a vehicle	Carmarthenshire	Carmarthenshire	Agriculture	Farming of sheep, goats, horses, asses, mules and hinnies	Self-Employed
30/08/2011	Doris Snook	89	The deceased died whilst under medical care	Surrey	Mole Valley	Services	Nursing home activities	Member of the Public
31/08/2011	Giovanni Mastrodomenico	55	The deceased fell from height	Surrey	Mole Valley	Services	Development and selling of real estate	Employed By Other

OCTOBER 2011 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)

SOCIAL DIALOGUE:**EMPLOYMENT AND SOCIAL AFFAIRS DOSSIERS:**

Social partners' consultation on environmental tobacco smoke	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission is considering whether there is a need for EU action on protecting workers from environmental tobacco smoke. It first consulted the social partners on this in 2008, and a second consultation is due later this year (at the moment, a contractor is carrying out an assessment of potential actions to inform the latter consultation). The Department of Health is leading on this with support from HSE.	
Lead Department HSE contact	DH HSE SCS Lead – Kären Clayton HSE Policy Lead – Gillian Smith, Long Latency Health Risks Division, 0151 951 4919, gill.fod.smith@hse.gsi.gov.uk HSE SCS Lawyer – Prakash Bachoo

Amending European OSH Directives to align them with the EC Regulation on classification, labelling and packaging of substances and mixtures (1272/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The old European scheme for the classification of chemicals will be fully replaced by the new European Regulation on the classification, labelling and packaging (CLP) of substances and mixtures by 2015. A number of Health and Safety Directives that classify chemicals according to the requirements of the old scheme need aligning with the CLP Regulation. As these Directives deal with health and safety requirements, the European Commission (EC) is required to consult the social partners on its plans. The first-stage of social dialogue occurred at the end of 2009 and a second-stage is due in the near future. The EC is also conducting an impact assessment of its plans to amend the Directives.	
Lead Department HSE contact	HSE SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Draft social partners' agreement on the prevention of health risks in the hairdressing sector	
<p>Current status (UNCHANGED FROM LAST BOARD UPDATE): The European social partners covering the hairdressing profession have negotiated a draft agreement on the prevention of health risks in their sector, though it is yet to be signed by the parties.</p>	
<p>Lead Department HSE contact</p>	<p>HSE SCS Lead – Stephen Williams Policy Lead – Cameron Adam, Operational Strategy Division, 0141 275 3096, cameron.adam@hse.gsi.gov.uk SCS Lawyer – Prakash Bachoo</p>

Social partners' consultation on reviewing the Working Time Directive	
<p>Current status (NEW DEVELOPMENTS): In September 2009, the European Commission (EC) announced its commitment to review the Working Time Directive, following the collapse of the previous round of negotiations on amending the Directive in April 2009. There have since been two rounds of social partner consultation on Commission options for the Directive, with the social partners now deciding whether they wish to negotiate an agreement on the Directive. HSE has a role in enforcing the domestic regulation that transposes the original Directive.</p>	
<p>Lead Department HSE contact</p>	<p>BIS HSE SCS Lead – David Sowerby HSE Policy Lead – Bernadette Cadman, Field Operations Directorate, 0151 951 5710, bernadette.cadman@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean</p>

PRE-PROPOSAL STAGE:

EMPLOYMENT AND SOCIAL AFFAIRS DOSSIERS:

Future initiative on Ergonomics at Work	
Current status (NEW DEVELOPMENTS): The European Commission (EC) is working on an initiative to combine the Manual Handling and Display Screen Equipment Directives into a new directive on minimum health and safety requirements on ergonomics at work. We don't expect a legislative proposal from the EC until spring 2012.	
Lead Department HSE contact	HSE SCS Lead – Peter Brown Policy Lead – Peter Lennon, Work Environment, Radiation and Gas Division, 0151 951 3014, peter.lennon@hse.gsi.gov.uk SCS Lawyer – Prakash Bachoo

