

SLIC CHEMEX view on REACH and OSH obligations

Identifying areas of concern and points of improvement for the implementation of the REACH regulation in the workplace

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Introduction

- SLIC: Senior Labour Inspectors Committee
Committee established by DG Employment, Social Affairs and Inclusion
- Objective: To achieve common principles of labour inspection in the field of occupational health and safety
- CHEMEX: Working Group established by SLIC
REACH offers opportunities and creates challenges for National Labour Inspectorates (NLIs)
- Some NLIs are also the CA, some are remotely placed

REACH and OSH meet

- Considerations REACH regulations

(5) This Regulation should apply without prejudice to Community workplace and environment legislation.

REACH and OSH meet

- NLI emphasis on priority REACH Regulation *Articles* and **CAD** *regulations*

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	-

REACH aids workplace risk management

- REACH has provided much more information on dangerous substances
- The obligation of providing and obtaining information
- ‘New’ uses are brought to the surface
- Cooperation on national and international level

National Labour Inspectorate Enforcement

- National Labour Inspectorates enforce CAD/CMD
- Most NLIs require work place exposure measurements to assess exposure
- REACH information is viewed as input for risk assessment
- In general, if CAD requirements are met, there is no further action regarding REACH

National Labour Inspectorate Enforcement



National Labour Inspectorate Enforcement

- EU labour inspectorates enforce all working conditions
- Priorities have to be set
- Companies have a lot to comply with, SMEs do not have all expertise within the company
- Making sure downstream user reports are submitted is no priority at the moment

National Labour Inspectorate Enforcement



Swimming Pool Example

- Use of Sulphuric Acid for disinfection
- Pool has no idea of SUs, PROCs and which exposure scenario to follow
- Contact with supplier: use scenario for waste water treatment...
- Scenario content makes no sense for swimming pool and pool has to fall back on own assessment... And create REACH-IT account?

REACH/OSH SLIC Guidance for NLIs

- SLIC Guidance published for National Labour Inspectorates (NLIs) on enforcement and interaction of REACH/**CAD & CMD**
- 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



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

REACH/OSH SLIC Guidance for NLIs

- **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) - REACH does not.
- 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/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))
 - Utilised supplier information from relevant SDS (CAD/CMD)
 - Identified/applied appropriate measures – from (e)SDS or own CSA - (REACH 37(5))
 - 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 – must justify in their risk assessment as long as ‘use’ is not outside conditions described in Exposure Scenario

REACH/OSH SLIC Guidance for NLI

- **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 scientific measurements
 - Checked whether DNEL differs from an existing OELV. Any relevant **CAD/CMD** OELV **must** be observed
 - 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

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
 - However, regulatory action under REACH 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 supply (SDS) information to employees

Current Observations/ Issues

- **ECHA guidance for downstream users** – leads to article 37 notifications whilst from CAD point of view exposure is controlled. Most companies are unaware of the obligation to submit DU reports
- **Exposure Scenarios** - ES still not used or trusted as work place risk assessment. However, SLIC CHEMEX recognises on-going work ENES and ECHA in this area
- Especially for SMEs **REACH IT is not as simple as it looks**, even with the wizard (language!)
- Steps are being taken to **improve the usability of SDSs**

Current Observations/ Issues

- **SMEs – Continue to struggle with complex chemicals legislative requirements .**
- **SMEs** - Further help (tools?) needed to reduce burden and simplify myriad of requirements
- **Upstream flow of information is still very limited**
- **And what about authorisation – chromium VI with big impact, notification by users of chemicals dossier submitters**

Summary

- REACH delivers valuable information for work place health and safety
- REACH text is flexible enough for DUs, guidance now too rigid, requiring additional (administrative) action
- Usability of safety data sheets and exposure scenarios still needs work
- Ensure trust in quantitative models and limit values, this is necessary for REACH to be seen as valuable and not as a burden