



## **Enforcement of the regulations on production and use of chemical substances in the Netherlands in 2016**

Date                      December 30, 2017



## Colophon

### Authors

Cooperation partnership for REACH and CLP Enforcement  
The Netherlands

Human Environment and Transport Inspectorate (ILT)  
The Netherlands Food and Consumer Product Safety  
Authority (NVWA)  
Social Affairs and Employment Inspectorate

Contact address:

[Postbus.HandhavingREACHenEU-GHS@ilent.nl](mailto:Postbus.HandhavingREACHenEU-GHS@ilent.nl)

## **Table of contents**

<b>Introduction</b>	<b>5</b>
<b>1. Regulations for chemical substances and the enforcement thereof</b>	<b>6</b>
1.1 The REACH regulation	6
1.2 THE CLP and PIC regulations	6
1.3 Businesses that fall under REACH and CLP	7
1.4 Enforcement of REACH and CLP	7
<b>2. Enforcement actions in 2016</b>	<b>9</b>
2.1 Enforcement priorities	8
2.2 Number of inspections per role in the chain	10
2.3 Number of inspections per obligation	10
<b>3. Results in 2016</b>	<b>13</b>
3.1 Compliance with the registration requirement	14
3.2 Compliance with the obligation to supply information	14
3.3 Compliance with bans and use restrictions	17
3.4 Compliance with obligations for health and safety in the workplace	19
<b>4. Enforcement activities in 2016</b>	<b>21</b>
<b>5. Other activities in 2016</b>	<b>22</b>
5.1 Communication	22
5.2 Actions by ministries	22
5.3 European activities	23
<b>6. Summary and conclusions</b>	<b>24</b>
<b>7. Relevant websites</b>	<b>26</b>
<b>Appendix</b>	
Forum of EU Member States for exchanging enforcement information and coordinating the enforcement of REACH and CLP	27

## **Introduction**

Chemical substances are indispensable in society: people are composed of chemical substances and we need them in our daily lives. Thanks to chemical substances we have heat and electricity, can purchase products and clothing and have access to telecommunications, media and music anywhere. These substances also make an essential contribution to citizens' economic and social welfare, through trade and employment.

A large number of chemical substances are characterised by dangerous properties, which could cause, for example, skin irritation, fire or cancer. Different European regulations have been compiled in order to restrict these risks. The most comprehensive are REACH and CLP.

Various bodies are responsible for the enforcement of the REACH and CLP regulations. Three of these work together in the Cooperation Partnership for REACH and CLP Enforcement. These are the Human Environment and Transport Inspectorate (ILT), The Netherlands Food and Consumer Product Safety Authority (NVWA) and the Social Affairs and Employment Inspectorate (Inspectie SZW). In this document they report on the enforcement activities they carried out in 2016 in the context of REACH and CLP.

## **Summary**

First and foremost this report provides some background information about the regulations, the businesses that fall under them and the bodies that perform the related enforcement activities. Chapter 3 goes on to reveal how many enforcement activities were carried out in 2016 and what these activities focused on. Chapter 4 describes the results of the enforcement activities, after which we briefly discuss the inspectorates' enforcement activities in Chapter 5. We conclude the annual report with a summary (Chapter 6) and links to relevant websites (Chapter 7).

## **1. Regulations for chemical substances and the enforcement thereof**

A number of European regulations have been compiled to protect man and the environment from the risks posed by chemical substances, of which REACH and CLP are the most comprehensive. This chapter explains the content of the regulations, the number of Dutch business that fall under them and their role in the chain. We also discuss the bodies responsible for enforcement of the regulations: the bodies concerned and the actions they perform.

### **1.1 The REACH regulation**

The most important European regulation on chemical substances is the REACH regulation, or Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorisation and restriction of Chemicals. The objective of REACH is:

- To protect man and the environment from harmful substances;
- To foster innovation and competitiveness in the sector in European industry;
- To encourage companies to develop alternative methods to testing chemical substances on animals.

REACH makes it compulsory for European companies to register all chemical substances they manufacture or import in quantities of 1,000 kg or more per year. REACH also makes it compulsory for companies to compile information about the cited substances and supply this information to buyers.

All substances subject to the registration requirement must be registered by May 31 2018 at the latest. The European Chemicals Agency ECHA expects this to concern at least 30,000 different existing chemical substances.

### **1.2 The CLP regulation**

The REACH regulation is closely interwoven with the CLP regulation, or Regulation (EC) No. 1272/2008 on the Classification, Labelling and Packaging of substances and mixtures. This regulation guarantees that employees and consumers are clearly informed about the dangers of chemical substances. This is achieved by classifying these substances into hazard categories and through unambiguous labelling.

There are another few EU regulations that apply to specific substances that do not fall under the scope of this annual report<sup>1</sup>. These are:

- The PIC regulation, concerning the export and import of hazardous chemicals (EU) No. 649/2012. It specifically protects developing countries from the risk of extremely hazardous substances being exported to them. It concerns substances that are often banned or severely restricted in the EU;
- The POP regulation on restricting the production, placing on the market and use of persistent organic pollutants (No. 850/2004). POPs are toxic substances that are difficult to break down;
- The mercury regulation on restricting the export of mercury and mercury-containing waste products and compounds (No. 1102/2008).

