

Consultation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) – Dichloromethane Paint-Strippers Consultation Document

This consultative document is issued by the Health and Safety Executive in compliance with its duty to consult under section 16 of the Health and Safety at Work etc Act 1974.

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to reach there no later than **3rd January 2014**.

The Executive tries to make its consultation procedure as thorough and open as possible. Responses to this consultation document will be lodged in the Health and Safety Executive's Knowledge Centre after the close of the consultation period where they can be inspected by members of the public.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR)). Statutory Codes of Practice under the FOIA and EIR also deal with confidentiality obligations, among other things.

If you would like us to treat any of the information you provide, including personal information, as confidential, please explain your reasons for this in your response. If we receive a request under FOIA or EIR for the information you have provided, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will be disregarded for these purposes. Requests for confidentiality should be made explicit within the body of the response.

HSE will process all personal data in accordance with the DPA. This means that personal data will not normally be disclosed to third parties and any such disclosures will only be made in accordance with the Act.

Health and Safety Executive

Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

DICHLOROMETHANE PAINT-STRIPPERS CONSULTATION DOCUMENT

November 2013

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Purpose

This consultation document seeks views from across United Kingdom on an amendment to the REACH Enforcement Regulations 2008 (S.I. 2008/2852), on a proposal to allow for the continued use of paint-strippers containing the substance dichloromethane (DCM), under certain conditions.

Publication of this paper initiates an eight-week period during which we would like to hear your views. HSE believes that effective consultation is one element in its open and transparent approach to decision-making. The responses to this consultation exercise will therefore be considered by HSE before any proposal is finalised.

While the Department for Environment, Food and Rural Affairs (Defra) lead on UK REACH issues, the proposed DCM amendment is principally related to worker health and so the Health and Safety Executive (HSE) has issued this consultation document in line with Cabinet Office guidance.¹

Responding

This consultation has been issued by HSE with Defra and the Devolved Administrations (DAs) for Northern Ireland, Scotland and Wales (together referred to as Government throughout this consultation).

Please respond to ChemicalsConsultation@hse.gsi.gov.uk

Alternatively, if you do not have access to email you can send your response to:

Andrew Moore,
International Chemicals Unit,
Health & Safety Executive,
Priestley House, Priestley Road,
Basingstoke,
Hampshire, RG24 9NW

If you require a more accessible format of this document, please send details to creative@hse.gsi.gov.uk and your request will be considered.

Respondents in Scotland and Wales may wish to copy their responses to the relevant Devolved Administration.

Scotland Rob Morris, Scottish Government, Area 1-H North, Victoria Quay, Edinburgh, EH6 6QQ. Email: EQ_CAT@scotland.gsi.gov.uk

Wales Martin McVay, Welsh Government, People and Environment Division, Floor 3 South, Cathays Park, Cardiff, CF10 3NQ. email: martin.mcvay@Wales.gsi.gov.uk

Northern Ireland: Barry McAuley, Department of Environment Northern Ireland Environmental Policy Division, 6th Floor, Goodwood House, 44 - 58 May Street, Belfast, BT1 4NN
barry.mcauley@doeni.gsi.gov.uk

¹ <http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Confidentiality

HSE tries to make its consultation procedure as thorough and open as possible. Responses to this consultation document will be lodged in HSE's Knowledge Centre after the close of the consultation period where they can be inspected by members of the public.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR)). Statutory Codes of Practice under the FOIA and EIR also deal with confidentiality obligations, among other things.

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HSE will process all personal data in accordance with the DPA. This means that personal data will not normally be disclosed to third parties and any such disclosures will only be made in accordance with the Act.

Queries and complaints

HSE follows the Government's Consultation Principles

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments or complaints about the way this consultation has been conducted, please contact the HSE Consultation Coordinator by writing to:

*Teresa Farnan
Health and Safety Executive
7th Floor Caxton House
6-12 Tothill Street
London SW1H 9NA*

Or send an email to teresa.farnan@hse.gsi.gov.uk. We aim to reply to all complaints within 10 working days.

