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

HSE HQ, Redgrave Court, Bootle, Merseyside
THURSDAY 10th February 2011

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)
UK 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)

The Local Authorities Coordinators of Regulatory Services (LACORS), now known as Local Government Regulation, 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 two groups participating by videoconference and one by teleconference, the chair named all the attendees and their organisations.

2. Administrative issues

(i) Approval of minutes from last meeting:

Some changes were made to the meeting minutes, these changes were agreed and the Chair will ensure these are reflected in the published minutes. **Action: Chair to provide Secretariat with amended minutes for publication on website.**

(ii) Outstanding issues from last meeting

The ELG Rules of Procedure required some changes to ensure consistency with the MoU. The Chair made these changes and the Rules of Procedure are now agreed and finalised to be added to REACH website. **Action: Chair to provide completed, agreed version to Secretariat for publication on website.**

Since the previous meeting, changes had been made to the ECHA security arrangements with regard to RIPE. For this reason the RIPE security recommendations were not forwarded to members previously, as promised. The Chair has now circulated the revised recommendations as one of the papers for this meeting and this will be discussed in action point 6(ii).

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All other actions from previous meeting discharged.

3. Feedback on recent operational activities including enforcement action

(i) The EA gave a presentation about their recent enforcement activity. The previously discussed prioritisation tool is in place, but has yet to be populated with the necessary data. The progress of specific campaigns was also reported, including dioxins in eggs, PCB's in the environment, PAH's in tyres (including problems with the testing methods given in the restriction), HCB in fireworks (for which a successful prosecution was taken) and NP/NPE's.

(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. The Compliance Team intends to finalise with this project, and include the suppliers of the companies who claim to be obtaining their substances from other EU based companies. The results of this project will be presented to the next Forum meeting.

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. Work is already underway on the ammonium dichromate project, and the intelligence has already been received to enable the commencement of the MDI project.

A further registration project is planned on the enforcement of draft decisions. This is focused on obtaining data requested under the NONS regime. These data requests are now requests from ECHA and the CA will wait for 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, and the CA continues to participate, though to a lesser extent than during the primary phase. REACH-EN-FORCE 2 is currently in the planning phase, concentrating on downstream user formulators and the UK is contributing to this planning phase with a representative on the relevant Forum Working Group.

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

4. ELG work programme

The revised ELG work programme, originally presented at the previous meeting, was agreed and adopted. Since the previous meeting, comments from members had been incorporated, and proposals made as to the relative priorities and leads for the individual work packages. Items from the ELG work programme will appear in the agenda for the next meeting, for work to begin on the individual work packages. It was noted that some work packages were already well underway, e.g. plans to hold an Enforcement Stakeholder Workshop. **Action: Secretariat to add ELG work programme to Enforcement section of REACH website.**

5. UK Enforcement Stakeholder Day.

The UK REACH CA Compliance Team gave a presentation on an upcoming Enforcement Stakeholder Day. This is due to take place on 17th March 2011. The invitation was mainly extended to trade associations and ELG members are invited to attend to assist. **Action: All ELG members to contact Compliance Team if they would like to attend this event.** The agenda for this meeting is still in development, as it depends on topics of concern

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raised by attendees. **Action: Secretariat to send current agenda and TA attendee list to ELG members.**

6. Developments at European level

(i) The UK REACH CA gave a short presentation outlining the main issues from Forum 8, although detailed notes of the meeting have previously been circulated.

Feedback was provided to the Forum from the Commission relating to restrictions and Article 5 enforcement. One important point was the opinion from the Commission that REACH duties are applicable to the general public, although legal advice in the UK does not necessarily share this view.

A large number of Forum memberships were up for renewal and a large proportion of these countries will now have new Forum members. This is also the case with the UK, who will have a new member and no longer act as chair.

The Directors Contact Group (DCG) has identified 28 issues of concern, mainly to do with registration. Not all the issues concern enforcement, though for each issue, a "solution" has been developed. These solutions are intended to be used to determine whether there are extenuating circumstances for a registration not being submitted when it should have been. It is suggested by the DCG that if such circumstances can be shown, then additional time should be granted to the registrant, during which time enforcement action should not be taken. The status of these solutions is unclear, however, as enforcement of REACH is on a national basis, not determined by ECHA, although the UK are happy to abide by the decisions of the DCG.

