

Senior Labour Inspectors Committee (SLIC) CHEMEX view on OSH/REACH interface issues with a focus on practical issues at the workplace

Workshop on use of REACH/CLP information at industrial sites.

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SLIC WG CHEMEX
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SLIC Chemex Working Group Workstreams

SLIC Chemex Working Group 5 Workstreams;

- WS1 – Identify and Analyse REACH impact on enforcement , completed 2006
- WS2 – Develop Enforcement Model for NLI, completed 2008
- WS3 – Identify Tensions & Synergies between REACH & OSH, completed 2009
- WS4 – Develop an Information Exchange System for NLI, completed 2011
- WS5 – Produce guidance for NLI on the interaction of REACH & OSH, completed 2014 and published this year.

SLIC Chemex Working Group Workstreams

- WS5 SLIC Guidance published for National Labour Inspectorates (NLIs) on enforcement and interaction of REACH/**CAD & CMD** (Doc.2229_EN). Translated into 30 languages
- Very useful and important tool for NLIs
- Publication widely available at on Commission open website, CIRCA BC, EU OSHA website, ECHA Forum and MS own websites.
<https://circabc.europa.eu/w/browse/4f2025c8-2256-422c-b09d-3b551cb7149d>



New REACH/OSH SLIC Guidance for NLIs

- **Guidance covers:**

- General overview of REACH and interactions with **CAD/CMD**
- Risk Assessments
- Substances: Authorisation and Restriction
- Safety Data Sheets (SDS) – S.1,2,4,7,8,13 & ES for **CAD/CMD**
- Exposure Scenarios and control measures
- OELVs vs DNELS
- REACH Compliance issues
- Provides Q&A & hypothetical Case studies
- Useful Flow Chart illustrating REACH & **CAD/CMD** interactions
- Extensive Glossary of acronyms, terms and phrases

New REACH/OSH SLIC Guidance for NLIs

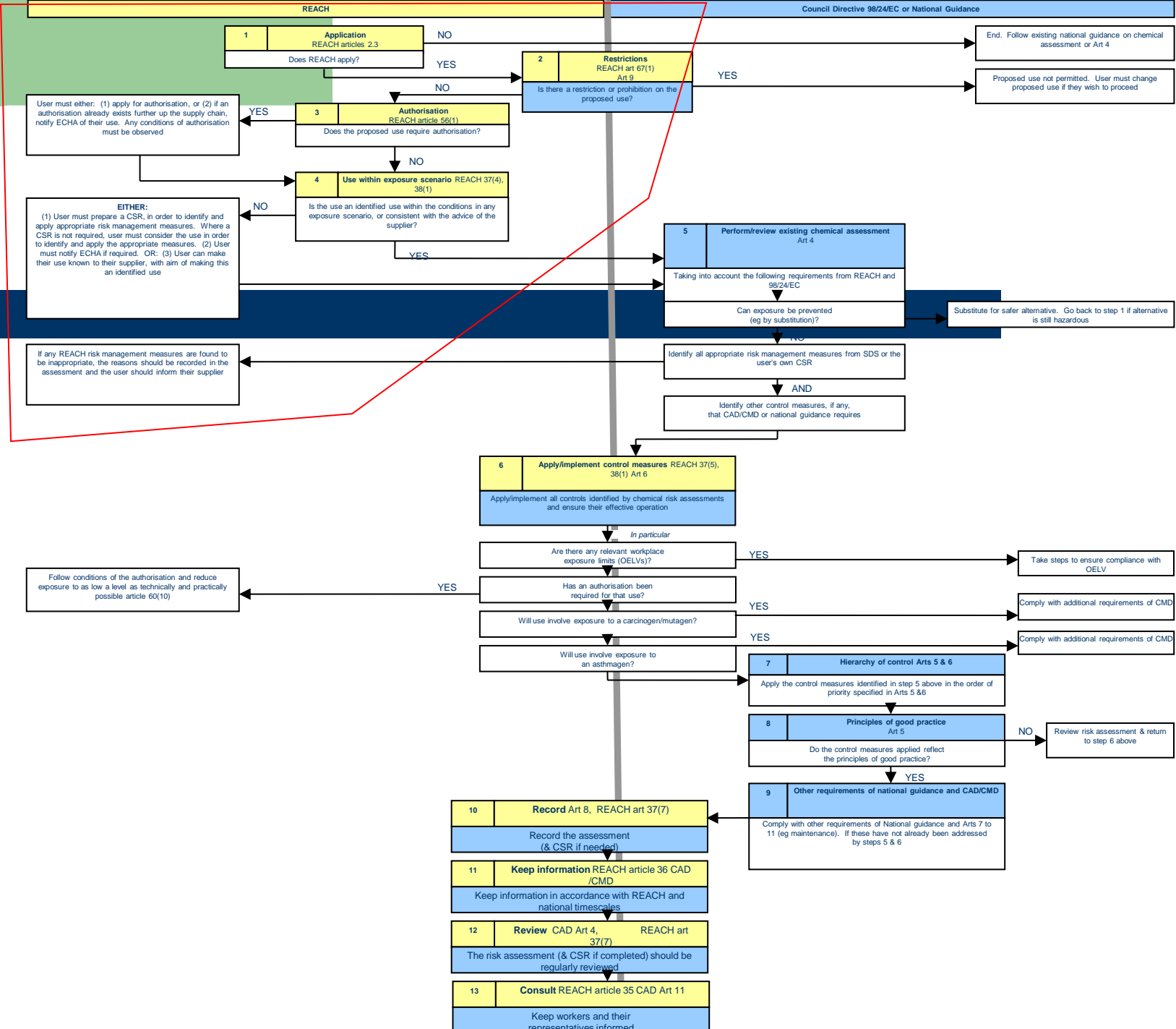
- NLI Guidance emphasis on priority REACH Regulation *Articles* and **CAD/CMD** *Articles*