Executive Summary

The Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation (EC No 1907/2006) has been amended to prevent the supply to, and use of DCM-based paint strippers by the general public or professionals. The terms of the restriction mean that DCM-based paint strippers can still be supplied for use in industrial installations, provided certain workplace safety conditions are met.

The Health and Safety Executive, on behalf of the UK, has successfully negotiated a derogation from the REACH restriction on the basis that DCM-based paint strippers can be used safely provided professional users receive proper training and appropriate precautions are taken. It is Government policy to take advantage of all derogations which ease burdens on UK business arising from European legislation. It is therefore proposed that the UK should take up this derogation to enable DCM-based paint strippers to again be used, for example, on heritage structures, antiques and works of art, where alternatives could damage the substrate and the structures. Furthermore, the use of DCM-based paint strippers may decrease practices that carry other significant risks to health such as burning or grinding leaded paint. To take up the derogation new legislation is required. An amendment to the REACH Enforcement Regulations 2008 (S.I. 2008/2852) is therefore proposed.

The terms of the derogation require professional users of DCM-based paint strippers to be trained and competent. The proposed amendment to REACH Enforcement Regulations will therefore require professional users to obtain commercially delivered training followed by a certificate of competence administered by the Health and Safety Executive (HSE) before they can purchase and use DCM-based paint strippers.

Introduction

1. This consultation document proposes an amendment to the REACH Enforcement Regulations 2008 (S.I. 2008/2852), with the intention of allowing for the continued use of paint-strippers containing the substance dichloromethane (DCM), on the basis that it can be used safely if professional users receive proper training and appropriate precautions are taken.
2. The need to allow the professional use of DCM-based paint strippers became apparent during dialogue with stakeholders who highlighted that DCM-based paint strippers:
 - Manage the exposure to lead of painter-decorators who might otherwise be obliged to sand or heat-strip old coatings of leaded paint that generates lead-containing dust or fume.
 - Facilitate time-critical work (such as some work underground or work at height) and work on heritage structures, antiques and works of art where alternatives could damage the valuable substrate.
 - Provide cost savings for businesses that use DCM rather than alternatives. HSE estimates this to be a £17.5 million saving over a 10-year period.

What is Dichloromethane?

Description

3. Dichloromethane (DCM) is a colourless, volatile liquid and a very effective solvent. Paint strippers based on DCM are particularly effective at removing very durable coatings – including leaded paint – quickly and without damaging the substrate.

Hazards

4. DCM evaporates easily, which can result in high concentrations of vapour, particularly in confined spaces or where there is limited ventilation. Breathing in DCM vapour can produce narcotic effects including drowsiness, headache, giddiness and, at high concentrations, unconsciousness and death. There is also some evidence that DCM has the potential to cause cancer.

REACH Restriction on supply and use of DCM-based paint strippers

Prohibition on sale and use

5. In view of the known hazards and the availability of alternative products, European legislation has placed a ban on the supply of DCM-based paint strippers that are used outside industrial installations.
6. The ban is established as a restriction under the REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) Regulation (EC No 1907/2006) and applies across the EU². The REACH restriction on the supply

² Commission Regulation (EU) No 276/2010 of 31 March 2010 amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation,

and use of DCM-based paint strippers is directly applicable in the UK, meaning no new legislation was required to implement this ban. The full text of the DCM-based paint strippers' restriction and the available derogation is at Annex 1.

7. DCM 'Paint stripper' in this context means pure DCM or any mixture containing it above a 0.1% concentration, used to strip paint or similar coating from a substrate. As paint stripper is not formally defined in the restriction text, this consultation proposes to use the definition of "paint remover" given in "European Standard "Paints and varnishes —Terms and definitions"³; "Material that, when applied to a coated substrate, softens the coating so that it can be removed easily".
8. Pure DCM (or mixtures containing it) which are sold and used for other purposes, for example degreasing, are not covered by the ban and can continue to be sold and used as before.

Use of DCM paint strippers in industrial installations

9. DCM-based paint strippers can continue to be supplied for use in industrial installations, subject to the necessary safety standards and labelling requirements.⁴ This means DCM-based paint strippers can still be used in facilities such as strip tanks so long as certain specified precautions are taken. These include;
 - mechanical means to ensure effective ventilation,
 - the enclosure of facilities such as strip tanks; and
 - personal and respiratory protective equipment.
10. The full list of required safety measures can be found in paragraph 4 of the restriction text (Annex1).

