



UKATA Guidance – December 2011

Use of encapsulated asbestos samples to aid training.

REACH Regulations 2009 – Prohibition of Asbestos.

In June 2009 the prohibition of asbestos came under the control of the REACH Regulations. At that time the majority of Part 3 of the Control of Asbestos Regulations 2006 (Prohibitions and Other Provisions) was subject to revocation. Specifically Regulations 25(3), 27, 28, 29 and 32(2) were revoked as the prohibition requirements of the REACH Regulations were introduced.

Use of asbestos samples as a training aid

The implication of these changes for Asbestos Training has been one of considerable confusion regarding the use as a training aid of asbestos samples held in suspension in a variety of materials such as transparent resin.

From a number of enforcement sources statements had been made informally that the possession and use of such samples as part of training is in clear breach of the REACH regulations. Indeed on a number of occasions it was suggested that such practices should cease and further, that such materials are required to be disposed of as hazardous waste.

No formal communication has been forthcoming on the subject to help clarification. Therefore UKATA elected to contact the REACH enforcement team in Bootle directly.

UKATA asked whether the REACH regulations specifically prohibited the possession and use of such training materials under Annex XV11 or did the derogation available under Article 67 (allowing for substances or materials containing asbestos to be used for the purpose of scientific research) permit the use of such materials in training to continue. UKATA's enquiry also sought to clarify the implications of the packaging and labelling requirements established within Appendix 7 about the labelling of such training materials.

Clarification from Chemicals Regulation Directorate – REACH & CLP Helpdesk

Dr Gary Dougherty of the REACH & CLP Helpdesk wrote back to state:

Article 67 of REACH does contain a derogation statement that the restrictions do not apply to scientific research and development (see attached extract). Scientific research and development is defined in REACH (see Article 3 (23) attached) and it includes analysis and experimentation. The purpose of such analysis or experimentation is not defined; thus it could include experimentation or analysis for educational purposes. This would appear to cover your uses of the asbestos samples.

Dr Dougherty went on to state:

The derogation in Article 67 for scientific R&D means that the provisions of the asbestos restriction do not apply. Therefore, the labelling provisions in Appendix 7 also don't apply as these are part of the restriction.

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He added:

Furthermore, it would appear that your samples are not articles in the REACH sense and Appendix 7 applies to articles. Asbestos samples supplied for the uses you describe should be classified as substances or mixtures (as appropriate)

Conclusion

As a consequence of the view above expressed by the REACH –CLP Helpdesk UKATA has formed the following views:

- 1) Asbestos samples suspended in a bonded entity such as resin is a substance or mixture not an article
- 2) The derogation under Article 67 allows for the possession of such substances or mixtures for educational purposes
- 3) The use of such substances or mixtures in educational purposes such as Asbestos Training is permitted by the said derogation under Article 67
- 4) The labelling provisions of Appendix 7 of the regulations do not apply to such samples but UKATA believe it would be appropriate for samples to be properly labelled to identify their content correctly.

NB. UKATA Members shall need to undertake a suitable and sufficient risk assessment to evaluate the appropriateness of the substance (vessel/containment device) employed and the manner of use of such samples .

Although it is acceptable to store asbestos samples in containment such as glass jars etc., UKATA believe that samples should be firmly encapsulated within an unbreakable matrix.