---

<sup>1</sup> For more information visit [www.ilent.nl](http://www.ilent.nl)

### 1.3 Businesses that fall under REACH and CLP

There are many businesses that must comply with the obligations arising from the REACH and CLP regulations. The total number in the Netherlands is estimated to exceed 100,000 businesses. Around 22,000 companies are subject to specific obligations pursuant to the regulations because they produce, import or trade a chemical substance, mixture or article, or because they are the Only Representative of a producer outside the EU.

Table 1 shows the roles companies may play in the chain of substances and mixtures. The quantity in the column next to their role represents the estimated number of companies that fall under these regulations. A company could perform multiple roles simultaneously, such as that of producer, importer and user of chemical substances. Therefore, the amounts cannot be added up.

**Table 1 Global size of the target groups of REACH and CLP**

Role in the REACH/CLP chain	Number of companies in the Netherlands (estimate)
Substance producer	1,000
Mixture producer	1,400
Article producer <sup>3</sup>	200
Substance, mixture or article importer <sup>3</sup>	20,500
Only Representative <sup>4</sup>	400
Trader (distributor) of a substance, mixture or article	20,000
User (industrial/professional) of a substance or mixture	>100,000

### 1.4 Enforcement of REACH and CLP

In the Netherlands the following bodies are responsible for the enforcement of the regulations on REACH and CLP.

- Human Environment and Transport Inspectorate (ILT): enforcement of producers, importers and traders of chemical substances, mixtures and articles<sup>3</sup> for professional use.
- The Netherlands Food and Consumer Product Safety Authority (NVWA): enforcement of producers, importers and traders of chemical substances, mixtures and articles<sup>3</sup> for consumers.
- The Social Affairs and Employment Inspectorate (Inspectie SZW): enforcement of professional users of chemical substances and mixtures, such as painting firms and metal processing firms.
- State Supervision of Mines (SodM): enforcement of mining companies.
- Customs: supplies information about imports and exports of certain substances, and (to a limited extent) performs, on request, inspections of EU imports of chemical substances, mixtures and articles.<sup>3</sup>

The ILT, NVWA, Inspectie SZW and SodM coordinate their activities in the Cooperation Partnership for REACH and CLP Enforcement.

Coordination, consultation and the exchange of information related to enforcement of the REACH and CLP between EU Member States takes place in the Enforcement

<sup>3</sup> This concerns articles containing hazardous substances, which fall under the REACH regulation.

<sup>4</sup> Only Representative: Pursuant to Article 8 of REACH, companies outside the EU may use an Only Representative (in the EU) in order to comply with the registration requirement.

<sup>5</sup> Pursuant to Article 76 of the REACH regulation and Article 43 of the CLP regulation.

Forum, the official collaboration platform for European enforcement authorities.<sup>5</sup>

---



## **2. Enforcement actions in 2016**

In 2016, the Inspectorates carried out hundreds of enforcement actions focused on the REACH and/or CLP obligations. This chapter discusses the priorities established in this objective, how the enforcement actions were distributed between the different types of companies and the obligations that were verified.

### **2.1 Enforcement priorities**

As mentioned previously, the number of companies that fall under the REACH and/or CLP regulations is very high. Therefore, it is necessary to establish priorities for enforcement actions. In 2016, the ILT and the NVWA prioritised producers and importers. They operate at the beginning of the chain from substance to end product. As a result, they bear prime responsibility for gathering and analysing the required knowledge about the substance or mixture. They must also classify the substance or mixture in a hazard category and supply this information to buyers. They do this using the safety data sheet (SDS) and labels on the packaging.

#### **NVWA focus**

In its enforcement actions the NVWA focused on cosmetics importers in the target groups cited. The inspectorate examined whether they imported product groups in 2016 that are subject to REACH and CLP, and whether they respected the corresponding obligations when doing so. This did not concern imports of cosmetic products in their finished form, which are intended for the end user. Those products fall outside the scope of REACH and CLP.

The NVWA also verified compliance for substances that were subject to an authorisation obligation in 2016.

#### **ILT focus**

Besides enforcement of importers and producers, the ILT focused on three other priorities:

- Compliance with the rules that apply to substances subject to an authorisation obligation in 2016;
- Compliance with REACH restrictions on products containing asbestos and cadmium;
- Compliance with the registration requirement and the obligation to supply information (specifically safety data sheets) in the fuel chain.

#### **Focus of Inspectie SZW**

In its enforcement actions Inspectie SZW focuses primarily on employer obligations in the context of the Working Conditions Act (Arbowet), which concerns health and safety aspects of working with hazardous substances. In this context in 2016, Inspectie SZW carried out inspection projects in several sectors with an increased risk, such as metal processing firms, (surface processing) and companies involved with chemicals, plastics and rubber. Inspectie SZW also carried out inspections specifically focusing on REACH (SDS requirement) in combination with obligations arising from the Working Conditions Act. These inspections took place at painting firms, graffiti removers, concrete renovation firms and flooring layers.

### The focus of SodM

In 2016, SodM carried out REACH/CLP inspections at mining firms. These are end users of chemical substances.

### 2.2 Number of inspections per role in the chain

Table 2 shows the number of inspections carried out in 2016 at different REACH and CLP target groups. These target groups are classified based on the role the companies play in the chain of chemical substances and mixtures. Companies could play several roles, but a single role was consistently chosen, which is the role closest to the forefront of the chain.