Timescales

11. The ban on DCM-based paint strippers was introduced progressively.
 - Since December 2010, formulators of paint strippers containing DCM have not been allowed to put their products into the supply chain for use outside industrial installations.
 - Suppliers already in possession of these products could however continue to sell them to the public or to professionals for a further year, until 6 December 2011.
 - From 6 June 2012, all use of DCM-based paint strippers by the general public or professionals outside industrial installations has been prohibited.

Authorisation and Restriction of Chemicals (REACH) as regards Annex XVII (dichloromethane, lamp oils and grill lighter fluids and organostannic compounds).

³ BS EN ISO 4618:2006

⁴ The words 'Restricted to industrial use and to professionals approved in certain EU Member States – verify where use is allowed.' must be visibly, legibly and indelibly marked on the label.

Derogation for the supply of DCM-based paint strippers to trained and competent professionals

12. The REACH restriction on DCM-based paint strippers includes a derogation which enables European Member States to choose to allow some continued use of these products.
13. The UK is not legally obliged to take advantage of this derogation, however doing nothing would result in the continued application of the ban on the professional use of DCM-based paint strippers.
14. This consultation proposes that the UK should take up the derogation to allow professionals (not the public) to purchase and use DCM-based paint strippers on the basis that DCM-based paint strippers can be used safely provided workers receive proper training and appropriate precautions are taken.
15. Implementing the derogation would not allow for the uncontrolled use of DCM-based paint strippers. As well as the professional training and competency requirements (outlined para 23 - 31) and inline with EU regulation, employers will be required to demonstrate that professional users consider and use reasonably practicable alternatives to DCM (chemical or other stripping processes) when these present a lower risk.

Why should the UK take up the derogation?

16. UK industry has raised a number of scenarios where the professional use of non-DCM paint strippers is problematic. These include:
 - Stripping of heritage structures, antiques and works of art where the substrate or surrounding material would be sensitive to other methods.
 - Stripping metal, which may be adversely affected by substances with high alkalinity or exposure to moisture.
 - Porous substances where the presence of low volatile organic compound (VOC) solvents or caustic soda could adversely affect the re-coating process.
 - Stripping in locations where access is limited to a few hours so requiring the work to be completed very rapidly.
 - Removal of lead-based paint and multilayer coatings where the paint composition cannot be readily identified. Concern has been raised that practices that carry a significant risk to health such as burning, grinding or sanding leaded paint may be employed if DCM-based paint strippers are not available.
17. Furthermore, taking advantage of the derogation is likely to reduce costs to business, as DCM-based paint strippers are typically cheaper than alternatives and require fewer applications. Estimated recurring annual cost savings of £19 million in total over a ten-year assessment period are expected to significantly outweighing estimated total voluntary one-off costs across UK industry of around £1.5 million to professionals undertaking the required

training and testing. More information on the associated costs and benefits is available in the evidence assessment attached at Annex 2.

18. Finally, enacting the derogation is consistent with Government policy to take advantage of all derogations that benefit the UK in EU obligations.

Requirements of the derogation

Legislation

19. Enacting the derogation requires legislation. An amendment to the REACH Enforcement Regulations 2008, which allocate responsibility for REACH enforcement and include the offences and penalties for breaching REACH, is therefore proposed.⁵ The proposed amendment is at Annex 3.

Professionals

20. The REACH derogation only applies to professional users of DCM-paint strippers, who are defined in the REACH restriction as: *“workers undertaking paint stripping in the course of their professional activity outside an industrial installation”*
21. Examples of professional use include a contractor using a DCM solution to remove graffiti, or a decorator using a DCM gel to remove leaded paint from the walls of a domestic property.

