

Unite Policy on the EU REACH Regulation

The Registration, Evaluation and Authorisation of Chemicals Regulation (the REACH Regulation) is one of the largest and most complex pieces of legislation ever attempted by the European Union. The REACH Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 was published in the Official Journal on 30 December 2006. The whole package runs to 849 pages!

REACH came into force in the UK on 1st June 2007. The main requirements of REACH were from 2008 onwards. A timeline for the implementation of main REACH requirements is attached as an appendix.

REACH required the establishment of a Competent Authority (CA) in each EU Member State. HSE delivers the UK CA role, on behalf of ministers.

Unite Policy

The current Unite approach to REACH has developed as a piecemeal response to concerns raised by manufacturers and employers in separate sectors – principally chemicals, and more recently metals. Unite recognizes however, that REACH could have implications for all sectors of the UK economy, and could therefore affect many Unite members. Industries involved and impacted upon are far-reaching, including the chemical industry, car manufacturers, packaging manufacturers, inorganic materials and products manufacturers, such as steel, non-ferrous metals, paper and cement and the electronics sector.

In responding to REACH, the primary concern of Unite will be for the health and safety of people at work.

In its development REACH has undoubtedly been a piece of environmental legislation, with workplace effects of chemicals being a secondary consideration. Although one of the changes to REACH has been to acknowledge the need to protect the health of workers, Unite remains concerned that the full implementation of REACH could undermine the existing UK approach to the control of chemicals at work.

Unite is also keen to ensure that the implementation of REACH does not lead to job losses, or to manufacturers removing their operations to sites outside the EU. If existing UK operations follow this path it could involve the export of risks in a way that should be completely unacceptable to both the EU and to those countries, and their workforces, that then have to deal with those risks. However, we remain sceptical about some industry predictions about potential costs and job losses, especially in light of continuing surveys and reviews that indicate the effects of REACH are broadly in line with EU predictions on the costs and benefits.

Therefore, Unite supports the REACH Regulations, providing they do not reduce, or undermine current UK controls on the use of chemicals at work,

and providing they do not result in the unacceptable export of chemical risks to countries outside the UK.

In relation to SMEs and niche manufacturers of chemical-based products, Unite believes that the costs of implementation of REACH must be proportionate to the size and profitability of the businesses involved.

Whilst accepting the need for a reasonable level of business confidentiality, Unite will only support confidentiality arguments that do not limit health and safety information provided to users of chemicals in the workplace.

Unite will not support any changes to REACH that reduce the health and safety protection of Unite members in the workplace. Furthermore, Unite is seeking firm assurances and actions from manufacturers, suppliers and employers that they will involve Unite and its members in specific measures in the workplace to protect and improve health and safety information, assessments and controls.

Unite will continue to support the COSHH Regulations as the primary means by which employers in the UK must remove or control risks arising from exposure to chemicals at work.

REACH - A briefing for Safety Representatives

REACH – Key elements

The key elements of the REACH Regulations are:

- A stronger emphasis on the need for industry to act responsibly and with care when manufacturing and marketing chemicals, and particularly in providing the necessary information to ensure effective risk management;
- Stronger measures to reduce, refine, and replace animal testing, including the promotion of alternative test methods;
- Making more information available throughout the supply chain on chemicals and their uses in manufactured goods;
- Improved mechanisms to require the substitution of harmful chemicals with suitable safer alternatives where identified and ensure industry proactively works to develop safer alternatives;
- An enhanced role for the European Parliament in scrutinising the work of the new European Chemicals Agency that has been set up to oversee the work of REACH, and more powers for the Parliament in scrutinising proposed future changes to the secondary elements of REACH

What is REACH?

REACH is the *Registration Evaluation and Authorisation of Chemicals Regulations* and is new Europe-wide legislation aimed at ensuring that chemicals are properly tested before going on the market. It was introduced in 2007, but is being implemented over the coming years.

REACH is based on the belief that industry itself should be responsible for ensuring that the chemicals it manufactures and puts on the market in the EU do not adversely affect the health of those workers exposed to them through their employment, the public who come in contact with them as users, or the environment. REACH also simplifies the control of chemicals in the European market place and replaces a large number of other directives with a single system of registration, evaluation and authorisation.