**Table 2 Number of inspections in 2016 per role in the chain per inspectorate**

Role in the chain	NVWA	ISZW	SodM	ILT	Total
Substance producer	0			49	49
Substance/mixture importer	31			47	78
Only Representative	0			9	9
Trader (distributor)	3			80	83
Mixture producer/formulator	10			122	132
Article producer				5	5
Article importer	80 <sup>2</sup>			32	112
User (industrial/professional) of a substance/mixture	3	126	35	314 <sup>3</sup>	478
Role unknown/not provided				35	35
<b>Total<sup>4</sup></b>	<b>127</b>	<b>126</b>	<b>35</b>	<b>693</b>	<b>981</b>

### 2.3 Number of inspections per obligation

The REACH regulation contains a number of obligations, which are distributed across four categories: the registration requirement, the obligation to supply information, bans and use restrictions, and health and safety aspects of working with hazardous substances. When monitoring these obligations the inspectorates have different roles and tasks:

#### Registration requirement

- The ILT and the NVWA always verify the registration requirement when it applies.
- Inspectie SZW and SodM play more of a signalling role in this regard.

#### Obligation to supply information

- The ILT and the NVWA always verify the obligation to supply information, which applies to all parts of the chain.
- Inspectie SZW verifies the availability of safety data sheets (SDSes) at the end user premises and performs a quick scan of their quality. Inspectie SZW also assesses whether the companies use the information in the SDSes for policy relat-

<sup>2</sup> Jewellery sampled in the retail industry.

<sup>3</sup> Companies (potentially) with asbestos products (such as gaskets for installations).

<sup>4</sup> Since a company may perform multiple roles in the chain, the total number of company inspections performed may differ from the total number of inspections related to the individual roles performed by the companies.

ed to working conditions, employee protection measures and for educational purposes.

- The SodM performs a standard inspection of whether the compulsory SDSes are available and compiled in the right language. The SodM does not verify the content of the SDSes.

### **Bans and use restrictions**

- The ILT and the NVWA inspect bans and use restrictions (based on Appendix XVII to REACH) at a selection of companies subject to these bans and restrictions.
- In 2014, the authorisation obligation entered into force for a number of substances (based on Appendix XIV to REACH). In 2016, the ILT and the NVWA carried out inspections in the context of the second Authorisation Forum pilot project.

### **Health and safety aspects of working with hazardous substances**

- Inspectie SZW and the SodM inspect health and safety aspects of working with hazardous substances. Inspectie SZW adopts a risk-based approach to inspections: the 'health aspects of working with hazardous substances' theme is not inspected at each company selected for inspection.

Table 3 shows the number of inspections in 2016, per REACH obligation and per inspectorate. In the 'health and safety aspects of working with hazardous substances' category only the inspections focused on REACH Working Conditions obligations related to hazardous substances are included. In 2016, in total Inspectie SZW performed a lot more inspections related to working with hazardous substances. For these we refer the reader to the (annual) Inspectie SZW report on this matter.

**Table 3 Number of inspections in 2016 per obligation per inspectorate**

Obligations	NVWA	ISZW	SodM	ILT	Total
<b>Registration requirement<sup>5</sup></b>	31			74	105
<b>Obligation to supply information<sup>5</sup></b>	31			196	227
*Supplying information in the chain	31	126		176	333
*Right SDSes	31	126		196	353
*Right exposure scenarios (extended SDSes)				8	8
*Right labelling	31			134	165
*Compliance with CLP notification obligation	31			115	146
*Compliance with NVIC notification obligation <sup>6</sup>	31			nb	>31
*Obligation to supply information about SVHC substances <sup>7</sup> in articles	4			-	4

<sup>5</sup> In 2016, the NVWA inspected 31 cosmetics importers. Of those, eight import product groups proved to be subject to REACH and CLP. The results of these eight importers are included in this report.

<sup>6</sup> Nederlandse Vergiftigingen Informatie Centrum (Dutch National Poison Information Centre).

<sup>7</sup> Substances of Very High Concern.

<b>Bans and use restrictions</b>					
*Use restrictions Appendix XVII REACH	76			346	422
*Authorisation obligation Appendix XIV REACH	16			18	34
<b>Health and safety aspects at work</b>	NA	126	35		161
*Compiling an inventory of hazardous substances	NA	126	35		161
*Supplying information about the risks of hazardous substances to employees	NA	126	35		161
*Taking the right protection measures	NA	126	35		161

### 3. Results in 2016

This chapter discusses the results achieved by the enforcement actions performed by the inspectorates in 2016: the extent to which the companies inspected complied with the REACH and CLP rules and the areas that could be improved. The following table lists all the results. We explain the different elements afterwards.

**Table 4 Total picture of companies' compliance from inspections in 2016**

<b>Obligations</b>	NVWA/ILT	ISZW <sup>8</sup>	SodM	Total <sup>9</sup>
<b>Registration requirement</b>	93%			93%
<b>Obligation to supply information</b>				
*Supplying information in the chain	94%			94%
*Right SDSes (compliance percentage per SDS)	32% <sup>10</sup>	72% <sup>11</sup>		
*Right exposure scenarios (extended SDSes)	100% <sup>12</sup>			
*Right labelling (compliance percentage per label)	65%			65%
*Compliance with CLP notification obligation	88%			88%
*Compliance with NVIC notification obligation <sup>13</sup>	63%			63%
*Obligation to supply information about SVHC substances <sup>14</sup> in articles	<sup>15</sup>			
<b>Bans and use restrictions</b>				
*Use restrictions Appendix XVII REACH	87 %			87%
*Authorisation obligation Appendix XIV REACH	97%			97%
<b>Health and safety aspects at work</b>				
*Compiling an inventory and assessing hazardous substances		62%		62%
*Supplying information about the risks of hazardous substances to employees		91%		91%
*Taking the right protection measures		63%		63%

<sup>8</sup> In total 50% of the companies inspected complied with the obligations. At companies that displayed shortcomings, not every violation of the cited obligations was observed. This is why the compliance percentage per obligation is higher than that for total compliance behaviour.