Future initiative on Carcinogens and Mutagens Directive (2004/37/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission (EC) is considering whether there is a need for a potential future amendment of the Directive. The EC engaged a contractor to look at this issue. They have recommended that a flexible approach to setting occupational exposure limits for carcinogens is retained within the EU and that such an approach is underpinned by agreed guidance from experts. A separate study considering the inclusion within the Directive of substances toxic for reproduction started in May 2011 and is due for completion by May 2012. A legislative proposal may potentially appear in 2013.	
Lead Department HSE contact	HSE SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Prakash Bachoo

ENTERPRISE AND INDUSTRY DOSSIERS:

Proposed simplification of Pressure Equipment Directive	
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	BIS
HSE contact	HSE SCS Lead – Stephen Williams HSE Policy Lead – David Bosworth, Operational Strategy Division, 0151 951 4778, david.bosworth@hse.gsi.gov.uk HSE SCS Lawyer – Prakash Bachoo

Proposed amendment of Pressure Equipment Directive to align it with the EC Regulation on classification, labelling and packaging of substances and mixtures (1272/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission is currently developing a draft proposal to align Directive 97/23/EC with the European Regulation on the classification and labelling of chemicals. This would be under the same procedure as the proposed modification of the New Approach Directives in line with the European Regulation on Accreditation and Market Surveillance.	
Lead Department	BIS
HSE contact	HSE SCS Lead – Stephen Williams HSE Policy Lead – David Bosworth, Operational Strategy Division, 0151 951 4778, david.bosworth@hse.gsi.gov.uk HSE SCS Lawyer – Prakash Bachoo

Future recast of Directive on the classification, packaging and labelling of dangerous preparations (1999/45/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission (EC) plans to put forward a proposal to recast the Directive on the classification, packaging and labelling of dangerous preparations. This would amend the Directive to include references to the European Regulation on classification, labelling and packaging (CLP Regulation), align its definitions with those in the CLP Regulation and include post-Lisbon comitology arrangements. The EC's proposal is now expected towards the end of 2011.	
Lead Department	HSE
HSE contact	SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed modification of New Approach Directives in line with the EC Regulation on Accreditation and Market Surveillance

Current status (UNCHANGED FROM LAST BOARD UPDATE):	
The European Commission has drawn up 10 separate amending directives to bring a number of supply directives into line with the European Regulation on Accreditation and Market Surveillance and an accompanying. The directives being amended that are HSE’s responsibility to enforce include explosives for civil use, pressure equipment, lifts, low voltage and simple pressure vessels. Formal negotiations on the expected package are expected to begin in October 2011.	
Lead Department	BIS
HSE contact	HSE SCS Lead – Stephen Williams HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

ENERGY DOSSIER:

Future amendments to Offshore Oil and Gas Directives – including Directive 92/91/EEC which covers the minimum requirements for improving the safety and health of workers in the mineral-extracting industries through drilling

Current status (NEW DEVELOPMENTS):	
The European Commission (EC) plans to publish a legislative proposal on the safety of offshore oil and gas activities later this year . This follows the publication of the EC’s Communication on “Facing the challenge of the safety of offshore oil and gas activities” on the 13 October 2010. We anticipate that many requirements will be similar to those under the existing UK regime. However, new proposals may include establishing a competent authority structure in this area and bringing safety and environment matters together under the same major hazards framework.	
Lead Department	HSE and/or DECC (depends on the focus of the future proposal)
HSE contact	SCS Lead – Steve Walker Policy Lead – Jim Neilson, Hazardous Industries Directorate, 0151 951 4434, jim.neilson@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

UNDER NEGOTIATION:**EMPLOYMENT AND SOCIAL AFFAIRS DOSSIERS:**

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 European Parliament (EP) has proposed a number of amendments to the Directive, including ones on health and safety, following its plenary session on 20 October 2010. The EP's amended proposal has been sent to the Council, which is now considering it.	
Lead Department HSE contact	BIS HSE SCS Lead – Peter Brown HSE Policy Lead – Clare McNicholas, Work Environment, Radiation and Gas Division, 0151 951 3972, clare.mcnicholas@hse.gsi.gov.uk HSE SCS Lawyer – Prakash Bachoo