REACH	Topic	CAD
35	Downstream user supplies employees and representatives Information and training	8
37(5)	Downstream user determines and implements measures to control the risks identified in the Safety Data Sheets (SDS)	6
56	Use of substances requiring authorisation	-
67(1)	Substance whose use is restricted	-

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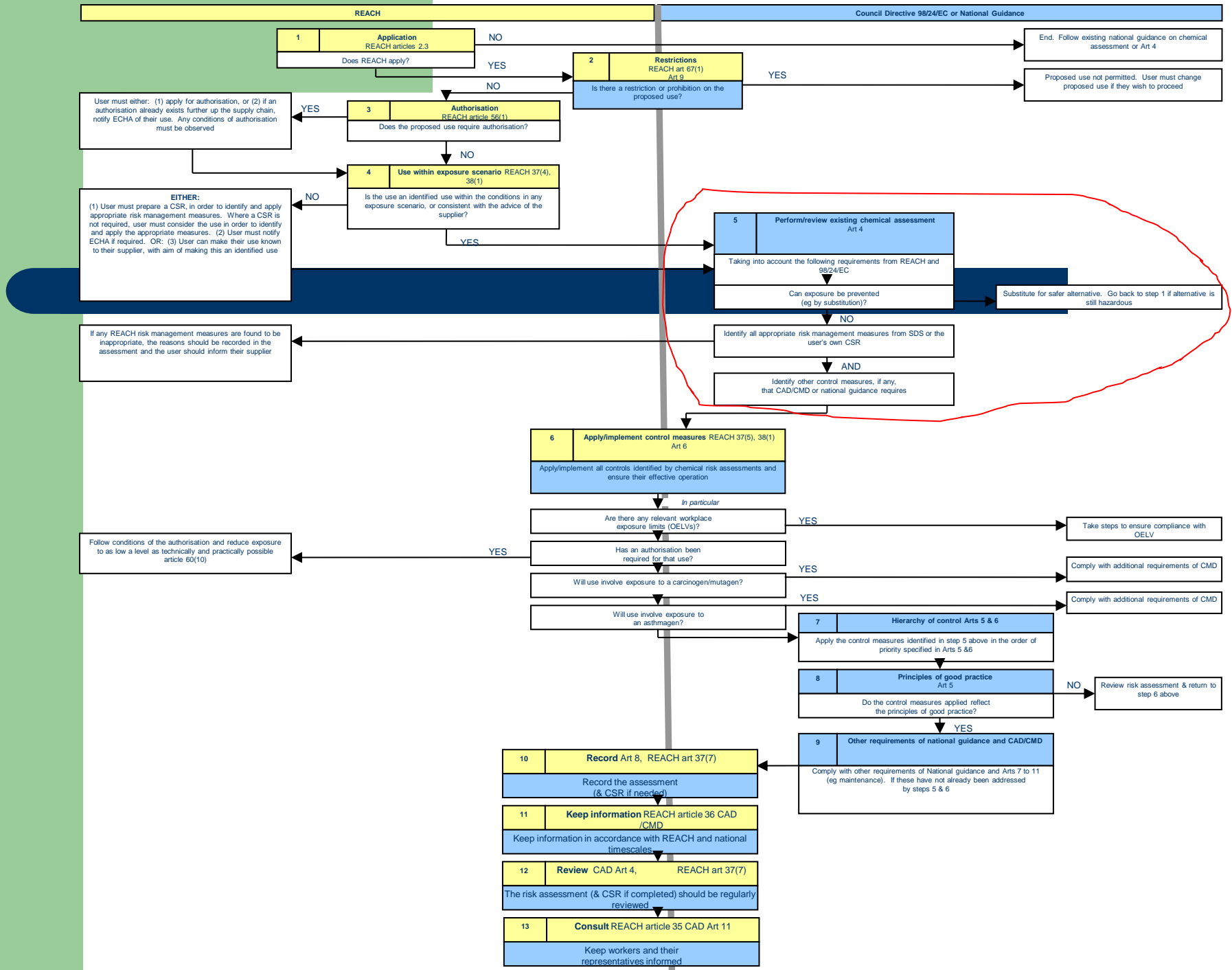
- **Guidance acknowledges:**

- REACH will aid compliance with **CAD/CMD** with respect to risk assessment, assessment of exposure, OELVs, hierarchy of control and information and training
- Employers must meet requirements of both REACH & **CAD/CMD**
- REACH & **CAD/CMD** should compliment each other but overlaps have potential to give rise to inconsistencies in enforcement:
- **CAD/CMD** covers process generated substances & mixtures (e.g. welding fume, wood dust etc) where as REACH is substance driven – unable to take account of other substances/ mixtures in use at a particular site
- REACH exempted substances/ mixtures - **CAD/CMD** still applies