Various working groups reported back on their activities, including groups on customs, REACH En Force II, CLP enforcement, the CLP 'train the trainers' event and restrictions. The enforceability of certain restrictions was discussed, as well as issues with information exchange. The practical issues for enforcement which were discussed at this meeting included data sharing, issues surrounding sale from stock, exemptions, OR's notifying to the CLP inventory, SDS/labelling issues and intermediates.

(ii) A short presentation was given by the UK REACH CA regarding RIPE. Whilst the UK REACH CA now has access to REACH-IT, other enforcing authorities must go through the CA if they require data. For this reason RIPE is being developed (REACH Information Portal for Enforcement). This allows access to around 80% of the information on REACH-IT but for that member state only. This is expected to be available mid-to-late 2011. Member states have assigned RIPE administrators and Single Point Of Contact (SPOC) end user support to assist enforcers. The UK RIPE administrator and SPOC attended the meeting and was introduced to members. In terms of the security of the system, it will be a token and PIN system and enforcing authorities will be expected to sign a declaration that certain security recommendations will be met. A paper outlining these recommendations was circulated prior to this meeting.

(iii) The presentation above was continued to explain electronic information exchange systems (EIES). This is intended to be used by enforcers intra- and internationally to exchange information, mainly on cases of non-compliance. This data is confidential and therefore sending it by unprotected routes, e.g. unencrypted email is inappropriate. The majority view was that an extension to RIPE would be the best system. This project is likely to take some time, so an interim solution is required in the meantime. This will mainly be in the form of encrypted email attachments using specific encryption and password generation and storage software. A presentation on this by ECHA is to be circulated. **Action: UK REACH CA to circulate ECHA presentation on encryption, and determine appropriateness of using GSI in the meantime.**

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(iv) The Cefic/Eurometaux letter and the general issues concerning customs involvement in REACH was discussed. This was written to ECHA to address industry concerns to the recommendations made by the Forum Working Group on co-operation with customs. The ELG were generally sympathetic to the points raised in the Cefic/Eurometaux letter. UKBA explained the difficulties of paperwork being checked at customs and it was generally agreed that it is not a feasible option to have (pre-)registration numbers on customs paperwork. Further discussion of this issue is anticipated at Forum 9.

7. Update from Defra/UK REACH CA

(i) Defra gave an overview of the numbers of registrations submitted following the first registration deadline. They noted that, as with the pre-registration figures, the UK were second to Germany. UK companies submitted 2,430 dossiers, which equated to 12% of the total number. Whilst the number of dossiers submitted across the EU was about the number expected, the number of substances registered (approx 3,400) was lower than initial estimates. There was a relatively large number of intermediate dossiers submitted. Defra noted they had produced a media handling pack.

The REACH CA noted that it was aware of only one company that had used a Directors Contact Group solution in the UK. It was also noted that there had been few instances of these solutions being used across the EU (understood to be 17).

(ii) A joint letter has been sent from Defra and BIS Ministers to the European Commission relating to the impact of REACH on downstream users. This addresses the issue of a potential 'period of grace' for downstream users, should the manufacturer/importer either not register, or register but not include the specific uses, including the issue of registering for only intermediate uses. A reply has been received to this letter. **Action: Defra to provide this reply to Secretariat for circulation to members.**

(iii) HSE gave an update of the current situation with the MoU. Some small changes were made to the text, these were agreed in the meeting. **Action: Secretariat to forward amended version to members.** HSE also requested that members get the MoU signed by the appropriate signatories. **Action: Members to return signed pages to HSE within 2 months of meeting.**

8. AOB

None raised.

9. Date of next meeting

The next meeting will be in September or October. **Action: Secretariat to determine availabilities of members for next meeting, location TBD, considering the locations of the attendees and availability of videoconferencing facilities.**