Proposed replacement of Electromagnetic Fields Directive (2004/40/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission (EC) has published a proposal to replace the Electromagnetic Fields Directive (2004/40/EC) with a new directive. The Polish Presidency began negotiations on the proposal in July.	
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 – Prakash Bachoo

ENVIRONMENT DOSSIERS:

Proposal Directive on control of major accident hazards	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal for a Directive on control of major accident hazards. This would replace Directive 96/82/EC, as amended by Directive 2003/105/EC (otherwise known as the 'Seveso II' Directive). The proposal is designed to bring 'Seveso' requirements into line with the European Regulation on classification, labelling and packaging of substances and mixtures and to make other technical changes. The Polish Presidency, following a handover from the Hungarian Presidency, has now picked up the negotiations on the dossier and is aiming to try to reach a first reading deal on it.	
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 – Prakash Bachoo

Proposed recast of the EC Regulation on the Export and Import of Dangerous Chemicals (689/2008)	
Current status (UNCHANGED FROM LAST BOARD UPDATE):	
The European Commission has published a proposal to recast the existing European Regulation on the Export and Import of Dangerous Chemicals. This is to include references in it to the European Regulation on classification, labelling and packaging (CLP Regulation), align its definitions with those in the CLP Regulation and set out the European Chemical Agency's future role in its implementation. The Council is now considering the recast proposal through meetings of its Environment Working Group. Any agreed proposal will necessitate the replacement and re-enactment of the UK enforcing regulations for the 2008 European Regulation as they make specific reference to it.	
Lead Department	HSE
HSE contact	SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed amendment of Annex I to the EC Regulation on the Export and Import of Dangerous Chemicals (689/2008)	
Current status (NEW DEVELOPMENTS):	
The European Commission has published further proposals to add substances to Annex I of the European Regulation on the Export and Import of Dangerous Chemicals and to remove one existing entry. These amendments are needed to reflect the inclusion of these substances into existing pesticides controls. The proposals were agreed on 27 September , and provided that there is no objection from the Council or European Parliament, they are likely to come into force in spring 2012.	
Lead Department	HSE
HSE contact	SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

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 has published a proposal for a European Regulation to replace the current Biocidal Products Directive. It aims to update and improve the existing Directive and it has been estimated that it will lead to savings of £135-£264m for UK businesses. On 20 December 2010, the Environment Council of Ministers reached political agreement on the proposed Regulation. It is anticipated that the Council and the European Parliament will reach a 2 nd reading deal in January 2012, with a view to the Regulation applying from Summer 2013. Second reading negotiations between Council and Parliament started in September, and will increase in pace with three dialogues meetings scheduled for October/November, and a further nine meetings supporting them . The Regulation will be directly applicable in member states and will not require transposition, although regulations may be required on enforcement and fees.	
Lead Department	HSE
HSE contact	SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed amendment of the Biocidal Products Directive (98/8/EC) to include bendiocarb, flufenoxuron, copper (II) oxide, copper (II) hydroxide and copper (II) carbonate basic in Annex I, and two proposed Commission Decisions not to include certain active substances in Annex I

Current status (NEW DEVELOPMENTS):

Bendiocarb, copper (II) oxide, copper (II) hydroxide and copper (II) carbonate basic were subject to positive votes at the September 2011 meeting of the Standing Committee on Biocidal Products and will now be included in Annex I of the Biocidal Products Directive. Annex I is a list of active substances with requirements agreed at European level for inclusion in biocidal products. When an active substance is listed it paves the way for biocidal products containing such active substances to be authorised for placing on the market. As such the inclusions are not expected to impose costs on businesses. Following the vote, a Directive listing the active substances for inclusion under Annex I of the BPD will be published in the Official Journal and the member States will have to transpose it into national law. In GB and NI this is achieved by using an ambulatory reference inserted into the definition of the BPD in the relevant national implementing regulations thus ensuring automatic transposition. The Standing Committee also voted positively on two proposed European Commission Decisions not to include 20 active substances in Annex I. There was no overall qualified majority for the inclusion of flufenoxuron in Annex I, so the issue will be referred to the Council and Parliament for their views. If neither blocks the Commission's proposal, then an inclusion Directive will be adopted.