REACH was primarily intended as a measure to protect the environment and consumers, but it has implications for workplace safety which this briefing will deal with.

Why the regulations are important

It has been estimated that one in three of all occupational diseases recognised in Europe every year are caused by exposure to workplace chemicals. In the UK Unite believes that at least 15,000 -18,000 deaths a year are caused by cancers caused by workplace exposure. There are many tens of thousands of people who suffer from skin problems, breathing problems or neurological damage caused by exposure to chemicals.

Before REACH, there were a confusing range of European directives covering the manufacture of chemicals but, not only were they complicated, they did not really work. At present there are many chemicals in use which we know very little about from a safety point of view, this is because, in the past the burden of proof was on the authorities to show that a chemical was unsafe before they could impose any restrictions. In addition different rules applied to new and existing substances, so many chemicals that have been on the market for some time have never been properly tested. At the same time the different rules applying to new and existing chemicals meant that employers were often discouraged from introducing new substances on the market and instead would be more likely to use existing untested chemicals which might actually be more dangerous.

The new regulations will ensure that, within 10 years, we will have much better information on tens of thousands of different substances. There will be one single system and the burden of proof will be on industry to demonstrate that a chemical can be used safely, and how. Another advantage is that everyone in the supply chain will have to ensure the safety of the chemical substances they handle and will have better information to do this.

What does REACH do?

The main themes of REACH are registration, evaluation and authorisation of substances manufactured or imported into the EU.

There is a duty on industry to collect, collate and submit information to the new European Chemicals Agency which was set up in Helsinki in 2008. This information will cover all substances (with a few exceptions) if they are manufactured or imported into the EU in quantities above 1 tonne per year. In addition certain substances that are carcinogenic, mutagenic or toxic to reproduction will have to be authorised. Industry will also have to prepare risk assessments and control measures for those people using the substance. This should increase both the labelling of products but also the information on the data sheets that accompany them.

Registration

Chemicals will be registered in 3 phases according to the quantities manufactured or imported. Those chemicals of more than 1,000 tonnes a year, or those of highest concern, have to be registered by 30 November 2010. Substances of between 100 and 1,000 tonnes a year need to be registered by 2013 and all substances of 1 tonne or above must be registered in by the end of November 2018.

Evaluation

Manufacturers and importers also have to develop dossiers, which will then have to be evaluated. There are 2 kinds of evaluation, the first is for substances over 100 tonnes a year where individual countries will be required to examine and agree any testing proposals put forward by industry and also to ensure that the dossiers are complete and compliant. In addition there will be a separate substance evaluation, which allows individual European countries to consider whether industry needs to obtain more information for the chemical safety report.

Authorisation

Industry must also gain EU wide authorisation for the use of any substances that are considered to be of high concern. These include any substances that are identified as carcinogenic or toxic to reproduction. In addition the European Commission can place specific restrictions on substances.

Within the UK the body responsible for enforcing REACH is the Health and Safety Executive. It is their job to ensure compliance with registration, to evaluate substances and to generally enforce the regulations.

What substances will be covered?

REACH is very wide and will cover all substances, whether manufactured or imported, that are either used as an intermediate or sold either on their own or in preparations. Exemptions are substances that are radioactive, subject to

custom supervision, or are 'non-isolated intermediates'. Waste is specifically exempt, as is food.

Classifying, and Labelling chemicals

There is also new legislation on the Classification, Labelling and Packaging of chemicals. This is also Europe-wide and follows an international agreement on a global system of classifying chemicals. The Regulations have been introduced in the UK as Chemicals (Hazard Information and Packaging) for Supply Regulations 2009 (CHIP) and will gradually replace the UK legislation. The Regulations will apply to the classification of substances from 1 December 2010, and to the classification of mixtures (formerly 'preparations') from 1 June 2015.

The union view

The European trade unions, including Unite, have broadly welcomed REACH. They particularly support the reversal of the burden of proof onto industry and the wide coverage. However because of pressure from employers' organisation many of the original proposals for a new chemical framework have been watered down. The new regulations mean that industry will be able to go on using certain extremely dangerous substances even if safer alternatives are available. This is inconsistent with the current legislation on the protection of workers, which insists that employers must substitute any dangerous substances that they cannot eliminate, if a substitute is available. Trade unions have also expressed concern over the reporting of substances below 10 tonnes per year where there will be no requirement on employers to provide information derived from the testing of the substances.

