

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

HSE HQ, Redgrave Court, Bootle, Merseyside
THURSDAY 3rd November 2011

Organisations represented

UK REACH Competent Authority (CA), hosted by the Health and Safety Executive (HSE)
HSE, International Chemicals Unit (ICU)
Environment Agency (EA)
Scottish Environment Protection Agency (SEPA)
Department of Energy and Climate Change (DECC)
Northern Ireland Environment Agency (NIEA)
Health and Safety Executive Northern Ireland (HSENI)
UK Borders Agency (UKBA)

Operational inspectors from HSE and Derbyshire Local Authority also attended

Apologies received from:

Home Office (Animals, Scientific Procedures Division)
Department of the Environment, Food and Rural Affairs (Defra)

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

1. Welcome and introductions

The Chair of the ELG welcomed all members, including new representatives of operational inspectors, thanking them for their attendance. As there were two groups attending by video conference and one by teleconference, the Chair named all the attendees and their organisations.

2. Administrative issues

(i) Approval of minutes from the last meeting:

The minutes of the last meeting were agreed with minimal changes. **Action: Secretariat to publish minutes on website**

(ii) Outstanding issues from last meeting:

The only outstanding actions are the publication of a range of documents on the REACH website. This has been delayed due to a hold on making non-essential website changes. **Action: to publish outstanding documents on website as soon as possible. To be discussed with webteam. The other outstanding action on members to return the signed page of the MoU is moved to a separate agenda item for today's meeting.**

3. Feedback on recent operational activities including enforcement action

(i) UK REACH CA activities and future plans:

A member of the UK REACH CA gave a presentation on recent enforcement activity. The completed proactive work was outlined. The campaign on the pre-registration of ELINCS substances is now complete, although a further project may arise from this. REF-1, looking at pre-registration and SDS's is also complete. The registration related aspects of two of the four proposed substance specific campaigns are also complete, on ammonium dichromate and MDI. Registrations were generally found to be in compliance, with outstanding issues surrounding the suitability of SDS's.

Proactive campaigns currently ongoing include one project on asbestos in the string of sky lanterns, in breach of the restriction on the placing on the market of articles containing asbestos. This project was as a result of LA action against non compliance found at retail sale, the CA followed supply chains to importers. It is likely this project will be completed soon. REF-2 is also in its operational phase. This is the second co-ordinated enforcement project, this one focusing on supply chain duties, including SDS's.

A range of other proactive projects are also under consideration. The commencement of these will depend upon enforcement priorities and the range of reactive work requiring attention.

HSE (ICU) informed the members at this point that industry want a broader definition of an intermediate, which treasury would be taking a view on in the near future. Members should be aware that there may be a new policy line on this, in terms of enforcement.

Reactive work is ongoing, based on complaints, confessions and referrals. Many of these issues relate to incorrect pre-registrations due to incorrectly identified substances. Up to 1st November 2011, there have been 226 interventions by the UK REACH CA Compliance Team. The majority of these interventions have resulted in the provision of advice and guidance, however this has also resulted in 40 notices.

Operational support continues to be provided to other enforcers, an inspection topic pack has been completed and will shortly be published on an intranet site for use by HSE inspectors.

The Enforcement Stakeholder day, proposed in the ELG work programme, was held in Birmingham on 18th March. An Approx 75 delegate attended and was generally perceived to be a success. We also continue to provide speakers at various UK/EU seminars to push the pragmatic UK approach.

(ii) The EA gave a presentation about their recent enforcement activity.

EA again emphasised their better regulation approach, in terms of being risk-based, targeted and presenting minimum burden to industry, as well as the wider emphasis on advice and guidance.

Recent enforcement activity by EA was highlighted and included, amongst other campaigns:

- Work on HCB in fireworks, including a successful prosecution. Also working with HSE to issue 2 notices and worked with CLEEN and the Explosives Industry Group to share information and approaches.
- The England and Wales campaign on PAHs in tyres is now complete, including feedback to ECHA about the inappropriateness of writing specific test methods into restrictions. The EU joined up project on this should be completed in early 2012.
- NP/NPE, personal care products, cleaning products and imported textiles have been looked at, resulting in a number of investigations. Advisory letters have been issued and some investigations are still ongoing.
- Mercury in measuring devices – continued monitoring and removal of devices containing Hg (advisory info sent to sellers who then remove the devices from UK sale).
- Mercury work also included a campaign on mercury amalgam traps & waste management for dental practitioners in an Area where monitoring has shown high levels of Hg at sewage works (supporting Water Framework Directive objectives)
- PFOS in fire extinguishers and control systems. Seeking to raise awareness among business audiences = Sources indicate >19000Ltrs of PFOS foams & washing waters disposed of as a result (<115kg PFOS)
- 10 Information Notices to follow-up last years campaign (2), potential 2010 importers (6) and REACH pre-registrants (2) of PFOS derivatives – 9 compliant (one still being investigated), 3 provided with information about stockpiles and waste management.