Lead Department
HSE contact

HSE

SCS Lead – Kären Clayton

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

SCS Lawyer – Abigail Dean

Proposed amendment of the Biocidal Products Directive (98/8/EC) to include margosa extract, methyl nonyl ketone and hydrochloric acid in Annex I, and two proposed Commission Decisions not to include dichlorvos and naled in Annex I

Current status (UNCHANGED FROM LAST BOARD UPDATE):

Margosa extract, methyl nonyl ketone and hydrochloric acid will be subject to votes at the December 2011 meeting of the Standing Committee on Biocidal Products for inclusion in Annex I of the BPD. The Standing Committee will also vote in December on two proposed European Commission Decisions not to include dichlorvos and naled in Annex I.

Lead Department
HSE contact

HSE

SCS Lead – Kären Clayton

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

SCS Lawyer – Abigail Dean

ENTERPRISE AND INDUSTRY DOSSIERS

EC Regulation on classification, labelling and packaging of substances and mixtures (1272/2008) – Proposed 3rd Adaptation to Technical Progress	
Current status (NEW DEVELOPMENTS): The European Commission (EC) has circulated a proposal for a 3 rd adaptation to technical progress of the European Regulation on classification, labelling and packaging of substances and mixtures. This will be discussed by member states in late October and then subsequently voted on via the written procedure. The measure proposes new or revised classifications for 17 substances. The measure had been delayed by continuing scientific debate at European level regarding two substances (gallium arsenide and epoxyconazole), which are not now included.	
Lead Department HSE contact	HSE SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed EU Regulation on Type Approval of Agricultural Vehicles (Replacement for Directive 2003/37/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal to align agricultural vehicles in the same European regulatory framework as other vehicles. It would be a direct replacement for the current Type Approval Directive which came fully into force on 1 July 2009. The Department for Transport (DfT) is leading on the negotiation of this proposal for the UK. HSE is advising DfT on health and safety interests.	
Lead Department HSE contact	DfT HSE SCS Lead – Stephen Williams HSE Policy Lead – Alastair Mitchell, Operational Strategy Division, 01905 74 3608, alastair.mitchell@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Proposed Directive codifying directives relating to the driver's seat on tractors	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission, in 2008, published a proposal to codify Directives relating to the driver's seat on wheeled agricultural or forestry tractors. The purpose of a codification is to bring together a number of instruments into one codified text, not to make substantive amendments. This codification has now been put on hold while the comitology articles of Directive 2003/37/EC, where the proposal will get its comitology procedure from, are amended in line with the Lisbon Treaty as the current legal basis for those comitology articles cannot be applied to proposals that are agreed after 1 December 2009.	
Lead Department HSE contact	HSE SCS Lead – Stephen Williams Policy Lead – Alastair Mitchell, Operational Strategy Division, 01905 74 3608, alastair.mitchell@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed Directive codifying directives relating to the rear-mounted roll-over protection structures on tractors	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal to codify Directives relating to the rear-mounted roll-over protection structures in narrow tracked wheeled agricultural or forestry tractors. The purpose of a codification is to bring together a number of instruments into one codified text, not to make substantive amendments. This codification has now been put on hold while the comitology articles of Directive 2003/37/EC, where the proposal will get its comitology procedure from, are amended in line with the Lisbon Treaty as the current legal basis for those comitology articles cannot be applied to proposals that are agreed after 1 December 2009.	
Lead Department HSE contact	HSE SCS Lead – Stephen Williams Policy Lead – Alastair Mitchell, Operational Strategy Division, 01905 74 3608, alastair.mitchell@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed Directive codifying directives relating to the front-mounted roll-over protection structures on tractors	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal to codify Directives relating to the front-mounted roll-over protection structures in narrow track wheeled agricultural or forestry tractors. The purpose of a codification is to bring together a number of instruments into one codified text, not to make substantive amendments. This codification has now been put on hold while the comitology articles of Directive 2003/37/EC, where the proposal will get its comitology procedure from, are amended in line with the Lisbon Treaty as the current legal basis for those comitology articles cannot be applied to proposals that are agreed after 1 December 2009.	
Lead Department HSE contact	HSE SCS Lead – Stephen Williams Policy Lead – Alastair Mitchell, Operational Strategy Division, 01905 74 3608, alastair.mitchell@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed Directive codifying directives relating to the driver's operating area on tractors	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal to codify Directives relating to the safety requirements for the driver's operating area in wheeled agricultural or forestry tractors. The purpose of a codification is to bring together a number of instruments into one codified text, not to make substantive amendments. This codification has now been put on hold while the comitology articles of Directive 2003/37/EC, where the proposal will get its comitology procedure from, are amended in line with the Lisbon Treaty as the current legal basis for those comitology articles cannot be applied to proposals that are agreed after 1 December 2009.	
Lead Department HSE contact	HSE SCS Lead – Stephen Williams Policy Lead – Alastair Mitchell, Operational Strategy Division, 01905 74 3608, alastair.mitchell@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