Unions also believe that it is a major omission that most nanomaterials, because of their size, will never be covered by REACH as they are unlikely to be produced in quantities above 1 tonne.

What will it mean in the workplace?

REACH did not replace the existing regulations protecting workers such as COSHH. It is in addition to them. In the long term REACH should mean that there is much more information on the safety of chemicals that are used in the workplace. Rather than simple safety datasheets, information will also be available on the dangers of substances when they are combined with other chemicals or are used for specific purposes. If an employer receives information from a supplier or manufacturer that does not cover their use of the substance then they should notify the supplier. Even for substances where there is no safety data sheet there are still obligations on suppliers to give any information on potential hazards to all users right down the supply chain.

REACH will also hopefully lead to dangers being identified earlier and the more dangerous substances either better controlled, or substituted, although much of this will depend on the activity of unions and safety representatives, and the way the regulations are enforced.

What REACH will not mean

There are a lot of myths around what REACH will and will not do. Unite safety representatives must remember that REACH was primarily introduced as a measure to protect the environment and the public, rather than workers. It is therefore important to recognise that:

- REACH does not mean that all chemicals in use in the workplace will be 'safe'. For most substances REACH will simply ensure that chemicals have been tested and information on any potential dangers (depending on how they are used) will be better available. This will not necessarily mean these chemicals will not be used and it will be up to union activity to ensure that the more dangerous chemicals are removed or substituted, and when that is not possible the risks are fully controlled.
- REACH will not replace the existing chemicals regulation COSHH. This continues to apply and nothing within the European directive repeals the European regulations on which they are based.
- It has been argued that REACH will create a more complex regime with new duties on employers. This is not true. In fact there will be very few new duties on employers, unless they are manufacturers or importers of chemicals. Instead employers will get much more information about the substances they use.
- It has also been claimed that REACH may threaten the European chemicals industry. In fact it is recognised by both sides of industry that REACH will help encourage more innovation and make the European chemical industry one which is not only more competitive, but the world leader. That is why REACH has been welcomed by, for example, the Chemical Industry Association.

What Unite Safety Representatives need to do!

Unite safety representatives need to ensure that, if their company is producing chemicals, they have registered by the appropriate deadline. If your employer uses chemicals, you should check with your employer whether their classification should be changed under the new rules; they are labelled in line with them; all uses are covered by the safety data sheets and, the required risk management measures are implemented.

If your employer fails to comply with the REACH requirements (or the new classification requirements), enforcement action could be taken which could lead to some production processes having to stop.

At the same time, regardless of whether the chemicals you use are covered by REACH, it is important that Unite safety representatives continue to ensure that employers undertake full risk assessments on all chemicals and other

dangerous substances and ensure they are provided with safety data sheets from manufacturers.

For further information.

The HSE has a series of pages on REACH on their website at <http://www.hse.gov.uk/chemicals/REACH.htm>

For advice on the new Classification, Labelling and Packaging regulations go to:

<http://www.hse.gov.uk/ghs/eureg.htm>

Appendix: REACH Timeline – Main dates for implementation

1 June 2007	REACH came in to force
1 June 2008	Pre-registration for existing ('phase-in') substances started Registration for new ('non phase-in') substances started
30 November 2008	Pre-registration for 'phase-in' substances ended
1 December 2008	Registration for existing substances (that have not been pre-registered) started
1 January 2009	List of pre-registered substances published and SIEFs are formed
1 June 2009	First recommendation of priority substances to be considered for authorisation published by ECHA By this date the following pre-registered 'phase-in' substances should have been registered when supplied at:
1 December 2010 PHASE 1	<ul style="list-style-type: none">• ≥ 1 tpa and classified under CHIP as Cat 1 or 2 carcinogens, mutagens or reproductive toxicants• ≥ 100 tpa and classified under CHIP as very toxic to aquatic organisms or;• ≥ 1 tpa and classified under CHIP as Cat 1 or 2 carcinogens, mutagens or reproductive toxicants
1 June 2013 PHASE 2	Deadline for registration of substances supplied at ≥ 100 tpa
1 June 2018 PHASE 3	Deadline for registration of substances supplied at ≥ 1 tp