

## MINUTES OF THE FOURTH MEETING OF THE UK REACH ENFORCEMENT LIAISON GROUP (ELG)

Newcastle HSE Area Office, Arden House  
THURSDAY 8<sup>th</sup> JULY 2010

### Organisations represented

UK REACH Competent Authority (CA)  
Health and Safety Executive (HSE)  
Environment Agency (EA)  
Scottish Environment Protection Agency (SEPA)  
Department of Energy and Climate Change (DECC)  
Northern Ireland Environment Agency (NIEA)  
United Kingdom Borders Agency (UKBA)  
Department of the Environment, Food and Rural Affairs (Defra)

Health and Safety Authority, Ireland (HSA) attending as observers.

Apologies were received from:

Health and Safety Executive Northern Ireland (HSENI)  
Home Office (Animals Scientific Procedures Division)  
Her Majesty's Revenue and Customs (HMRC) (although UKBA did attend)

The Local Authorities Coordinators of Regulatory Services (LACORS) are now to be known as Local Government Regulation, they were invited but a representative did not attend the meeting.

Chair and Secretariat functions were provided by the UK REACH CA.

### 1. Welcome and Introductions

The Chair of the ELG welcomed all members and thanked them for attending. As there were some new attendees, each person introduced themselves to the group. For the second time, observers from HSA, Ireland were also welcomed and introduced.

### 2. Administrative issues

(i) Approval of draft agenda:

Some changes were made to the meeting agenda immediately prior to the meeting, these changes were agreed and the Chair will ensure these are reflected in the published agenda. The format of future meetings will be discussed in AOB.

**Action: Chair to provide Secretariat with amended agenda for publication on website. This new agenda was agreed at the start of the meeting.**

(ii) ELG Rules of Procedure

The Rules of Procedure required some changes to ensure consistency with the MoU. The Chair made these changes and the Rules of Procedure were agreed by the members and finalised to be added to REACH website.

**Action: Chair to provide completed, agreed version to Secretariat for publication on website.**

All other actions from the previous meeting were discharged.

### **3. Feedback on recent operational activities including enforcement action**

(i) The Environment Agency presented their annual enforcement report with details of current and future planned enforcement activity. **Action: Chair to circulate presentation to members.** There is a possibility of a further presentation on this at the next ELG by an invited expert from the EA. **Action: Presentation at next meeting to be agreed between EA and chair.**

(ii) The chair gave feedback on the recent enforcement activities of the UK REACH CA Compliance Team. A pro-active project is ongoing concentrating on those companies who have pre-registered ELINCS listed substances, with over 250 dutyholders identified. There are a few instances where these may be valid, but generally these pre-registrations are not valid. In the main, the companies who have pre-registered these substances have done this defensively and are not relying on these pre-registrations. The UK REACH CA are following up those companies who believed their pre-registrations were valid, to bring them back into compliance.

The Compliance Team intends to continue with this project, and include the suppliers of the companies who claim to be obtaining their substances from other EU based companies.

The 4 substances for pro-active campaigns are selected and the first set of data has been received from the team at the EA. Details of the first campaigns have been published, naming ammonium dichromate and MDI. It is yet to be agreed when work on this will be started.

A further registration project is planned on the enforcement of ECHA "draft decisions". This is focused on obtaining data requested under the NONS regime at the MS level, which are now requests from ECHA and the CA will work with ECHA to contact companies to request any data that has not been submitted and is now well after deadline.

The REACH-EN-FORCE 1 project has now been extended until April 2011. The project has so far been judged highly successful. An overall non-compliance rate of 24% was reported, with a 31% non-compliance rate relating to SDS provisions.

REACH-EN-FORCE 2 is currently in the planning phase, concentrating on downstream users and contribution is being given by the UK to this planning phase.

The PAH project (to be presented by EA later) was adopted by the Enforcement Forum in May, and the UK REACH CA Compliance Team intends to contribute to this.

3 Operational Circulars (OCs) have been written by the Compliance Team, these have now been agreed by the appropriate section within HSE and are now available on the HSE intranet. The subjects of these are The REACH Regulation, REACH Enforcement and the interaction of REACH and COSHH. **Action: Chair to circulate these OCs.** The UK REACH website has been upgraded and now includes new look pages on enforcement and legislation.

Reactively, the UK REACH CA continues to progress complaints, voluntary approaches from dutyholders and referrals from other enforcing authorities.

The UK REACH CA Compliance Team gave a presentation to get the members views on holding an Enforcement Stakeholder Day. This would be hosted and funded by the REACH CA Compliance Team, the intention would be to get support from the ELG members as

enforcing authorities for REACH. ELG members are asked to consider whether this would be valuable, and if so, what format it should take and who should be invited. It was generally agreed that the Enforcement Stakeholder Day would be valuable. **Action: Members to contact Mike with thoughts for the organisation and format for this day. Including offers of attendance or assistance.**

#### **4. ELG work programme**

The Secretariat gave a presentation on the format and content of the initial draft of the ELG work programme. The format of the work programme was generally agreed. The volunteers, as specified in the minutes of the 3<sup>rd</sup> meeting of the ELG, are now to evaluate this document in more detail and provide comments to the secretariat. Action: Work programme volunteers to provide comments on the ELG work programme document to Secretariat by mid Oct. **Action: Secretariat to contact volunteers to organise work on draft work programme.** It is intended that the final version of the ELG work programme will be presented at the next meeting of the ELG for agreement.