Proposed EU Regulation on European Standardisation and amending a number Council and other Directives	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The European Commission has published a proposal for a Regulation to update and improve the standardisation system in the EU. It follows a European Parliament report that identified a number of challenges, including: the lack of balance on drafting working groups; lack of input from SMEs; the length of time taken to revise standards; the need to develop standards in new areas; and the cost of taking part in the process. The Department for Business, Innovation and Skills (BIS) is leading the negotiations for the UK. HSE, in consultation with BIS, is looking to see if there is scope for developing better cooperation among member state work equipment market surveillance authorities so they can be more effective at developing good harmonised standards and blocking defective ones.	
Lead Department HSE contact	BIS HSE SCS Lead – Stephen Williams HSE Policy Lead – Phil Papard, Operational Strategy Division, 0161 952 8402, phil.papard@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

EURATOM DOSSIERS

Proposed Directive on Radioactive Waste Management	
Current status (UNCHANGED FROM LAST BOARD UPDATE) The European Commission published its proposal for a directive on radiation waste and spent fuel on 3 November. DECC is leading on this dossier for the UK, with HSE support as appropriate.	
Lead Department HSE contact	DECC HSE SCS Lead – Les Philpott HSE Policy Lead – Mike Warnes, Office for Nuclear Regulation, 0151 951 4547, mike.warnes@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

Proposed Directive on Radiological Protection	
Current status (NEW DEVELOPMENTS): The European Commission (EC) published a legislative proposal to bring together a number of Directives, Decisions, Regulations and Recommendations dealing with radiological protection into one Directive on 29 September. Negotiations will soon begin in the Council.	
Lead Department HSE contact	DECC HSE SCS Lead – Peter Brown Policy Lead – Matthew Penrose, Work Environment, Radiation and Gas Division, 0151 951 4909, matthew.penrose@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

UNDER IMPLEMENTATION:

EMPLOYMENT AND SOCIAL AFFAIRS DOSSIERS:

Directive establishing a 3 rd List of Indicative Occupational Exposure Limit Values (2009/161/EU)	
<p>Current status (NEW DEVELOPMENTS): Member states are required to transpose the Directive by 18 December 2011. This would involve amendments to the HSE publication ‘EH40 Workplace Exposure Limits’. Measures are now being taken to seek clearance to finalise transposition of the Directive in Great Britain. Implementation is also required in Northern Ireland and Gibraltar.</p>	
<p>Lead Department HSE contact</p>	<p>HSE SCS Lead – Kären Clayton Policy Lead – Gill Smith, Long Latency Health Risks Division, 0151 951 4919, gill.fod.smith@hse.gsi.gov.uk SCS Lawyer – Abigail Dean</p>

