

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

HSE HQ, Redgrave Court, Bootle, Merseyside
Thursday 24th January 2013

Organisations represented

Health and Safety Executive (HSE), REACH Compliance Team (RCT)
Environment Agency (EA)
Health and Safety Executive Northern Ireland (HSENI)
Northern Ireland Environment Agency (NIEA)
UK Border Force (previously represented as UK Borders Agency) (by teleconference)
HSE Operational Inspector
Department of Energy and Climate Change (DECC)
Natural Resources Wales

Representatives from the Irish Health and Safety Authority (HSA) attended as observers

Apologies received from:

Department of the Environment, Food and Rural Affairs (Defra)
Home Office (Animals, Scientific Procedures Division)
HSE, International Chemicals Unit (ICU)
Scottish Environment Protection Agency (SEPA)

Chair and Secretariat functions were provided by HSE's RCT.

1. Welcome and introductions

The Chair of the ELG welcomed all members and the observer from the HSA, thanking them for their attendance. Participants introduced themselves for the benefit of the new attendees, observers and the teleconference participant.

2. Administrative issues

(i) Approval of minutes from the last meeting:

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

(ii) Outstanding issues from last meeting:

The only outstanding action relates to the MoU. HSE, (ICU) lead on this item. In their absence discussion was **postponed to the next meeting.**

3. Feedback on recent operational activities including enforcement action

(i) UK RCT activities and future plans:

A member of the UK RCT gave a presentation of recent and ongoing enforcement activities. Some highlights of this presentation include:

In terms of the reactive work received by the RCT, including complaints, confessions and referrals, there have been 311 interventions as of 15th December 2012. This has included 58 notices, as well as a large number of other enforcement actions, including verbal and written advice. The main focus of the RCT enforcement strategy is on proportionate solutions designed to move companies back into compliance. The enforcement tools used and the approach taken are differentiated between wilful non compliance and those who have/are trying to comply. The RCT also offers and provides support to other UK enforcing authorities, to ensure appropriate enforcement by these authorities, with as much consistency as possible.

There has been an increase this year in the number of referrals received by the RCT. These include referrals from other UK enforcing authorities, including EA (in particular referrals relating to toluene restriction), LA's and HSE inspectors in other areas. EU referrals are also increasing, indicating that interaction with other member states is good. This is to be expected with complex international supply chains. SDSs are again a major subject of referrals here. Referrals from ECHA have been the biggest increase, including for draft decisions in relation to NONS dossiers and as a result of dossier evaluation. Together these indicate the good cooperation between the ELG members, as well as the Forum and it's members/contacts.

In terms of the proactive activity of the RCT, there has been less of a focus on proactive projects this year, mainly due to the increase in reactive work using the available resource. The topic specific campaigns that have been undertaken are quite often as a result of trends seen in the reactive work received. This has included asbestos in sky lanterns (ongoing) and in gas marks. In addition there has been ongoing work on firework compliance following a communication campaign with the industry explaining their duties under REACH.

There has also been increased input into EU wide enforcement projects. The REF-II project is currently in the evaluation stage of the results of the project, soon to move on to writing the final report. REF-III is starting in early 2013, and the RCT is also participating in the working group for this project. There has also been input into a number of ECHA pilot projects. A number of companies were contacted as part of both the pilot project on intermediates and the pilot project on PPORDS.

At EU level, the RCT continue to attend and input into Forum meetings, as well as chair of the Horizontal Methodologies WG, membership of a number of other working groups and attendance at train the trainers events.

At UK level, the ELG continues to cooperate, as is demonstrated by this meeting. Various operational guidance has been produced, as well as advice and assistance provided by the RCT as required. Training is also provided on an ongoing basis to inspectors, HID training was completed in November 2012, all early years inspectors (new recruits) receive REACH training as a matter of course. Product Safety Teams and FOD inspectors are next to be considered for training.

(ii) The EA gave a presentation about their recent enforcement activity and future plans. Most work has been on POP's and PCB's. Highlights included:

- Work on the EU-wide PAHs in tyres is now complete and the final report was presented at the ECHA Forum in June 2012.
- The presence of NP/NPE in imported textiles has also been investigated. Further considerations are now being given to putting together a proposal for restriction, including analytical methods
- A joint investigation with HSE is currently ongoing. It relates to the import and export of lindane. This has led to 315kg of redundant Lindane being destroyed. A potential breach of EU regulations by a Spanish company has been identified. This information has been passed to the Spanish Authorities. Additionally 2 UK brokers have now been identified as having sold lindane to Iran
- An investigation into the use of PCBs in bakeries and dairies is ongoing. Work done to date has been successful in raising awareness of REACH within these industries and has led to several new registrations of potentially contaminated equipment. In some cases equipment is registered but the site has changed, highlighting poor record keeping. Action has been taken requiring updating of records.
- Planned future activities include:
 - A 12 month project looking at diffuse pollution with respect to the Water Framework Directive. Including tributyl tin in textiles leading to concentrations of tin in water.
 - Other ongoing work streams include:
 - A Team member is the UK contributor to the REACH Enforcement Forum Working Group on Enforceability of Restrictions.
 - EA and HSE will jointly host the 2013 CLEEN conference on 17th September 2013 in London.
 - A second fireworks investigation is underway. Fireworks will be purchased and analysed. Information on the Chinese factories involved in the supply obtained from the prosecuted companies.