Training and competence

22. The REACH derogation requires that these professionals obtain specific training and demonstrate proper competence, before purchasing or using DCM-based paint strippers.
23. The Control of Substances Hazardous to Health (COSHH) Regulations (S.I. 2002:2677) and Control of Substances Hazardous to Health (COSHH NI) Regulations (Northern Ireland) 2003 (S.R. 2003 No. 34) currently require employers to provide information, training and instruction to employees on the risks created when using chemicals at work and the precautions that should be taken.
24. The REACH derogation sets a new requirement for specific training (Paragraph 3 of restriction text - Annex 1) covering as a minimum:
 - (a) awareness, evaluation and management of risks to health, including information on existing substitutes or processes, which under their conditions of use are less hazardous to the health and safety of workers;
 - (b) use of adequate ventilation; and
 - (c) use of appropriate personal protective equipment.
25. After specific training, professional users will need to be able to provide evidence that they are demonstrably competent⁶ in the safe use of DCM-

⁵ S.I. 2008/2852

⁶ ‘Competence’ is the ability to undertake responsibilities and perform activities to a recognised standard on a regular basis. It is a combination of skills, experience and knowledge. To find out

based paint strippers before purchasing or using these products. In practice, this means that professional users will need to obtain a certificate of competence in addition to attending a specific DCM training course.

Demonstration of training and competence in practice

26. This consultation proposes that professional users should obtain specific DCM training via industry providers. Government accreditation or approval of this training is not required; however, the training should cover the requirements of the derogation and a nationally agreed syllabus. It is proposed that professional users must then pass a centrally administered test in order to obtain a certificate that demonstrates competence.
27. To fulfil the necessary European legislative requirements, governmental approval of this competency test is required. An online assessment, administered by Health and Safety Executive (HSE), is therefore proposed to comply with the relevant legislative requirements without creating an overly onerous and costly accreditation process. More detail on the proposed testing regime is at Annex 4.
28. HSE may charge a fee to cover the costs of developing and hosting the test online. As Government is committed to reducing burdens on business as far as possible, HSE will price the test to recover its costs only. More information on the estimated costs can be found in the evidence assessment at Annex 2.
29. To ensure the certificate of competence is evidence of both training and competence, professional users will not be able to register with HSE to take the test independently of a training provider.
30. Finally, as the derogation applies to professional users, organisations cannot obtain one generic training and competency dispensation for all staff. Each professional who wishes to use DCM-based paint strippers must go through training and obtain their own certificate of competence.

Outcome of taking up the derogation

31. If adopted, the amendment to the REACH Enforcement Regulations, will have practical implications for suppliers and users of DCM-based paint strippers.

Formulators

32. Formulators will once again be able to make available DCM mixtures for use as paint strippers, outside industrial installations, by specifically trained and competent professionals. However, all DCM-based paint-strippers will need to be labelled appropriately⁷.
33. The REACH restriction does not prohibit the use of DCM for purposes other than paint stripping. Formulators can therefore continue to produce DCM

more about competence and its role in worker safety, see the HSE website at <http://www.hse.gov.uk/competence/what-is-competence.htm>

⁷ The REACH derogation for professional use of DCM-based paint strippers requires the words 'Restricted to industrial use and to professionals approved in certain EU Member States – verify where use is allowed.' to be visibly, legibly and indelibly marked on the label.

mixtures intended for other purposes e.g. degreasing. Additionally, companies formulating paint-strippers containing DCM can continue to sell these products for use in industrial installations.

Retailers and distributors

34. Distributors and retailers – i.e. suppliers – can currently sell DCM-based paint strippers for use in industrial installations and, if the UK takes up the derogation opportunity, will be able to sell such products more widely for use by trained and competent professionals.
35. Suppliers of DCM-based paint strippers would need to satisfy themselves that the eventual use of the paint stripper would be legal. For professional use, this could be achieved by reference to a user's competence certificate.

Professional Users

36. Trained and competent professional users will be able to purchase and use a DCM-based paint stripper when it is the safest option available. In practice, professional users will once again be able to use DCM-based paint strippers to remove substances such as leaded paint when alternatives including grinding or heat treatment may be more hazardous.

Training providers

37. Organisations such as commercial training providers will be able to develop and deliver training for professional users of DCM paint-strippers. To meet the needs of those they train, they would have to provide training in line with the minimum standards for training set out in REACH. Professional bodies, trade associations, academic institutions or private companies could also provide training to the necessary standard if they chose to do so.

