

**Registration and Beyond: Exposure Scenarios and Safe
handling Advice
Conference, Brussels, 30th September / 1st October 2009.
Frank Barry, ICTU / ETUI**

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REACH and Worker Protection.

There are two related areas of European Chemical Legislation that is important to workers who are required to work or handle chemical substances in the workplace. The first, is the Marketing and Use of Chemicals and second is Directive 89/391 which deals with the protection of workers in the workplace. Today we have REACH which is covering the marketing and use of substances. This brings into force changes to existing legislation for those who manufacture and supply chemical substances. The existing worker protection legislation will remain untouched and continues to apply in the workplace. However, it is believed by workers representative's that REACH improves the position of workers protection in a number of ways. Whether this proves to be the position will only be tested over time.

Background.

Under REACH all substances manufactured or imported in quantities of more than 1 tonne or more per year will be registered over a period of the next eleven years. The critical issue for workers is the non registration of substances below 1 tonne per annum. The significant issue is that there is no volume exemption under REACH or in the need to supply a Safety Data Sheet for substance that are classified as dangerous or to the classification and labelling. There is also no volume exemption to the worker protection legislation, on the other hand the Chemical Agents Directive (CAD) applies to all Chemicals and the Carcinogens Directive to all substances classified as carcinogenic or mutagens (Categories 1&2), regardless of how little is use in the workplace.

How will REACH help workers in the workplace when handling and working with Chemicals?

REACH reminds employers that they have obligations to fulfil under worker protection legislation. Today we know that about one in three of all occupational diseases recognised each year in Europe is due to the worker being exposed to dangerous chemicals. This highlights, that existing legislation on chemicals is not being applied uniformly across the community and in some cases it is believe that it is being completely ignored. This could be explained by the fact that these employers maybe very small enterprises (Say companies with less than 50 employees) who are deliberately ignoring their obligations under the Chemical Agents Directive and or the Carcinogens Directive or simply do not know what their obligations are.

Therefore REACH reminds Employers of their obligations under legislation and with better enforcement through the inspectorate, then, it is believe that it could see a

reduction in the numbers of workers suffering from ill health as a result of coming into contact with dangerous chemicals.

REACH could be the vehicle to drive substitution of dangerous chemicals for less hazardous chemicals.

When a manufacturer or importer is applying for Authorisation for substances of very high concern, (SVHC) it becomes an opportunity for that manufacturer or importer of less dangerous substances. It is already established that Authorisation can be a costly procedure with no guarantee of a successful application.

Manufacturers and Importers know that CMR substances (Categories 1 and 2) are classed as substances of very high concern. With this knowledge they have the opportunity to apply the substitution principle as set down in the Carcinogens Directive.

REACH will provide the scenario to generate a more comprehensive form of data on the chemical hazards associated with the dangerous substance being used in the workplace and improve the labelling of the substance.

The REACH registration system will force manufacturers and importers to supply the missing information that is current today on the intrinsic properties of the substances that they put on the market. This may require them to improve the quality of labelling to the end users, but most importantly it will enable employer to identify quite easily any dangerous substances that they using. It then follows, that the more information provided to the manufacturers and end users the higher the protection to workers and potentially a higher compliance with chemical legislation. (NB, this only applies to those volumes that exceed 10 tonne per annum and upwards)

REACH provides limited improvement to the quality of safety data sheets and should help employers to meet the requirements of Directive 98/24/EC.

The positive application of the provision of the chemical safety report will require manufacturers, importers and a proportion of downstream users to demonstrate what risk management measures (RMM) are needed for the substance to be used safely. The information will be required for each identified use of the substance and must form part of the safety data sheet. This will also enable employers to comply with Directive 98/24/EC.

The improvement also applies down the supply chain. Prior to the introduction of REACH, this was a one way communication. REACH introduces a two way communication into the supply chain by enabling users who receive a safety data sheet that does not cover their use of the substance to notify their supplier of this situation. The supplier then has a responsibility to draw up a new safety data sheet using the data provided by the user.

Where a safety data sheet is not supplied for a substance, the supplier must still communicate all manner of information to downstream users.

The importance of this, is that it increases the down stream and upstream communications in the supply chain, this in turn enables employers to take preventative and protective measures that workers protection legislation demands.

Conclusions.

REACH is a opportunity to tighten up existing EU legislation on the protection of workers exposed to chemicals. It is also an expectation that it will reduce future incidence of chemical related occupational diseases. The main benefit relates to the Chemical Agents Directive (CAD) to assess the risks to the health and safety of workers.

REACH is offered as a panacea for eliminating or the substitution of dangerous substances with less dangerous substances for the 1500 to 2000 plus most dangerous substances that are currently on the European market. It is now emerging that Authorisation is going to take quite a long time. It is estimated that no more than 10 – 15 substances will be processed per year. This is a serious issue for workers as it will take many, many years to rid the market of the substances that pose the greatest threat to workers. It's been stated that the lack of information is the most critical issue and this relates particularly to the absence of epidemiological dose-response functions. The lack of knowledge of the time lag between exposure to chemicals and the onset of subsequent health effects. On the other hand it is noted that as workers protection legislation exists REACH is seen as making the implementation of that legislation more efficient, mainly through the provision of better hazard and risk assessment information. Where hazard identification and risk assessments are missing workers demand the application of the precautionary approach must be applied when this information is not available. If REACH is not to be seen as a white elephant then there is a responsibility on ECHA, the Commission and the Competent Authorities to remedy this situation and demonstrate confidence in the value of REACH for all those involved including workers and employers.

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