Much effort has also recently been done to include F-GAS (fluorinated greenhouse gases) and ODS (ozone depleting substances) regulations in the remit of the EA

EA also gave a presentation demonstrating their prioritisation tool. Action: EA to provide this to Secretariat for circulation to members. This tool is intended to prioritise targets for proactive campaigns and is designed to allow demonstration of an informed regulatory decision making process when targeting specific substances.

The tool is made up of a number of linked excel spreadsheets where exposure and hazard values have been determined for a list of chemicals. The scores are determined using a number of factors, including Pollution Inventory or discharge consent licence data and use patterns. These scores are combined, using a matrix to arrive at a final prioritisation score. There are a few issues with certain aspects of the data used, but the tool will continue to be refined.

(iii) Observers from the Health and Safety Authority (Ireland) provided verbal feedback of their recent and ongoing activities.

4. Developments at European Level

(i) Feedback from Forum 13

Forum 13 took place in November 2012 and was followed by the 3rd Stakeholder Day on REACH enforcement. Detailed notes of these meetings have been previously circulated to members. A brief summary of the key points for the UK is below:

Key points of Forum 13;

- Feedback on the Pilot Project on Intermediates
- Preliminary results of REF-II were reported
- REF-III commencing soon
- New version of RIPE delayed
- ICSMS

The next FORUM meeting will be held in the week commencing 14th March 2013. **Action: Secretariat to provide agenda in advance. Action: Members to offer comments for discussion by the end of the previous week.**

A Stakeholder day was held during FORUM 13.

The Commission-led stakeholder day was held to coincide with the end of Forum 13. It was not as well attended as the previous event. Possibly a reflection of the agenda.

The day was split into three sections with presentations provided by the Forum, stakeholders and discussions in the afternoon. The Forum presentations covered REF-II, REF-III and intermediates, Stakeholder presentations covered recyclers and exposure scenarios. The

afternoon discussions focused predominantly on restrictions and the associated difficulties with analytical methods and lab capacity.

The next meeting of the Forum in March 2013 is due to have more focus on CLP and PIC duties

5. Update from Defra/HSE

i) A member from Defra was unable to attend. This item will appear on the next agenda.

ii) Progress on MoU

The member from HSE (ICU) was unable to attend the meeting, so a progress report was not delivered. **Action: MoU to be discussed at the next meeting.**

6. ELG work programme

(i) Discussion of progress

The ELG work programme was discussed and the work items accepted in general.

In relation to item 4, it was decided that a separate work item would be created to look at a HSE/human health prioritisation tool. A project description will be discussed and formalised and added to the Work programme for agreement at the next ELG. **Action: Chair and Secretariat to discuss and agree work package for work programme.**

In terms of Item 8 on the work programme, the Chair will discuss the issue with Legal Advisors Office, as there is a separate MoU in preparation relating specifically to communication between HMRC/UKBA and other enforcers. This work item is on hold until it is determined whether this new MoU will fulfil the requirements of this item.

7. AOB

(i) NIEA requested any information regarding REACH Inspection Sheets or aide memoires used for inspecting REACH to assist their inspectorate when on visits. The RCT stated that these are drafted for inspectors on a case by case basis, however, we will have some information which would be useful. **Action: Secretariat/RCT to provide REACH Topic Pack, Q&A and an example briefing pack.**

(ii) UK Border Force raised some issues with the REF-III project, in relation to the cooperation with REACH and customs. Particularly in relation to whether customs had been given an opportunity to comment on the REF-III working group mandate and project manual. The RCT promised to provide additional information to UK Border Force, including the project manual. However, the project will not be an onerous duty on UK Border Force, as it has already been agreed that the main thrust of the project in the UK will be on OR's and there will be one form to fill in relating to cooperation with customs. **Action: RCT to provide project manual to UK Border Force and to discuss further during operational phase.**

8. Date of the next meeting:

The ELG will continue to take place twice annually at this time. The next meeting will be scheduled for approximately July, taking holiday periods into account. **Action: secretariat to obtain availabilities of members nearer the time.**

The chair brought the meeting to a close, thanking all members for their attendance and contributions.