

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

HSE HQ, Redgrave Court, Bootle, Merseyside
Thursday 12th September 2013

Organisations represented

Health and Safety Executive (HSE), REACH Compliance Team (RCT)
HSE, International Chemicals Unit (ICU)
Environment Agency (EA)
Northern Ireland Environment Agency (NIEA)
Scottish Environment Protection Agency (SEPA)
UK Border Force (previously represented as UK Borders Agency) (by teleconference)
HSE Operational Inspector
Department of Energy and Climate Change (DECC)
Natural Resources Wales (by teleconference)
Home Office (Animals, Scientific Procedures Division)

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

Apologies received from:

Department of the Environment, Food and Rural Affairs (Defra)
Health and Safety Executive Northern Ireland (HSENI)
Office of Rail Regulation (ORR)

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 add to website.** (This action has since been completed)

(ii) Outstanding issues from last meeting:

The only outstanding action relates to the MoU. This item is covered later in the agenda.

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 360 interventions as of 1st August 2013. This has included 60 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 a steady flow of complaints received in the first half of the year, although the complaints are becoming more complex. Issues include registration and SDS's, as well as ferric chloride and the overlap with waste legislation and restricted substances in articles. There was a small spike in complaints following the 2013 registration deadline, but this was not as significant as anticipated. There were a number of companies who missed the deadline for registration of substances, notices were served on these companies as appropriate.

There has again been an increase this year in the number of referrals received by the RCT. These include referrals from other UK enforcing authorities, including EA, LA's and HSE inspectors in other areas. EU referrals are also increasing, indicating that interaction with other member states remains 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 continued cooperation between the ELG members, as well as the Forum and its 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 gas masks (ongoing).

There has also been increased input into EU wide enforcement projects. The REF-II project is now complete and the report is due soon. REF-III is in the operational phase, 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. These pilots are both complete and reports are due soon. There is more EU work in the pipeline, including an

extension to the REF II project in 2014, REF IV is to be scoped in 2014 and operational in 2015. A pilot project on authorisation is to go live in 2014/15 and a project is being proposed on substances in articles.

At EU level, the RCT continue to attend and input into Forum meetings, as well as chair of the Horizontal Methodologies WG, which is proposing methods to harmonise future working groups. The RCT is also involved in developing the Forum Multi Annual Work Programme, membership of a number of other working groups and attendance at train the trainer's events.

At UK level, the ELG continues to cooperate, as is demonstrated by this meeting. Advice and assistance is regularly provided by the RCT as required, including to a number of new ELG members. 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.

REACH highlights included:

- Natural resources Wales in place from 1st April 2013.
- An enforcement campaign on lead paint
- Removal from the online market of non compliant mercury measuring devices
- Market research conducted into PBDEs
- Increased enquiry numbers relating to PAHs in tyres, following recent campaign.
- Contribution to ECHA Forum Working Group on restriction enforceability, including lead in consumer articles, NP/NPE in textiles and NMP.
- Contribution to sub working group on analytical methods for existing and new restrictions.
- Work undertaken on ROMs and restriction dossiers for certain substances.

Other activities include:

- EA responsible for the implementation of the Water Framework Directive. Working on a common framework for the protection of inland streams and rivers, coastal water and groundwater. Focusing on where the chemicals originate and end of pipe treatment. Also maintaining Environmental Quality Standards for certain priority substances.

- EA and HSE will jointly host the 2013 CLEEN conference on 17th September 2013 in London.
- F-GAS (fluorinated greenhouse gases) and ODS (ozone depleting substances) regulations are now the remit of the EA, which entails additional training and work for the team. Work to remove illegal products from online sellers has been carried out, as well as a large volume of enquiries. Action has been taken on non compliant companies. The next campaign will focus on the chemicals industry.
- Nanomaterials surveillance project, targeting organisations dealing with metals, inorganic non-metallic and carbon based nano materials.

(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 Forums 14 and 15

Forum 14 took place in March 2013 and Forum 15 in June 2013. 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 14;

- Enforcement of regulatory decisions
 - SONCs
 - Nano substances
- Working Group reports
 - ICSMS/RIPE
 - Train the trainers – Event 19/20 Nov
 - Multi Annual Work programme – being drafted
 - Intermediates - Complete
 - REF II - Complete
 - REF III – Prolonged into 2014
 - PPORDS and OR's - Complete
 - Horizontal Methodologies
 - Restrictions
- Practical Issues for enforcement
 - MoC
- Updates;
 - From COM
 - On PIC
 - From ECHA
 - Cooperation with other Enforcers

Key points of Forum 15;

- As per Forum 14 (Agenda now has a similar structure for each meeting)
- Breakout Groups
 - Substances in Articles – ECHA suggested pilot project
 - Enforcement of PIC
 - Enhancing exchange of practical information on Enforcement

Forum 14/15 conclusions

- More focus on CLP and PIC activities ongoing
- SONCs an increasing focus for enforcement
- Less practical issues being brought to the table
 - Articles issue still ongoing from F9
- REF projects being standardised
- MAWP – important document
- Agreement of method of communication close

The next FORUM meeting will be held in the week commencing 28th October 2013.

Action: Secretariat to provide agenda in advance. Action: Members to offer comments for discussion by the end of the previous week.

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 ELG member from HSE's International Chemicals Unit suggested that the MoU was not the most appropriate document for the agreement between ELG members, particularly in light of several changes required recently due to additional REACH Enforcing Authorities joining the ELG. ELG members agreed the principle of this. **Action: RCT and ICU to develop alternative document.**

6. ELG work programme

(i) Discussion of progress

The work programme of the ELG will require redrafting in line with the changes made relating to the MoU. In particular the mandate and justification of the work programme and its items will need to be recast, although the focus of the work programme items themselves will not change. **Action: Chair and secretariat to propose alternative wording for work programme.**

(ii) Discussion of Work Item 4.

A presentation was given by an economist from the Chemicals Regulation Directorate and an economist from the Economic & Social Analysis Unit of HSE. The presentation was titled 'How can economics inform REACH enforcement?' This focused on what factors influence

compliance among dutyholders, and whether statistics can be used to target enforcement action in areas of likely non compliance. The members discussed various methods of targeting done by their agency. **Action: All to provide any relevant targeting methods to secretariat for circulation to members and presenters**

7. AOB

HSA requested the opportunity to feed back on recent activities, however this was covered under agenda item 3.

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 March. **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.