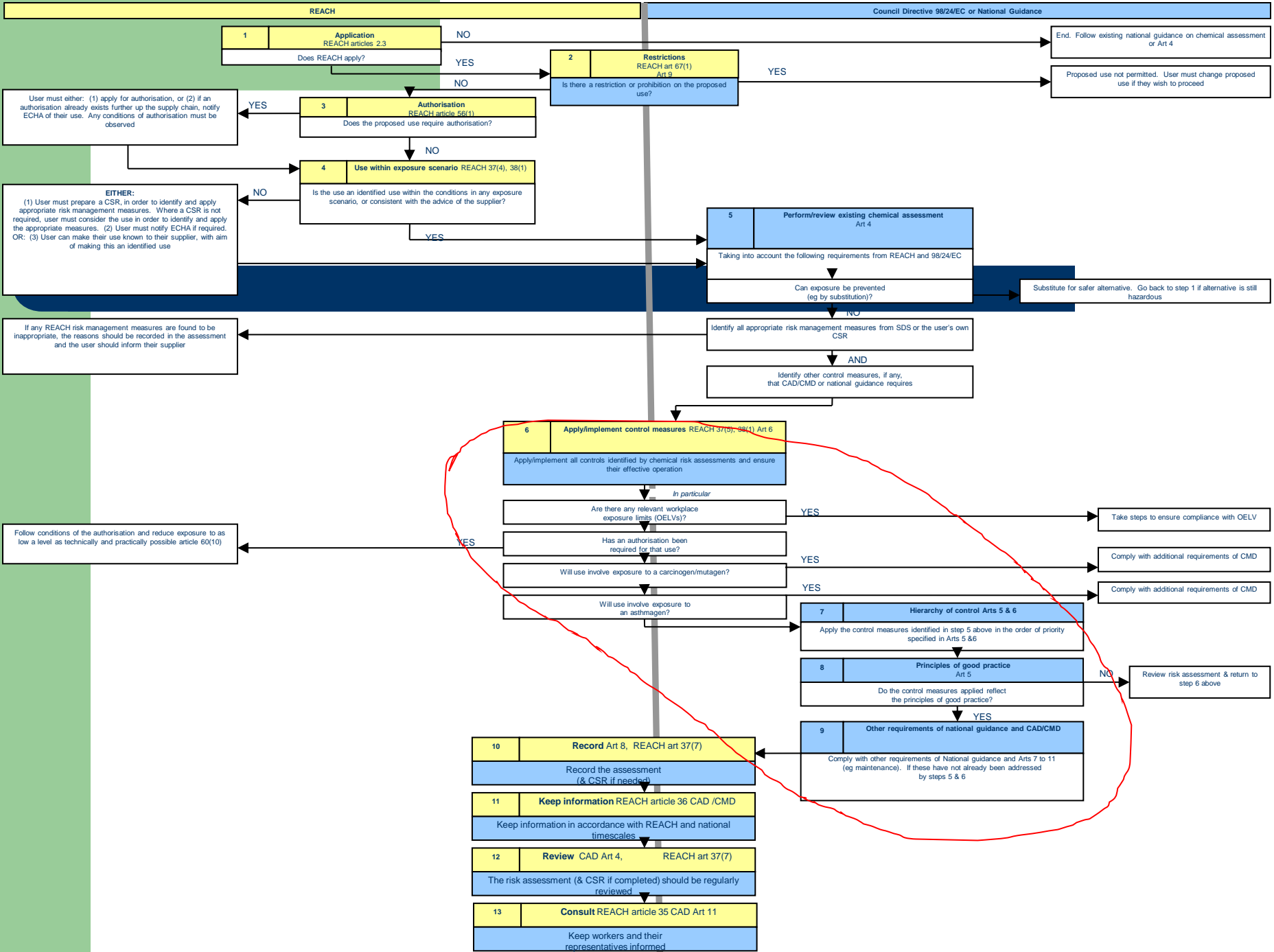
REACH v CAD Flowchart

- Starting Point is to ensure REACH applies. If not CAD/CMD
- Inspectors check Market Surveillance issues
 - Authorisation
 - Restrictions
 - Use within Exposure Scenarios