The prioritisation tool is almost operational and should soon be able to inform the enforcement priorities. Other ongoing work streams include:

- Team member is UK contributor to the REACH Enforcement Forum Working Group on Enforceability of Restrictions.
- EA planning to host 2013 CLEEN conference; working with UK CLEEN representative (HSE's Robin Foster)

4. Developments at European Level

(i) Feedback from Forum 9 and 10

Forum 9 took place in March and Forum 10 in October. Forum 10 was also run back to back with a Stakeholder day. Detailed notes of these meeting have been previously circulated to members. A brief summary of the key points for the UK is below:

Key points of Forum 9;

- The commission are undertaking various studies and the CA may ask ELG members for assistance on these where the CA do not hold the relevant information.
- There will be much more focus on practical issues for enforcement in future.
- CLP is being increasingly considered, so the forum member may request additional advice in advance of future meetings.
- RIPE was covered, but RIPE is discussed later in this agenda.
- The next REACH Enforcement Forum Project (REF III) is likely to focus on customs issues (however, as in the Forum 10 feedback, this will now also include other elements).
- The UK, in the form of EA, fed back on their progress with the PAHs in tyres project and provided additional information to assist other member states in their part of the joint project.
- The UK REACH Compliance Team presented the results of the ELINCS presentation, including information on targeting methods and levels of non compliance found.

Key points of Forum 10;

- Further Commission activity is expected for a restrictions project, which may include input from ELG members.
- A presentation was delivered on Defence Exemptions.
- Practical issues of interest were outlined, including intermediates (already being considered by the UK Compliance Team and policy, as reflected elsewhere), substance in articles and SDSs.
- The working group for REF III reported on progress. Whilst this project will still have a largely customs based focus (which the UK could not contribute to), there are now other components focusing on ORs which the UK will consider contributing to.

The Industry Stakeholder Day was held to coincide with the end of Forum 10. 12 industry groups attended and industry groups highlighted some of the issues they were currently facing, including the article definition, intermediates, SDS duties and inspections. The day was considered a success, and whilst unlikely, open sessions have been requested at all future Forum meetings.

Forum 11 will be held in Brussels, back-to-back with a Commission run stakeholder day.

HSE (ICU) informed members that the UK are in the lead in terms of thinking on the MoD Defence exemptions, as mentioned above. In the UK, any dutyholder claiming a defence exemption for registration duties should have evidence from the MoD.

(ii) RIPE: Demonstration and token allocation

The UK REACH CA allocated tokens to those members who had requested them, the member from the EA kindly allowed a demonstration showing how to sign up to RIPE for the first time and set a pin number. The functions and searches available on RIPE were then

demonstrated to members. **Action: Any further members requiring RIPE access to contact the UK REACH CA Compliance Team.**

5. Update from Defra/UK REACH CA

(i) The member from Defra was unable to attend, hence the agenda item on feedback from Defra was not delivered.

(ii) Progress of MoU

The member of the ELG from HSE policy fed back that not all member organisations have so far provided a signature and have been reminded to now do so. **Action: Any members who have not provided signatures, to please provide these to the Secretariat as soon as possible.**

Some small changes are required to the text of the MoU on an issue only affecting the UK REACH CA and HSENI and the manner of registration enforcement. ELG members were happy for these changes to be made. **Action: Secretariat to circulate proposed changes to all members, once agreed by affected members.**

Due to recent changes, UKBA are some way from obtaining the required signature and a submission is yet to be put together. Members from SEPA and NIEA have offered their own submissions to assist in this process. **Action: Secretariat to provide contact details to allow this.**

6. ELG work programme

(i) Presentation of progress

The secretariat gave a presentation on the progress on the packages in the work programme. Whilst the proposed stakeholder day has been completed, little work has been done on the other work packages, mainly due to the 'front line' enforcement work being undertaken as priority

(ii) Review of work programme

The secretariat fed back on the current state of play of the ELG Work programme and progress so far, including the completed Enforcement Stakeholder event.

(iii) The Chair led a discussion around the various packages of the work programme. Each package of the work programme was discussed with views of all members. Some of the packages based around methods of communication between ELG members are not considered necessary, as parties are used to working on a case-by-case basis. The secretariat will act as a centre for contact. **Action: Secretariat to draft a new work programme based on these discussions and circulate to members for comment.**

7. AOB

(i) HSE (ICU) feedback

The REACH Enforcement Regulations are to be amended to take account of a number of developing policy issues, namely;

- Taking up the possible derogation from the new Annex XVII restriction on sale and use of paint strippers containing dichloromethane (DCM) to permit continued professional use. HSE lead on this issue, although Defra lead on all the following 4 issues.
- Taking up the possible exemption from the Annex XVII restriction for continued sale and use of certain articles containing asbestos.
- Re-instituting an HSE veto on import of waste potentially containing asbestos (unintentionally deleted from the Control of Asbestos Regs 2006).
- Potentially naming new enforcing authorities
- Dealing with a few misc. other issues

There is also a possibility that the REACH Enforcement Regulations 2008 as a whole might be subject to consolidation with other environment-related chemicals implementation instruments, in response to comments made as part of the Red Tape Challenge. Defra also in the lead for this.

(ii) SEPA raised concerns of the effects of classification and labelling changes resulting from REACH leading to increased sites falling under COMAH.

(iii) UKBA requested that 2 points be made, for information purposes only at this stage, although work may be done in the future for which UKBA may appreciate input from member organisations.

1. UKBA has an objective to review the range of EU regulations that govern the international trade and movement of dangerous chemicals to ensure that we are able to contribute to minimum EU requirements. In the future, UKBA in conjunction with HSE will review legislation to ensure that we are able to identify key areas that should be addressed.

2. UKBA would like to make members aware of a new Regulation on marketing and use of explosive precursors. It is a Polish presidency initiative in the EU which proposes to limit the level of acquisition of Annex 1 chemicals. The proposed methods of control are Registrations or Licensing but no decision has been made yet, each member state is to decide how the controls will be operated in their state.

(iv) A date for the next meeting was agreed for approximately June 2012. **Action: secretariat to obtain availabilities of members nearer the time.**

(v) The chair brought the meeting to a close, thanking all members for their attendance and contribution.