#### **5. Restrictions project – PAH's in tyres**

The Environment Agency gave a presentation on the forthcoming EA project on the REACH Annex XVII restriction on PAH extender oils in tyres. **Action: Chair to circulate presentation.** The EA have done research to show that the UK is a particularly large importer of tyres from outside the EU, from countries where there are no controls on PAH levels, in a market with a large commercial turnover. Extender oil replacement is not simple, making it even more likely that these oils will continue to be included in imported tyres for some time. These factors all make this a priority for enforcement action. The EA are supporting the participation of other UK and EU enforcing authorities. They will assist with enforcement manuals, acting as coordinator and providing publicity. **Action: Members with interest in this should contact Richard or EA's Chemicals Compliance team (email address available in presentation).**

#### **6. Developments at European level**

The UK REACH CA Compliance Team gave a presentation to members about the 7<sup>th</sup> Enforcement Forum meeting and the first Enforcement Stakeholder Workshop. **Action: Chair to circulate presentation to members.** This was the first Forum Stakeholder Workshop; previously stakeholders had attended open sessions of the main Forum meetings, though Forum members and stakeholders had not felt that this was particularly effective. Approximately 15 stakeholder organisations took part for discussions of issues of interest between the Forum and stakeholders. Presentations on the ongoing Forum project were given by the working group chairs (including REF-1 and REF-2 and REACH and customs).

Stakeholders and Forum members both presented items for discussion, these included:

Coordination of REACH enforcement-  
Overview of the forum work programme  
REACH-EN-FORCE-1  
Future Forum projects (inc. REF-2)  
REACH and customs.

From stakeholders-  
Knowledge of inspectors on legal provisions  
Documentation needed by inspectors (including language)  
Enforcement of 0.1% threshold for substances in articles.  
Documentation accepted by enforcers for information on substances in articles

Enforcement of REACH provisions on alternative methods  
Enforcement of restrictions and authorisations  
Understanding of the REACH and CLP provisions for SDS.

From Forum members-  
Communication in the supply chain  
Experiences of industry with REF-1  
Division of responsibilities within consortia  
Handling bad behaviour in SIEFs  
Enforcement of restrictions.

These items were discussed outlined in presentation and paper 3 of the meeting.

Members then received feedback on the 7<sup>th</sup> Forum meeting. The stakeholder event above was discussed and deemed a success, the intention is now to repeat this. The main agenda items from the 7<sup>th</sup> meeting of the Forum are provided in the presentation given and in paper 4 provided for this meeting. The main points were:

Feedback from working group chairs  
ICSMS/RIPE update  
Practical enforcement issues (particularly Article 5 enforcement)  
Enforcement of restrictions  
Enforcement of CLP  
CLEEN

The Forum WGs fed back about REF-1 and REF-2, and the WG on customs had the mandate extended as many issues were still to be resolved. To the surprise of the UK CA, the CLEEN project on e-commerce was not adopted.

## **7. Update from Defra/UK REACH CA**

(i) Changes proposed to REACH Enforcement Regulations 2008 are being made to account for the issues regarding asbestos and DCM. Buildings are no longer to be considered articles, meaning that old buildings containing asbestos can be placed on the market without the prohibition under Annex XVII of REACH and any future REACH related sanctions on asbestos in articles. Consultation is also underway regarding the training scheme required for the DCM derogation (substance can still be used for paint stripping if used by specifically trained professionals under certain strict conditions). Consideration needs to be given in future to the new coalition administration, with the 1-in-1-out ruling on new legislation.

(ii) Changes proposed to the REACH Regulation. Changes to Annex II have been adopted. These have been publicised and changes to the SDS leaflet on the REACH website are in process. The first Annex XIV draft is due for commitment in September. The first sunset date will be in 2014. ECHA have received several restriction proposals, with Annex XV dossiers to be circulated to the Forum WG soon, once adopted by RAC/SEAC. These restrictions include lead in jewellery, DMF in treated articles, Mercury in measuring devices and phenyl mercury compounds.

(iii) HSE gave an update of the current situation with the MoU. The text is finalised and the appropriate person from each signatory is being identified. **Action: HSE to email members to find out the Enforcing Authorities preferences for signing. Whether signing separate paper copies, or done electronically.**

## **8. AOB**

The chair fed back an issue with ECHA security arrangements with regards to RIPE. Requirements have now been downgraded to recommendations. **Action: Chair to circulate RIPE security recommendations to members.**

In the current climate it may be necessary to consider other options for the format of future meetings of the ELG. The chair asked members if they would still be able to attend in person, or if telephone or video conferencing may be utilised in future. All members agreed that meeting in person was the best format for meetings, but other formats should be made available for those that could not attend in person. **Action: Secretariat to arrange next meeting well in advance to enable members to gain agreement to attend, and to have videoconferencing available as an option in the circumstances that this is not agreed.**

## **9. Date of next meeting**

The next meeting will be in February. **Action: Secretariat to determine availabilities of members for next meeting and the meeting location, considering the locations of the attendees and the overall expense of all attendees to attend.**