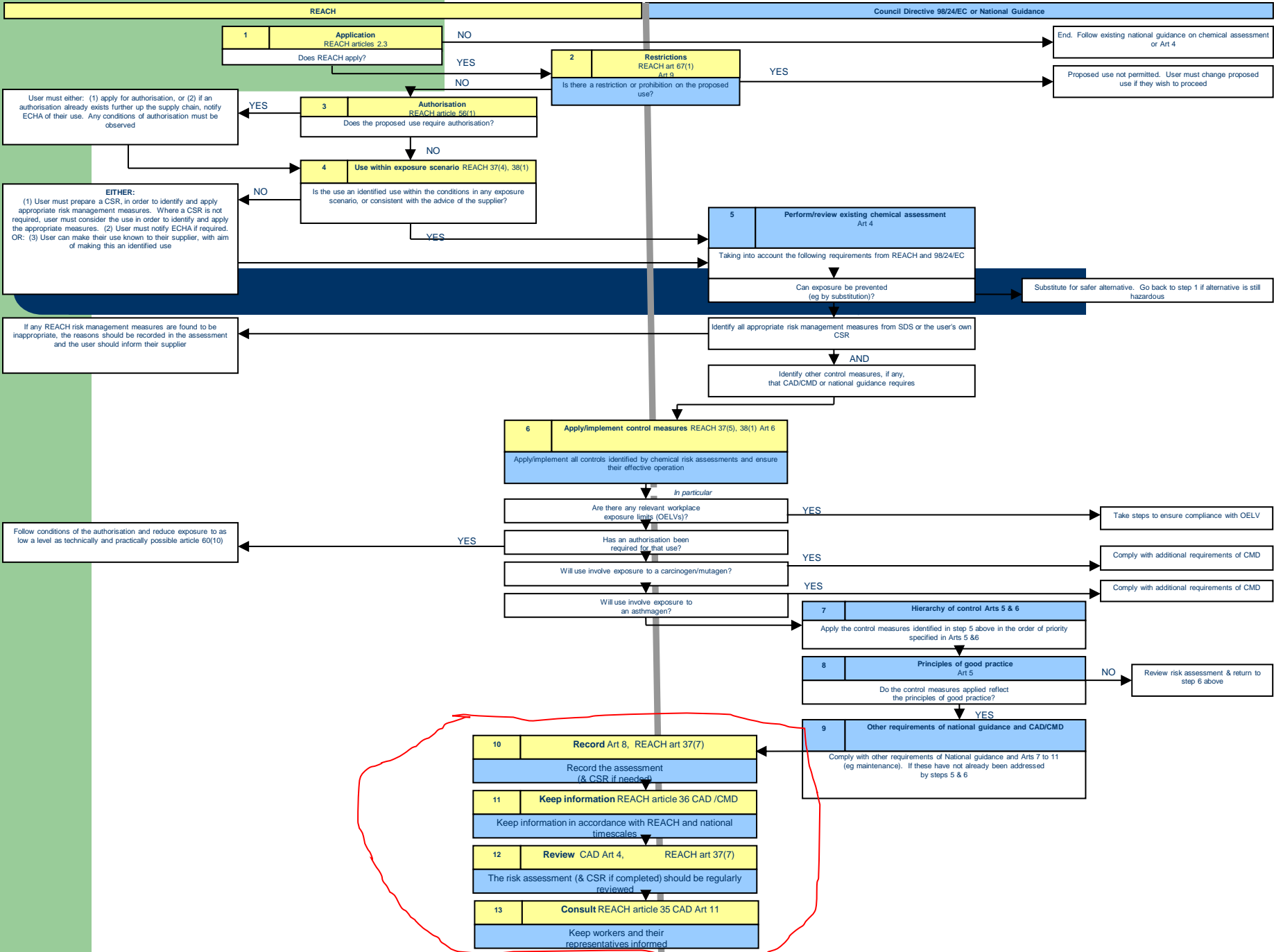
New REACH/OSH SLIC Guidance for NLIs

- **Risk Assessments:** Inspector will check that Duty holder/downstream user has:
 - Pursued substitution possibilities (CAD/CMD)
 - Complied with any Authorisation or Restriction duties (REACH 56(1) and 67(1)). (Section 1 SDS)
 - Utilised supplier information from relevant SDS (CAD/CMD)
 - Identified/applied appropriate measures – from (e)SDS or own CSA - (REACH 37(5)) (Sections 7 & 8 SDS)
 - Justified and documented in CAD/CMD risk assessment if RMMs are inappropriate & inform SDS Supplier (REACH 34)
 - Demonstrated that existing controls are equivalent to RMMs in protecting the worker from the effects of exposure – must justify in their risk assessment as long as ‘use’ is not outside conditions described in Exposure Scenario



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- **Control measures:** Inspector will check that Duty holder/downstream user has:
 - Not only applied RMMs from REACH but ensured they are effective under **CAD/CMD** e.g. using appropriate monitoring or health surveillance.
 - Checked whether DNEL differs from an existing OELV for the same duration. Any relevant **CAD/CMD** OELV **must** be observed. RMM should provide required level of protection to meet the DNEL.
 - Where DNEL and OELV differ the goal is to reduce exposure applying the hierarchy and the user may need to carry out a CSA. This should also involve suppliers in resolving
 - Determined and applied hierarchy of engineering controls from advice in SDS/RMMs and **CAD/CMD** risk assessment
 - Justified use of personal protective equipment – SDS contains only 'suitability' information on PPE – not on cleaning, maintenance, storage etc. **CAD/CMD** risk assessment must address other requirements