Directive implementing the Framework Agreement on preventing injuries from sharp instruments in the hospital and healthcare sector (2010/32/EU)	
<p>Current status (UNCHANGED FROM LAST BOARD UPDATE): Member states are required to transpose the Directive by 11 May 2013. It concerns protecting workers in the hospital and healthcare sectors from the risk of injury and infection from needles, scalpels and other medical sharps.</p>	
<p>Lead Department HSE contact</p>	<p>HSE SCS Lead – Susan Mackenzie Policy Lead – Anna Bliss, Specialised Industries Division, 0151 951 3581, anna.bliss@hse.gsi.gov.uk SCS Lawyer – Prakash Bachoo</p>

ENVIRONMENT DOSSIERS:

EC Regulation on Registration, Evaluation, Authorisation and Restriction of Chemical substances (REACH) (1907/2006)	
Current status (NEW DEVELOPMENTS):	
<p>This European Regulation came into force on 1 June 2007. Key recent developments include:</p> <ul style="list-style-type: none"> • The European Commission (EC) have brought forward proposals to add the first seven substances to the REACH ‘authorisation’ process (with a lead time of several years), and also to amend the list of substances subject to ‘restriction’, including the addition of the HSE-rapporteur substance acrylamide as a carry-over from the pre-REACH regime. Other annexes are also being amended, mostly for environmental concerns rather than occupational safety and health. The Department for Environment, Food and Rural Affairs (DEFRA) leads on all amendments to REACH. • Along with DEFRA, the UK REACH Competent Authority team is considering its approach to the REACH ‘substance evaluation’ mechanism, which will begin in 2012. Substance evaluation presents an opportunity for Member States to assess registration data for given substances, to establish whether further regulatory controls are needed. The UK intends to apply to evaluate three substances in 2012. These substances mostly concern environmental rather than human health matters, reflecting early REACH priorities in addressing less well-understood environmental risks. • HSE is planning for measures to enact a permitted derogation from the new EU restriction on use of paint-strippers containing dichloromethane. Industry has agreed to consider developing the necessary certified (or other quality-assured) training scheme. A draft statutory instrument is being prepared for consultation on. • Discussions are ongoing with the DEFRA on arrangements necessary to assure the continued management of the asbestos legacy under the new REACH restrictions system. 	
Lead Department	DEFRA (Policy Lead) HSE (UK Competent Authority)
HSE contact	HSE SCS Lead – Kären Clayton HSE Policy Lead – Robin Foster, Long Latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

HEALTH AND CONSUMERS DOSSIERS:

Directive on the sustainable use of pesticides (2009/128/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): This directive introduces substantive new legislation on the use of pesticides. It requires member states to develop national action plans to reduce the risk associated with the use of pesticides and dependency on these chemicals. It lists a number of measures that will populate the plans, including: 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. There are a variety of implementation dates for the provisions contained within the directive however, the legislation and administrative procedures necessary to ensure compliance must be in place by 26 November 2011. A programme of work is in progress to develop the necessary implementation measures.	
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

EC Regulation on pesticide statistics (1185/2009)	
Current status (NEW DEVELOPMENTS): This European Regulation requires member states to collect data on pesticides sales and use. The data will populate models developed under an associated European project to assess the risks that can arise from the use of pesticides. It will apply to sales of products in the 2011 calendar year and use of products in yet-to-be determined reference years in 2012-2016. Work to develop the necessary implementation measures has now been completed.	
Lead Department HSE contact	DEFRA (Policy Lead) HSE (UK Competent Authority) HSE SCS Lead – Dave Bench HSE Policy Lead – Julie Howarth, Chemicals Regulation Directorate, 01904 455 737, julie.howarth@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean

INDUSTRY AND ENTERPRISE DOSSIERS:

Services Directive (2006/123/EC)	
Current status (UNCHANGED FROM LAST BOARD UPDATE): The Provisions of Services Regulations 2009 came into force on 28 December 2009 and apply UK-wide. Health and safety law relating to the protection of employees/self-employed is not within scope of the Directive however, that relating to the protection of the public is. A screening exercise was undertaken by HSE in March 2010 to determine which of our regulations/authorisation schemes were deemed to fall within the scope of the Directive. Work is currently being undertaken to ensure compliance with the requirements of the Directive.	
Lead Department	BIS
HSE contact	HSE SCS Lead – Clive Fleming HSE Policy Lead – Chris Rowe, Strategic Interventions Division, 020 7227 3811, chris.rowe@hse.gsi.gov.uk HSE SCS Lawyer – Prakash Bachoo

EC Regulation on Classification, Labelling and Packaging of Substances and Mixtures (1272/2008) – 1 st Adaptation to Technical Progress	
Current status (NEW DEVELOPMENTS): The 1 st Adaptation to Technical Progress (ATP) of European Regulation on classification, labelling and packaging was published in the Official Journal on 5 September 2009 as European Commission Regulation No. 790/2009. Duty holders have to comply with the new substance classifications by 1 December 2010. This ATP incorporated the then proposed 30 th and 31 st ATPs to the Dangerous Substances Directive. 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 30 th 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 30 th ATP, and referral to the ECJ. On 6 May 2009, Rio Tinto joined the action initiated by ETIME. Rio Tinto is opposed to the re-classification of borate substances. Both cases were referred to the ECJ. Following the Advocate General's Opinion (AGO), the judgement of the ECJ was published on 21 July 2011. It fully supported the findings of the AGO, i.e. the re-classifications of both the borate substances and certain nickel compounds were legal and valid. On 21 September, the ECJ ordered that the applications be dismissed as inadmissible, and that the applicants pay their own costs and those incurred by the European Chemicals Agency, with the European Commission and intervening member states (including the UK) bearing their own costs.	
Lead Department	HSE
HSE contact	SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean

EC Regulation on classification, labelling and packaging of substances and mixtures (1272/2008) – Establishment of the UK competent authority	
<p>Current status (UNCHANGED FROM LAST BOARD UPDATE): The UK is required, under European Regulation No. 1272/2008, to appoint a competent authority for proposals for harmonised classification and labelling of chemicals and to be responsible for the enforcement of the obligations set out in the Regulation. Discussions are in progress with the devolved administrations about the potential mechanisms for appointing HSE as the UK competent authority for the Regulation.</p>	
<p>Lead Department HSE contact</p>	<p>HSE SCS Lead – Kären Clayton Policy Lead – Robin Foster, Long latency Health Risks Division, 020 7227 3814, robin.foster@hse.gsi.gov.uk SCS Lawyer – Abigail Dean</p>

TRANSPORT DOSSIER:

Directive on investigation of accidents in the maritime transport sector (2009/18/EC)	
<p>Current status (UNCHANGED FROM LAST BOARD UPDATE): This directive on the investigation of marine accidents requires the Marine Accident Investigation Branch (MAIB) to undertake a ‘no blame’ investigation into all serious marine casualties and incidents. MAIB are interpreting this to require it to investigate serious accidents involving shore-based workers on board a ship – such accidents have previously been left to HSE. Draft implementing regulations are currently being considered by Ministers. This will be followed by a public consultation.</p>	
<p>Lead Department HSE contact</p>	<p>DfT (MAIB) HSE SCS Lead – Stephen Williams HSE Policy Lead – Christine Barringer, Operation Strategy Division, 01342 33 4261, christine.barringer@hse.gsi.gov.uk HSE SCS Lawyer – Abigail Dean</p>