<sup>9</sup> If enough data to provide a reliable picture.

<sup>10</sup> Detailed assessment of the producer, importer or distributor's SDS.

<sup>11</sup> Quick scan of the SDS received by the end user.

<sup>12</sup> Only eight SDSes were assessed.

<sup>13</sup> Nederlandse Vergiftigingen Informatie Centrum (Dutch National Poison Information Centre).

<sup>14</sup> Substances of Very High Concern.

<sup>15</sup> Inadequate number inspected to be able to make a reliable statement.

### **3.1 Compliance with the registration requirement**

The objective of registration is to gather and report information about the hazardous aspects and protection measures to be taken in an unambiguous manner. Table 4 shows that compliance with the registration obligation was good in 2016. The substances inspected were almost all registered or did not (yet) need to be registered. This corresponds to the picture revealed in previous years. The ILT discovered violations (no formal contract from the non-EU producer, no up-to-date list of the quantities imported) at one of the nine Only Representatives inspected. This compliance percentage of circa 90% is also consistent with the picture revealed in recent years.

As of 1 June 2018, companies must also register substances that they produce or import in smaller quantities (1-100 tonnes/year). This means that more SMEs will be subject to the registration requirement. A lot of information has been disseminated on this matter in recent years. As of 1 June 2018, monitoring will be necessary to establish whether this new target group is also complying with the registration requirement.

### **3.2 Compliance with the obligation to supply information**

The obligation to supply information is twofold. Firstly, companies must accurately supply information about the hazards of the substance or the mixture in safety data sheets (SDSes) and on product labels. Secondly, they must accurately supply the cited information in the chain via the SDSes.

#### **3.2.1 Safety data sheets**

SDSes form a primary source of information for employers to comply with their working conditions obligations related to the safety aspects of working with hazardous substances. The SDSes are also important for users of hazardous substances in general, to protect them and the environment. Therefore it is important that SDSes contain the right information. The ILT and the NVWA perform a standard inspection of two to three SDSes during an integral REACH inspection.

Table 5 compares the compliance percentages of SDSes in 2016 with 2013 (the last year in which an annual report from the cooperating inspectorates on REACH-CLP appeared). 2016 shows an obvious improvement in the compliance percentage of the main SDS categories. However, the compliance percentage is clearly lower than the desired percentage of 90%.

The main violations discovered by the inspectorates were as follows:

- Often, in Category 1 not all the relevant information about the supplier of the hazardous substance or mixture was specified. Sometimes the information from the National Poison Information Centre (Nationaal Vergiftigingen Informatie Centrum) was also missing.
- In Category 2 the hazard category of the substance or mixture did not always correspond to the information in other categories, or the label requirement was incorrect.
- In Category 3 errors regularly appeared in the hazard category of the substances. Moreover, the hazard category of the substance's registrant (the original manufacturer or importer) was not consistently followed by any means. Sometimes errors were also made in the use of concentration ranges for substances in a mixture. When using a concentration range, the highest concentration of the range must not lead to a different hazard category for the mixture than the actual concentration in the mixture. If this is the case, the concentration range must be limited to Category 3. This did not always appear to happen, which means a number of safety data sheets had to be amended.

- In Category 8 there were many cases in which personal protection equipment (such as gloves) was not specified.
- In Category 15 the specification of national applicable regulations were occasionally missing.

**Table 5 Compliance percentages of SDSes in 2013 and 2016**

Points inspected	2013		2016
	Substance	Mixture	Substance/mixture
Category 1	52%	45%	65%
Category 2	48%	42%	59%
Category 3	24%	25%	64%
Category 8	14%	34%	49%
Category 15	57%	33%	82%
Dutch language	90%	90%	90%
<b>Total</b>	<b>0%</b>	<b>6%</b>	<b>31%</b>

### Severity of the violations

An incorrect classification of a substance or incorrect labelling elements (Category 2) can be considered serious. They are used to indicate the type of risk posed by the substance, the severity of the risk and the precautionary measures needed. In 2016, incorrect classification or incorrect labelling elements occurred in 40% of SDSes. It is estimated that 1/3 of these concerned a serious deviation and 2/3 a limited deviation.

The lack of specific information about the necessary personal protection equipment, such as the type of gloves that must be used (Category 8) is considered serious. The SDS is the actual source of information for working safely with the product concerned. In 2016, this violation occurred in almost 50% of SDSes. In short, too many SDSes contain serious errors and omissions.

### **NVZ (Dutch association for detergents, maintenance products and disinfectants) manual related to choosing the right safety gloves**

In 2016, NVZ, the Dutch association for detergents, maintenance products and disinfectants, compiled a manual for its members containing advice on choosing the right glove specifications for the safety data sheet. Eight standard formulations for detergents, maintenance products and disinfectants were used to establish guidelines related to the choice, thickness and breakthrough time of the material of the safety gloves. This allows NVZ members to offer end users better advice about using their detergents, maintenance products and disinfectants safely.