Consultation questions

38. HSE would welcome your views on the mechanisms outlined in this consultation document to take advantage of the derogation for professional users of DCM-based paint strippers.

Q1. Do paragraphs 16-18 fairly reflect the reasons why the derogation for the supply of DCM-based paint strippers to trained and competent users should be adopted in the UK?

Q2. Are there any overriding reasons why the UK should not adopt the derogation?

Q3. Do you have any comments on the draft statutory instrument amending the REACH Enforcement Regulations 2008 (S.I. 2008/2852) in Annex 3?

Q4. Do you agree that a demonstration of competence test should be administered by HSE after industry-led training? If not, why?

Q5. Do you have any comments on the proposed competence assessment, including Annex 4?

39. An evidence assessment is included at Annex 2 to this consultation. The evidence assessment identifies the proposed measure for achieving the objective and analyses its likely impacts to assess the advantages and disadvantages in economic terms.

Q6. Does the evidence assessment provide a reasonable assessment of the costs and benefits of the proposed measure, specifically (a) the cost of training and (b) the costs of using alternatives to DCM? If not, please provide information / evidence to enable us to refine the assumptions made and improve the evidence assessment.

Q7. Do you have any other comments or issues arising from this consultation document?

Next steps

40. The outcome of this consultation will be made available on the HSE website. Subject to consultation responses, a final draft of the amendment to the REACH Enforcement Regulations 2008 may be prepared.

Annex 1: REACH Annex XVII, entry 59, dichloromethane

1. Paint strippers containing dichloromethane in a concentration equal to or greater than 0,1 % by weight shall not be:

- (a) placed on the market for the first time for supply to the general public or to professionals after 6 December 2010;
- (b) placed on the market for supply to the general public or to professionals after 6 December 2011;
- (c) used by professionals after 6 June 2012.

For the purposes of this entry:

- (i) “professional” means any natural or legal person, including workers and self-employed workers undertaking paint stripping in the course of their professional activity outside an industrial installation;
- (ii) “industrial installation” means a facility used for paint stripping activities.

2. By way of derogation from paragraph 1, Member States may allow on their territories and for certain activities the use, by specifically trained professionals, of paint strippers containing dichloromethane and may allow the placing on the market of such paint strippers for supply to those professionals.

Member States making use of this derogation shall define appropriate provisions for the protection of the health and safety of those professionals using paint strippers containing dichloromethane and shall inform the Commission thereof.

Those provisions shall include a requirement that a professional shall hold a certificate that is accepted by the Member State in which that professional operates, or provide other documentary evidence to that effect, or be otherwise approved by that Member State, so as to demonstrate proper training and competence to safely use paint strippers containing dichloromethane.

The Commission shall prepare a list of the Member States which have made use of the derogation in this paragraph and make it publicly available over the Internet.

3. A professional benefiting from the derogation referred to in paragraph 2 shall operate only in Member States which have made use of that derogation. The training referred to in paragraph 2 shall cover as a minimum:

(a) awareness, evaluation and management of risks to health, including information on existing substitutes or processes, which under their conditions of use are less hazardous to the health and safety of workers;

(b) use of adequate ventilation;

(c) use of appropriate personal protective equipment that complies with Directive 89/686/EEC.

Employers and self-employed workers shall preferably replace dichloromethane with a chemical agent or process which, under its conditions of use, presents no risk, or a lower risk, to the health and safety of workers.

Professional (sic) shall apply all relevant safety measures in practice, including the use of personal protective equipment.

4. Without prejudice to other Community legislation on worker protection, paint strippers containing dichloromethane in a concentration equal to or greater than 0,1% by weight may be used in industrial installations only if the following minimum conditions are met:

(a) effective ventilation in all processing areas, in particular for the wet processing and the drying of stripped articles: local exhaust ventilation at strip tanks supplemented by forced ventilation in those areas, so as to minimise exposure and to ensure compliance, where technically feasible, with relevant occupational exposure limits;

(b) measures to minimise evaporation from strip tanks comprising: lids for covering strip tanks except during loading and unloading; suitable loading and unloading arrangements for strip tanks; and wash tanks with water or brine to remove excess solvent after unloading;

(c) measures for the safe handling of dichloromethane in strip tanks comprising: pumps and pipework for transferring paint stripper to and from strip tanks; and suitable arrangements for safe cleaning of tanks and removal of sludge;

(d) personal protective equipment that complies with Directive 89/686/EEC comprising: suitable protective gloves, safety goggles and protective clothing; and appropriate respiratory protective equipment where compliance with relevant occupational exposure limits cannot be otherwise achieved;

(e) adequate information, instruction and training for operators in the use of such equipment.

