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Authorities and ECHA push for compliance with authorisation duties

The Enforcement Forum's EU-wide project on inspections of REACH authorisation duties found that the majority of users, mainly SMEs, already comply with the authorisation requirement to control risks. Enforcement measures taken by authorities during the project aim to push companies towards compliance.

Helsinki, 8 March 2023 – During this project, the enforcement authorities of 28 countries carried out 690 inspections at 516 companies. The most commonly controlled substances of very high concern (SVHCs) were chromium trioxide and strontium chromate, which are used, for example, in surface treatment or chrome plating. The inspections primarily focused on downstream users, specifically small and medium-sized enterprises (SMEs), who are the final users of the SVHCs.

In one of four inspections (26 %) of downstream users, inspectors found that the substance was not used in compliance with conditions set out in the European Commission's authorisation decision granted to their supplier. Consequently, in these companies, workers or the environment were not being adequately protected from possible adverse effects of the SVHCs.

Inspectors also discovered that for 20 % of checked authorised substances, downstream users did not notify ECHA of their use. In addition, for 35 % of checked substances, suppliers failed to communicate information about operational conditions, risk management or monitoring arrangements specified in the authorisation decision to the rest of the supply chain.

While there is clear room for improvement in the levels of compliance with the specific authorisation requirements, the results show that most downstream users adhere to the fundamental authorisation duties. In 3 % of inspections, instances were uncovered where companies used or marketed substances without obtaining or applying for an authorisation or being covered by an applicable exemption.

Enforcement measures

When finding non-compliance, inspectors took 254 enforcement measures to bring all companies into compliance. The measures included mainly written advice and administrative orders, but also fines and, in some cases, criminal complaints.

Recommendations

The project report outlines recommendations for industry, the Enforcement Forum, national authorities, ECHA and the European Commission. For example, suppliers of authorised substances should improve the quality of safety data sheets while downstream users should ensure that the authorised substance is used in accordance with the conditions in the authorisation decision.

To improve the implementation by duty holders and the enforceability of REACH authorisations, a number of recommendations are also given for the European Commission on the content and clarity of future authorisation decisions.

(Podcast)

Background

Inspectors in the Forum REF-9 project checked compliance with REACH authorisation requirements. Authorisation requirements apply to substances of very high concern (e.g. substances that cause cancer or are toxic to reproduction or mutagenic), which are included in the Authorisation List (Annex XIV) of REACH.

These substances may only be used or marketed if companies or their suppliers receive an authorisation from the European Commission for their specific uses. The authorisation provisions in REACH are meant to protect workers and the environment while phasing out these highly hazardous substances from the market.

The REACH-EN-FORCE-9 (REF-9) project ran in 28 Member States. Inspections took place in 2021. The controls included the requirement to obtain an authorisation before using or marketing of substances subject to authorisation, the requirement to use these substances only in accordance with the conditions set in the authorisation decision or the duty of downstream users to notify ECHA.

Additionally, the project checked the flow of information about the safe use of authorised substances in the supply chain. The project concluded a series of three Forum enforcement projects focusing on REACH authorisation duties.

Further information

Report name here (.pdf) (EN)

[Enforcement Forum](#)

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