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

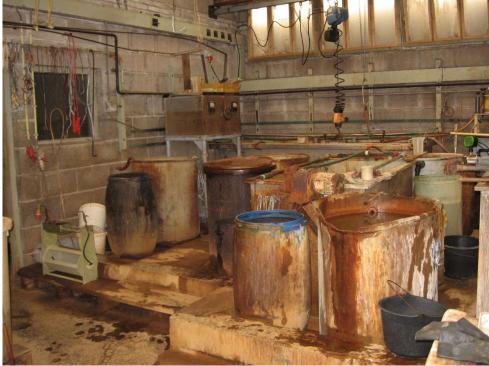
REACH	Topic	CAD
35	Downstream user supplies employees and representatives Information and training	8
37(5)	Downstream user determines and implements measures to control the risks identified in the Safety Data Sheets (SDS)	6
56	Use of substances requiring authorisation	-
67(1)	Substance whose use is restricted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

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





- 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



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?

- 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



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

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

- 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

- 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

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 quantative models and limit values, this is necessary for REACH to be seen as valuable and not as a burden