5. Without prejudice to other Community provisions concerning the classification, labelling and packaging of substances and

mixtures, by 6 December 2011 paint strippers containing dichloromethane in a concentration equal to or greater than 0,1% by weight shall be visibly, legibly and indelibly marked as follows:

“Restricted to industrial use and to professionals approved in certain EU Member States – verify where use is allowed.”

Annex 2 – DCM-based paint strippers consultation evidence assessment

Due to its length, the evidence assessment is contained in a separate document

Annex 3 - REACH Enforcement (Amendment) Regulations 2014

STATUTORY INSTRUMENTS

2011 No.

SUBJECT

SUBSUBJECT

REACH Enforcement (Amendment) Regulations 2014

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to persistent organic pollutants, dangerous substances, preparation and chemicals, makes the following Regulations in exercise of the powers conferred by that section:

Citation and commencement

1. These Regulations may be cited as the REACH Enforcement (Amendment) Regulations 2014 and come into force on [] 2014.

Amendments to the REACH Enforcement Regulations 2008

2.—(1) The REACH Enforcement Regulations 2008⁽⁸⁾ are amended as follows.

(2) After Regulation 8 insert—

“Placing on the market and use of paint stripper containing dichloromethane

8A.—(1) A person who places on the market paint stripper containing dichloromethane for supply to a professional does not breach the restriction on this activity provided for by Article 67 of REACH where that person complies with the provisions of Schedule 5B (placing on the market and use of paint stripper containing dichloromethane).

(2) A professional who uses paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that professional complies with the provisions of Schedule 5B (placing on the market and use of paint stripper containing dichloromethane).

[(3) An employer or self-employed worker who [uses?] paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that employer or self-employed worker complies with the provisions of Schedule 5B (placing on the market and use of paint stripper containing dichloromethane).]

(3) After Schedule 5 insert—

⁽⁸⁾ S.I. 2008/2852.

“SCHEDULE 5B Regulation 8A

Placing on the market and use of paint stripper containing dichloromethane

1. A person who places on the market for supply to a professional a paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that person places the paint stripper on the market for supply to a professional who is approved by the Executive in accordance with the provisions of this Schedule.

2. An employer or a self-employed worker must replace paint stripper containing dichloromethane with a chemical agent or process which, under its conditions of use, presents no risk, or a lower risk, to the health and safety of workers, unless it is not reasonably practicable to do so.

3. A professional who uses a paint stripper containing dichloromethane does not breach the restriction on this activity provided for by Article 67 of REACH where that professional—

- (a) is approved by the Executive in accordance with the provisions of this Schedule to use paint stripper containing dichloromethane; and
- (b) applies in practice all appropriate safety measures, including the use of personal protective equipment that complies with the Regulations referred to in paragraph 5(a)(iii).

4. A professional is approved by the Executive to use paint stripper containing dichloromethane if that professional can demonstrate proper training and competence in the safe use of paint stripper containing dichloromethane.

5. A professional can demonstrate proper training and competence in the safe use of paint stripper containing dichloromethane by—

- (a) undertaking training on the safe use of paint stripper containing dichloromethane which covers as a minimum—
 - (i) awareness, evaluation and management of risks to health, including information on existing substitutes or processes, which under their conditions of use are less hazardous to the health and safety of workers;
 - (ii) the use of adequate ventilation; and
 - (iii) the use of appropriate personal protective equipment that complies with—
 - (aa) in UK the Personal Protective Equipment Regulations 2002⁽⁹⁾

- (b) obtaining a specified certificate upon [successful completion of that training/passing an examination following that training].