New REACH/OSH SLIC Guidance for NLIs

- **For Safety Data Sheets the Inspector will check the quality of information and information flows, including;**
 - Check that SDS is accessible to all who use or are exposed to the chemical
 - Ensure SDS complies with Annex II (as updated by 453/2010) and ensure details on Hazard Label consistent with Section 2 of SDS
 - Check SDS is dated and any revision date/details provided in Section 16
 - Check SDS for mixtures – ensure eSDS for components evaluated to ensure quality of information provided to users
 - Crosscheck SDS against Annex IV of CLP (Precautionary Statements) to ensure correct assignment
 - Consider targeted enforcement further up supply chain to resolve any issues identified with SDS

New REACH/OSH SLIC Guidance for NLIs

- **Enforcement considerations for NLIs**

- Duties around ‘Use’ of chemicals in the workplace – **CAD/CMD** will remain most relevant legislation for NLIs to ensure the risks to workers health are controlled. This can then be followed by enforcement to resolve REACH contraventions.
- However, regulatory action (including enforcement notices and prosecution) under REACH is expected where CAD/CMD does not apply *e.g.*
 - DU using substance outside of conditions of exposure scenario;
 - No communication up supply chain by DU where RMMs not appropriate
 - No Authorisation held or use not covered or non-compliance with conditions of Authorisation or Restriction;
 - User does not provide access to the information in the SDS to employees

Current Observations/ Issues

- **ECHA guidance for downstream users** (Dec 2013) – No explicit connection with CAD/CMD – guidance would have been more beneficial if it had looked holistically at the issues from a Downstream User perspective with the inclusion of worked examples of how the regulations apply in practice and highlighting the CAD/CMD v REACH interface.
- **Exposure Scenarios** - NLIs continue to see issues similar to those identified in 2012 Tukes Survey e.g. large number of pages, quality poor for mixtures, ambiguous ventilation rates, RMMs not always consistent with SDS etc. However, SLIC CHEMEX recognise on-going work (ENES Network) and ECHA guidance in this area.

Current Observations/ Issues

- **DNELs Vs OELVS** – Confusion at DU and NLIs level. Further guidance has been developed by SLIC CHEMEX for NLIs covering;
 - Description and properties of OELs and DNELs including their limitations
 - The methodology of how they are derived
 - How they should be used in practice
 - What to do when they values do not correspond

Current Observations/ Issues

- **Safety Data Sheets** - Availability/layout of SDS improving but Section 8 still too generic. Location of DNELS with OELVs in SDS – confusing for Employer and NLIs

Derived No Effect Level (DNEL)	
Workers, Long-term - systemic effects, Skin contact	: 12 mg/kg
Workers, Long-term - systemic effects, Inhalation	: 151 mg/m ³
Consumers, Long-term - systemic effects, Ingestion	: 7 mg/kg
Consumers, Long-term - systemic effects, Inhalation	: 32 mg/m ³
Consumers, Long-term - systemic effects, Skin contact	: 7 mg/kg

Component: naphthalene	CAS-No.
	91-20-3

Other Occupational Exposure Limit Values
EU ELV, Time Weighted Average (TWA): 10 ppm, 50 mg/m ³ Indicative

Current Observations/ Issues

- **Small to medium size enterprises (SMEs)** – Continue to struggle with complex chemicals legislative requirements . Quality of CAD/CMD risk assessments is compounded by other factors such as knowledge gaps around chemical hazards, substitution and appropriate selection, use and maintenance of key controls e.g. Local Exhaust Ventilation, Personal Protective Equipment and Respiratory Protective Equipment.
- **SMEs** - Further tools needed to reduce burden and simplify myriad of requirements.

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Thank You