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## WATCH COMMITTEE

### COSHH 2002 (as amended): Communicating the changes

#### Issue

1. Changes to the COSHH regulations have shifted the emphasis away from compliance with (inhalation) exposure limits towards the use of good control practice. WATCH will be given a presentation on the changes and invited to debate how these changes can best be communicated to achieve the desired effect – greater compliance with COSHH and a reduction in occupational ill health.

#### Timing considerations

2. Routine.

#### Recommendation

3. That WATCH members express their views on what is presented to them and suggest ways of engaging others to communicate key messages to secure changes in behaviour and improvements in occupational health. The COSHH regulations underpin initiatives within HSE's Disease Reduction Programme. As the programme matures, HSE will be looking at ways of building on its momentum by, for example, communicating generic messages on control. WATCH is invited to generate its ideas about communicating the key messages arising from the changes to COSHH, which could be factored into any future development of DRP.

#### Background

4. The Control of Substances Hazardous to Health (Amendment) regulations 2004 introduced changes to the COSHH Regulations (2002). The main changes to the Regulations surround the provision of a new framework for adequate control with the introduction of the eight principles of good control practice and the new Workplace Exposure Limits (WEL). Clarification is also provided on the duty to maintain exposure control measures. The main objective for these changes was to shift the emphasis to using good control practice and not just compliance with an (inhalation) exposure limit.

#### Argument

5. SME's often don't assess the risks properly. Common failures reported by HSE Inspectors include:

- 'Risk assessment' is just a collection of Safety Data Sheets (SDSs) or rehash of SDSs;
- Information incorrectly transposed from SDSs;
- Failure to identify all, or the correct, exposure routes;
- Assessment is not task or process-based;
- The assessor not familiar with task/activity being assessed;
- The assessment is generic and not tailored for the particular situation;
- Some exposed groups have not been considered;
- The assessment is not specific about the control measures required;
- Emergency procedures have not been considered;
- The steps identified in the assessment have not been implemented.

6. SME's often don't realise that they have a control problem. They tend to use mental models of the control culture of 'their' industry: this may, or may not, include appropriate controls. They regard health and safety as 'common sense'. They expect the process to be safe, if used as intended. They expect the products they use to be safe, if used as intended. They don't perceive risk assessment as something they have to do. We need to establish how we can change that culture.

7. Rather than try to educate and inform an audience that, largely, finds 'linear' risk assessments difficult, it might be better to focus resources on identifying and relaying key messages that will improve occupational health. In simple terms (i.e. what is it that will really make a difference), the focus should be on better control of exposure to substances hazardous to health. Practically, it is possible to comply with almost all of COSHH by properly and systematically complying with COSHH Reg 7. However, this also moves compliance away from being a linear step-by-step process (assessment > control > review), favoured by regulators and some large organisations - but hardly anyone else. Focusing on regulation 7 would remove a lot of the "steps" to compliance; and put the emphasis where it belongs - effective control of exposure.

8. Key COSHH Messages to employers/employees include:

- *Materials you use, or are in contact with, can hurt you.*
- *It is always possible to control exposure to minimise the risk.*
- *Work out how people get exposed and how best to control it.*
- *What you are doing now may be OK. Check.*
- *Ask suppliers, and others, the best way of achieving good control.*
- *Controls must be practicable, workable and sustainable.*
- *Work out how to check if controls are working.*
- *Tell your employer if the controls aren't working or workable.*

## **The COSHH/REACH interface**

9. In the future, the information that is easily available to companies will change. REACH requires that the Manufacturer/Importer (M/I) of substances will have to determine what are the safe operating conditions for their substances and demonstrate how adequate control should be achieved in the workplace. This information should then be passed through the supply chain by appending information on the scenario specific risk management measures (RMMs) to the SDS.

10. REACH will be a directly-acting EU Regulation and will apply, without prejudice, to current workplace health and safety legislation, which means that employers will have to comply with both REACH and COSHH. Risk assessment is required in both legislation and its aim in both is to ensure that human health is not affected by chemicals. There is a focus in both on controlling risks.

11. In REACH, the obligations are mainly on the M/I who will have to assess the risks and decide on appropriate RMMs, both for their own site and all of the users of the chemical. In REACH the risk assessment only covers manufacture and identified uses for substances manufactured or imported in amounts of >10 tonnes/year. In COSHH all of the duties fall to the employer in terms of assessing the risk. This risk assessment covers all work activities with hazardous substances at that site and would include things like process generated fume and substances used in very small quantities.

12. Another major difference is that REACH is substance-driven and the REACH risk assessment will relate to the use of that substance throughout the supply chain. It is unlikely to take into account the other substances in use on any one particular site or the interactions of different substances in certain processes. Risk assessments under COSHH tend to be process-driven, i.e. the employer looks at the process being carried out, including RMMs, and then at all the substances used in the process. In situations where employers do not understand what control measures are needed, then the REACH SDS will point them in the right direction but the employer will still have to ensure that adequate control is achieved at their site.

13. There is potential for the implementation of REACH to increase confusion amongst SMEs. For example, two different M/Is might give different RMMs in their SDSs for the same substance. Another example of potential confusion would be where an employer has achieved adequate control in terms of COSHH but has not followed the RMMs, as given in the REACH SDS. The other main area for confusion will be the role of derived no effect levels (DNELs) under worker protection legislation. Occupational exposure levels (OELs) have a legal basis in COSHH and, as yet, this has not been defined for DNELs. Clarity in complying with COSHH, and the use of good control practice, will be critical in minimising the confusion amongst SMEs.

14. Some COSHH Communication products:

- Essentials of Health & Safety – Chapter 17
- BOHS Newsletter, May 2006

- Summary Points and checklist – BOHS website. HSE Website?
- COSHH; A Brief Guide to the Regulations
- How to Control Substances Hazardous to Health. In development.

### **Link to HSC Strategy**

15. COSHH underpins the Disease Reduction Programme, which is a component of the “Fit3” Strategic Programme.

### **Consultation**

16. None.

### **European Context**

17. The COSHH/REACH regulatory interface needs to be addressed to minimise confusion amongst SMEs.

### **Action**

18. WATCH is asked to consider the attached Annexes, receive presentations at the November meeting, and to propose ways of communicating control messages to SMEs.

### **Contact:**

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### **References / Attachments**

- Annex 1: BOHS Newsletter Insert ‘COSHH 2002 (as amended) and effective control of exposure’.
- Annex 2: Excel spreadsheet: Principles Checklist.
- Annex 3: Communications Checklist