6. In this Schedule a “specified certificate” means a certificate of competence in the safe use of paint stripper containing dichloromethane issued by the Executive [or a body nominated by the Executive].

7. The Executive[, or the body nominated by the Executive to issue specified certificates,] may charge a fee for administering those certificates, including any associated examination.

8. The Executive can, at any time, revoke its certification of a professional in writing.

9. In this Schedule—

- (a) “the Executive” means—
 - (i) in Great Britain, the Health and Safety Executive; and
 - (ii) in Northern Ireland, the Health and Safety Executive for Northern Ireland;
- (b) “paint stripper” means material that, when applied to a coated substrate, softens the coating so that it can be removed easily, and “paint stripping” shall be construed accordingly;

⁽⁹⁾ S.I. 2002/1144.

Consultation Version - Please note that this draft will be subject to amendment

- (c) “paint stripper containing dichloromethane” means paint stripper containing dichloromethane in a concentration equal to or greater than 0.1% by weight;
- (d) “professional” means any person[, including workers and self-employed workers,] undertaking paint stripping in the course of their professional activity other than within an industrial installation⁽¹⁰⁾ where the conditions set out in entry 59 paragraph 4 of Annex XVII to REACH are complied with.”

Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

⁽¹⁰⁾ The term “industrial installation” has the meaning given by entry 59 paragraph 1(ii) of Annex XVII to REACH.

Annex 4 - Competence test administered by Health and Safety Executive

Background

The Government explored a number of mechanisms to implement the training and competency requirements set out in the DCM derogation.

Option 1 - Certificates of competence issued to users by training providers on the completion of training, was the first option considered. Here the emphasis fell to training providers to deliver training and verify competence without government intervention or control. It was concluded however that a certificate of competence, issued without direct Government approval, would not implement the derogation's requirements, so this option was rejected.

Option 2 - A comprehensive accreditation scheme for training providers administered by Government, was assessed. This scheme fulfilled the necessary European legislative requirements, but imposed a significant financial burden on government, the training providers and business. A training accreditation scheme was therefore rejected as the costs were contrary to current Government policy to reduce burdens to business and limit the role of Government whenever possible.

Option 3 - Industry delivered training followed by a competency assessment, approved by HSE was the preferred option. Here, Health and Safety Executive will develop an online competency test that professional users must access and pass before receiving a certificate of competency necessary to purchase and use DCM-based paint strippers. As the Health and Safety Executive (HSE) will administer this test, this satisfies the legal requirements for government to demonstrate an active role in the approval of competency, without imposing an accreditation system that may be costly on business.

How would the test be administered?

Various testing options are available ranging from a paper / online exam to observed practical demonstration. Participant knowledge of the precautions and their application is deemed more relevant than demonstration of operator skills. A theory test to assess user knowledge of the precautions outlined in the training syllabus is therefore proposed rather than a practical exam similar to those for, for example, fork lift truck driving or pesticide boom spraying.

An online test that has advantages of being flexible to administer and fast to assess. Also graphic and presentation material can be inserted to make the online exam as practically grounded as possible. Classroom PCs or paper-based versions could additionally be made available for candidates with no other access to PCs.

To ensure the certificate of competence is evidence of both training and competence, professional users will not be able to register with HSE or take the test independently of a training provider, Training providers will be required to register with HSE and will then , on completion of the training, be able to provide their trainees access into the online test.

How long and complex would the test be?

The test will be proportionate to the risk from DCM and cover the core competencies of the syllabus without being bureaucratic. The aim is for the test to establish that trainees have understood the core principles of safe use of DCM-based paint strippers and can apply these to the working environments they may encounter. A memory test on relevant law and standards would have limited practical application and will be avoided.

Preventing Fraud

To mitigate the risks of cheating and fraud, the test will need to be carried out in the presence of an authorised invigilator who would verify the identities of those taking the test. In most instances, the professional's training provider will fulfil this role at the end of the training course.

Consultation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) – Dichloromethane Paint-Strippers Consultation Document

The full text of this and other
Consultative Documents can be viewed
and downloaded from the
Health and Safety Executive web site on the
internet: www.hse.gov.uk/consult/index.htm

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