### **Communication about SDSes**

Around twenty representatives of sectoral associations, software suppliers and authorities attended a meeting about SDSes in Utrecht on 18 March 2016. This meeting was organised by the ILT. The objective was to emphasise the importance of effective SDSes (the ultimate tool for safely using hazardous substances and mixtures in the extraction, production, use, storage and transport chain). All those involved in the chain were reminded of their responsibility to improve their compliance with SDS obligations.

It was concluded that the quality of the SDSes is inadequate and that there are diverse reasons for this, such as insufficient expert capacity in companies to compile effective SDSes, and complex regulations. The wish to translate the SDSes for end users into simple instructions was also expressed, to promote the safe use of hazardous substances and mixtures. "We must simplify things for end users", was the motto.

### **Production and storage of bunker oil**

In 2016, combined REACH and waste inspections were carried out at traders and blenders (tank storage firms) that are active in the bunker oil market for seagoing vessels. Several REACH violations were discovered in the process.

There is a lack of transparency about the origin and composition of the hazardous substances and mixtures that are stored and mixed. On a regular basis documentation (such as the safety data sheet) does not correspond to the actual product supplied, which could increase the risks to health and the environment. Responsibilities in this area are often passed on to the other party (trader versus tank storage firm). Moreover, the parties involved in producing bunker oil appeared to have mainly focused on a limited number of parameters (fluidity, flashpoint and calorific value) of the substance to be used, and far less on the hazards posed by the substance to man and the environment.

The ILT has now communicated the REACH obligations for transparency related to the origin and composition of hazardous substances and mixtures to the sectoral organisation for tank storage companies, VOTOB. The latter is working on an English-language brochure on this topic for its participants and for international consultation on this subject. The problem was also raised by the ILT in the EU context (in the Forum for EU REACH and CLP inspection authorities) and is expected to benefit from increasing attention therein.

### **The SDS check**

The SDS is an important source of information for employers and employees. This information must be used for the company's working conditions policy, to adopt the correct protection measures and inform employees.

However, the quality of the SDSes that are found at employers/end users has been poor for a long time (see the inspection results for 2015 and earlier). Therefore, several sectoral organisations, along with the ILT and Inspectie SZW, developed an SDS checklist.

An employer can perform the SDS check to quickly verify whether the information in an SDS is of the right quality and helps promote and improve health and safety aspects related to working with hazardous substances. When performing the check the employer immediately sees whether the SDS is effective or poor. In the latter case he can immediately send a request to the product supplier for a new SDS.

The SDS check was launched in August 2016 and was actively promoted during the inspection project implemented by Inspectie SZW. In the autumn of 2016, Inspectie SZW learned from the sectors that suppliers of substances and mixtures now receive lots of requests from end users for effective SDSes. Painters especially have contacted paint suppliers to obtain more information about the right protection measures (gloves).

### **VVVF and Agrodís develop electronic system for distributing SDSes**

The VVVF (sectoral organisation for paint manufacturers and importers) and Agrodís (sectoral association of distributors of crop protection agents) are working on an electronic system for distributing SDSes. This method makes it easier for their members to supply the right SDSes to their buyers.

### **3.2.2 Labelling**

Another important component of the obligation to supply information concerns labelling. Inspectors from the ILT and the NVWA devoted attention to this



component during the most integral company inspections in 2016. They requested two to three labels per company and assessed them in terms of the requirements. The 2016 results are shown in Table 6, besides the 2013 results for the purpose of comparison.

**Table 6 Compliance percentage of labelling in 2013 and 2016**

<b>Points inspected</b>	<b>2013</b>	<b>2016</b>
Presence of labels	98%	96%
Labels compiled in the Dutch language	92%	96%
Correct label content (including the correct H and P statements)	70%	65%
Compliance with the notification obligation to ECHA in accordance with Article 40 CLP (classification of the substance concerned)	100%	95%
<b>Compliance with the three first points inspected</b>	66%	64%

In 2016, the quality of the labels inspected was around the same as that in 2013. In most cases labels were present and compiled in the Dutch language. However, they did not always contain the right information. The same applies to the causes and severity as in the SDSes. Please refer to paragraph 3.2.1.

### **3.3 Compliance with bans and use restrictions**

REACH established use restrictions for a number of chemical substances (Appendix XVII to REACH). In addition the riskiest substances are subject to an authorisation obligation (Appendix XIV to REACH). This means that after a certain date these substances may no longer be used or traded, unless authorisation has been obtained for specific use. In 2016, the NVWA and the ILT inspected 48 substances with an authorisation date in 2015 at 34 companies as part of a European Forum pilot project. The aim was to examine whether companies still used the substance and if so, whether they had obtained authorisation to do so. One violation was discovered. Table 7 shows the results of the project.

**Table 7 Compliance percentages for the authorisation obligation Appendix XIV REACH in 2016**

Substance from Appendix XIV to REACH	Number of inspections by NVWA and ILT	Compliance percentage
Diisobutyl Phthalate (DIBP)	3	100%
Dibutyl phthalate (DBP)	3	100%
Benzyl butyl phthalate (BBP)	4	100%
Bis(2-ethylhexyl) phthalate (DEHP)	12	100%
Lead sulfochromate yellow	6	100%
Lead chromate molybdate sulphate red	5	100%
Tris (2-chloroethyl) phosphate (TCEP)	2	100%
Hexabromocyclododecane	13	93%

(HBCD)		
<b>Total</b>	<b>48</b>	

### Use restrictions

Both the NVWA and the ILT are actively involved in inspections when it comes to substances that are subject to use restrictions. The NVWA inspects the substances/substance groups that mainly appear in consumer products and the ILT inspects other substances; these were asbestos and cadmium in 2016. The ILT mainly inspects administration and records the inspections at the company level. The NVWA inspections involve samples and record the inspections at the sample level. The results are shown in Table 8. This table only includes compliance percentages that arise from inspections that were selectively carried out, and not inspections carried out as a result of reports of violations. We explain the different elements below the table.

**Table 8 Compliance percentages for use restrictions Appendix XVII to REACH in 2016**

Substance from Appendix XVII to REACH	Number of inspections	Compliance percentage
Substances and substance groups inspected by ILT		
Asbestos		
• Selective inspections	296	90%
• Inspections based on reports	18	-
Cadmium and cadmium compounds in products <sup>16</sup>	32	100%
Substances and substance groups inspected by NVWA		
Nickel in jewellery	113	95 %
Lead in jewellery	113	92 %
Cadmium in jewellery	113	85 %
Benzene in adhesive and sealant products	3	100 %
Toluene in adhesive and sealant products	3	100 %
Polycyclic aromatic hydrocarbons (PAHs) in consumer articles	9	89 %

### Asbestos

The use restrictions that apply to asbestos are established in the Asbestos Product Decree, among others. In 2016, 10% of the companies inspected with potential asbestos-containing installations (29 of the 296) appeared to have violated this decree. They had products containing asbestos (such as gaskets) in stock for their installations. All these companies were issued with a warning.

Of the 18 reports received about products suspected of containing asbestos, four proved to involve a violation of the Asbestos Product Decree. Regulatory proceedings were initiated as a result.

### Cadmium

Besides the ILT, the Customs Authorities are enforcing also the use restrictions that apply to cadmium, as part of the enforcement cooperation. In 2016, Customs Authorities took 32 samples, which all proved to satisfy the norm.

### Lead, cadmium and nickel in jewellery

<sup>16</sup> Performed by the Customs Authorities for the ILT.

The NVWA focused on specific consumer products that have been classed as posing a health risk. Necklaces and earrings were examined for levels of cadmium and lead. The earring posts were also examined for the release of nickel. Only the posts were selected because their contact surface can be effectively determined.

The study focused on brands and types of necklaces and earrings supplied at common points of sale (50 in total, including warehouses, clothing stores, pharmacies that also sells toiletries and other articles, and jewellery stores). Twenty-four of the 113 products did not satisfy the requirements assessed. Eleven necklaces and thirteen earrings contained too much cadmium and/or lead and/or released too much nickel.<sup>17</sup>

### **PAHs in consumer products**

On 27 December 2015, a use restriction entered into force for Polycyclic aromatic hydrocarbons (PAHs) in consumer products. This restriction was monitored in 2016. The NVWA performed inspections at 26 companies and in the first instance took 30 samples. Of these samples, eight were subject to the restriction, in view of the date on which they were introduced to market. Of these eight samples one did not satisfy the restriction norm. As a result a regulatory report was compiled and a RAPEX notification was issued for other EU inspectorates.

The NVWA also inspected adhesive and sealant products for levels of benzene, toluene and PAHs. No violations of the restriction norm were discovered.

#### **Rubber granulate in synthetic turf**

In the autumn of 2016 there was considerable public concern about the potential health risks of rubber granulate (from old car tyres) in synthetic turf fields. At the end of 2016, the RIVM concluded in a report that the risks were practically negligible and that practising sport on these fields is safe.

The Netherlands is of the opinion that rubber granulate must satisfy the norm for consumer articles (REACH Appendix XVII, entry 50). However, the debate in the EU came to a different conclusion. This conclusion was that rubber granulate does not constitute an article according to the REACH definition, but is a mixture, to which the broader REACH norms apply, Appendix XVII, entry 28. The European Commission will re-examine these norms before 27 December 2017, in which research by the European Chemicals Agency (ECHA) will be included.

Source: Letter from the Minister of Health, Welfare and Sport to the House, 21 December 2016.

### **3.4 Compliance with the obligations for health and safety in the workplace**

Inspectie SZW inspected 126 companies in different sectors<sup>18</sup> with regard to REACH and the Working Conditions Act obligations. At 63 of the 126 companies inspected (50%) the inspection led to enforcement involving hazardous substances. In total 96 violations were discovered (see Table 9).

The underlying reasons were diverse: some companies did not have any up-to-date SDS for a particular substance, others take insufficient action to list and prevent the risks posed by exposure to hazardous substances, and other companies took inadequate protection measures.

#### **Table 9 Violations of REACH and the Working Conditions Act obligations at**

<sup>17</sup> The report of the Metals in Jewellery project (including product names) can be consulted on the NVWA Inspection results web page.

<sup>18</sup> Painters, graffiti removers, concrete renovators and flooring layers.

**end users in 2016**

Regulations	Number of violations
Compiling an inventory of and assessing hazardous substances	16
Preventing exposure to hazardous substances	22
Taking protection measures (PPEs)	14
Informing employees about the risks posed by hazardous substances	9
The availability of an up-to-date SDS	35
<b>Total</b>	<b>96</b>

#### 4. Enforcement activities in 2016

When the inspectorates establish violations, they act in accordance with the enforcement and penalty strategy.<sup>19</sup> In the case of minor violations the procedure consistently involves at least a warning. In the case of more serious violations regulatory proceedings are initiated, which involves, for example, a penalty payment, an administrative fine or a requirement to comply being imposed. In some cases criminal proceedings are initiated with an official report. Table 10 shows how often the inspectorates issued a warning or took regulatory action.

**Table 10 Number of companies subject to a warning or regulatory action in 2016**

REACH-CLP obligations	NVWA	ISZW	SodM	ILT	Total
<b>Registration requirement</b>					
- Warning				9	9
- Regulatory measure					
<b>Obligation to supply information (safety data sheets)</b>					
- Warning	2			118	120
- Regulatory measure				10	10
<b>Bans and use restrictions</b>					
- Warning				38	38
- Regulatory measure	21			5	26
<b>Health and safety aspects at work</b>					
- Warning		73			73
- Regulatory measure					
- Requirement and notification of requirement		23			23
<b>Labelling</b>					
- Warning <sup>20</sup>	4			80	84
- Regulatory measure					

In 2016, the NVWA, Inspectie SZW and SodM did not launch any criminal proceedings in the context of the REACH regulation. In 2016, the ILT launched criminal proceedings against three companies. At the first company it concerned a non-registered manufactured substance, the second company displayed serious errors in the safety data sheets and at the third company it concerned flaws in the administration related to, for example, imports of chemical substances.

<sup>19</sup> For more information visit: <https://www.chemischestoffengoeedgergeld.nl>.

<sup>20</sup> This usually concerned companies involved in enforcement proceedings due to shortcomings related to the safety data sheets.

## **5. Other activities in 2016**

Besides enforcement, the inspectorates performed a number of other activities focused on promoting compliance with REACH and CLP in 2016. Various actions were also performed by the ministries involved as well as in the European context. This chapter explores these in more detail.

### **5.1 Communication**

On behalf of the Ministries of Infrastructure and the Environment (IenM) and Health, Welfare and Sport (VWS), the REACH and CLP Help desk handled communication about the REACH and CLP regulations. On request or at their own initiative help desk employees give presentations at meetings of sectoral organisations. They also man stands at information fairs where they provide information about the regulations to a broad target group. They produce and distribute educational material (brochures, data sheets, pictogram cards) and maintain the website with digital information products (including a list of the transition periods, sample presentations, etc.). At the beginning of 2017, the old website of the SHRC (<http://stoffen-info.nl>) was transferred to the <https://www.chemischestoffengoedgeregeld.nl> website.

In its communication activities in 2016 Inspectie SZW placed considerable emphasis on the information in SDSes and the way in which companies can (and must) use this information when taking protection measures and informing their employees. The inspectorate used several information resources to reach companies, including the self-assessment tool for hazardous substances ([www.zelfinspectie.nl/gevaarlijkstoffen](http://www.zelfinspectie.nl/gevaarlijkstoffen)). In 2016, this tool was expanded in terms of REACH and SDSes. The self-assessment now places an even greater emphasis on how and when the information in an SDS must be used to create a healthy workplace. The SDS check was also added (see paragraph 3.2.1 and [www.VIB-check.nl](http://www.VIB-check.nl)).

### **5.2 Actions by the ministries**

The Ministries of Infrastructure and the Environment (IenM) and Health, Welfare and Sport (VWS) also took action in 2016 to promote compliance with REACH and CLP. Along with other Member States the Netherlands has advocated for clarification of the regulations on a number of points. During the EU Presidency in the first six months of 2016, the Netherlands also organised the 'REACH forward' conference. During the conference diverse points for improvement were identified as input for the evaluation of REACH in 2017. These include clarification of the information requirements for nanomaterials and endocrine disrupting substances, and for better alignment between REACH and the Working Conditions regulations, and between REACH and waste legislation.

Limiting the costs for SMEs also continues to be an important focal point. To this end actions were undertaken in the area of the provision of information, substance registration and working with safety data sheets, in the Netherlands as well as in the EU as a whole. In the Netherlands the help desks for REACH and CLP were merged in January 2016 and the website was improved, to provide better support for SMEs.

### **5.3 European activities**

On behalf of the Dutch inspections involved in enforcing REACH and CLP, ILT is a member of the Forum of EU Member States for the exchange of enforcement information and coordinating enforcement activities of REACH and CLP.<sup>21</sup> Thanks to contacts in the Forum in 2016 the Netherlands was able to issue several alerts about violations by companies in other countries. The Netherlands also received alerts from other countries about violations by companies in the Netherlands. These were subsequently investigated.

#### **Inspections at companies subject to an overlap of waste and REACH regulations**

In the context of the Forum the Netherlands indicated it would inspect companies subject to an overlap of waste and REACH regulations. It concerns companies that produce and store oil products and fuel for the shipping industry. Other countries subsequently indicated they carried out similar activities or wanted to do so. Bilaterally joint actions are being prepared with several countries.

Furthermore, best practices are shared in the Forum. In this way the Netherlands contributes to increasing the effectiveness of the inspections and creating a level playing field for all companies concerned. This is explored in more detail in the Appendix.

---

<sup>21</sup> In 2017, the Biocidal Products Regulation (EU) 528/2012) may also fall under the scope of the Forum. These activities are currently being prepared.

## 6. Summary and conclusions

Chemical substances are indispensable in society. A large number of chemical substances are characterised by dangerous properties, which could cause, for example, skin irritation, fire or cancer with careless handling. The REACH and CLP regulations were compiled to protect us and the environment from the dangers posed by these substances.

### Enforcement REACH and CLP

The cooperating inspectorates promote compliance with the REACH and CLP regulations through inspections, among other things. In this context the inspectorates performed over 900 inspections in 2016.<sup>22</sup> The services cooperate internationally to increase the effectiveness of the inspections and create a level playing field as much as possible for all companies involved. The inspectorates also use communication tools and self-assessment tools to improve compliance and encourage sectoral organisations to support their members in compliance. This allows them to reach many more companies than using inspections alone. However, the regulation's target group is substantial and the rules are complex. Compliance with the rules requires considerable effort by companies, especially if they work with lots of different substances and mixtures. Thanks to these efforts – made by companies as well as sectoral organisations – and thanks to monitoring by the inspectorates, a positive trend can be observed for compliance. This trend can be seen when we compare the figures with those of 2013, the last year an annual report was issued by the cooperating inspectorates. The improvement mainly concerns the component that proved the most difficult: the obligation to supply information. Below we summarise the results of the inspections.

### Registration requirement

The objective of registration is to gather and report information about the hazardous aspects and protection measures to be taken in an unambiguous manner. In 2016, compliance with the registration requirement was good: at circa 90% of the companies inspected the substances checked were registered or did not (yet) need to be registered. This corresponds to the picture revealed in previous years. As of 1 June 2018, companies must also register substances that they produce or import in smaller quantities (1-100 tonnes/year). This means that more SMEs will be subject to the registration requirement. As of 1 June 2018, enforcement will be necessary to establish whether this new target group is also complying with the registration requirement.

### Obligation to supply information

Producers and importers must supply the information they have gathered about their hazardous substances and mixtures to their buyers in the form of safety data sheets (SDSes). These SDSes form a primary source of information for employers in complying with their working conditions obligations related to health and safety aspects of working with hazardous substances. The SDSes are also important for users of hazardous substances in general, to protect them and the environment. Therefore it is important that SDSes contain the required information.

Compared with 2013, in 2016 a clear improvement was observed in the compliance percentage of the most important categories of the safety data sheets. This percentage increased from 25/40% to circa 60%. The efforts made by companies and sectors, combined with monitoring of the companies, is starting to pay off.

---

<sup>22</sup> Including inspections performed by the Customs Authorities.



However, the compliance percentage is clearly lower than the desired percentage of 90%.

Incorrect classification of a substance or incorrect labelling elements (Category 2) can be considered serious. They are used to indicate the type of risks posed by the substance, the severity of those risks and the precautionary measures needed. In 2016, 40% of the SDSes displayed an incorrect classification or wrong labelling elements. It is estimated that 1/3 of these concerned a serious deviation and 2/3 a limited deviation.

The lack of specific information about the necessary personal protection equipment, such as the type of gloves that must be used is considered serious. The SDS is the actual source of information for working safely with the product concerned. This violation still occurs among 50% of SDSes (compared with 75% in 2013). In short, too many SDSes still contain serious errors and omissions.

#### **Authorised substances and substances subject to use restrictions**

A number of extremely risky substances may only be used if authorisation is obtained from the European Commission. Compliance with this requirement was good in 2016: over 95% of inspections revealed that an authorised substance was no longer used or only used with authorisation.

A number of substances are also subject to use restrictions pursuant to Appendix XVII to the Reach regulation. Compliance with these restrictions was also good in 2016: 85 to 100% of the products inspected revealed compliance with the restriction norms. The products inspected concerned those containing asbestos and cadmium, jewellery containing cadmium, nickel and lead and consumer products containing benzene, toluene and PAHs.

#### **Health and safety aspects of working with hazardous substances**

Compliance with the obligations related to health and safety aspects of working with hazardous substances was still inadequate in 2016. Enforcement instruments had to be applied at circa half of the companies inspected. The underlying reasons were diverse: some companies did not have any up-to-date SDS for a particular substance, others take insufficient action to list and prevent the risks posed by exposure to hazardous substances, and other companies took inadequate protection measures.

Moreover, it appeared that companies sometimes found it difficult to comply with the health and safety obligations related to working with hazardous substances, because the SDSes provided by suppliers contained insufficient information. Therefore, in 2016, the SDS check was launched. It is a tool for end users to quickly and easily verify the SDSes they receive. If an SDS does not satisfy the requirements, a company can request the supplier provide (new) correct information.

## **7. Relevant websites**

REACH and CLP Help desk

<https://www.chemischestoffengoedgeregeld.nl>

Risks posed by substances

<http://www.rivm.nl/rvs/>

ECHA

<http://echa.europa.eu/>

EU Forum

<http://echa.europa.eu/web/quest/about-us/who-we-are/enforcement-forum>

Hazardous Substances Self-Assessment

[www.zelfinspectie.nl/gevaarlijkestoffen](http://www.zelfinspectie.nl/gevaarlijkestoffen)

SDS check

[www.VIB-check.nl](http://www.VIB-check.nl)

Hazardous Substances Inspection Focus

[www.inspectiefocus.nl](http://www.inspectiefocus.nl)

## Appendix

### Forum of EU Member States for exchanging enforcement information and coordinating the enforcement of REACH and CLP

On behalf of the Dutch inspections involved in enforcing REACH and CLP, ILT is a member of the Forum of EU Member States for the exchange of enforcement information and coordinating enforcement activities of REACH and CLP. By participating in the Forum the Dutch inspectorates contribute to harmonising enforcement and promoting a level playing field in the EU. Below we provide a brief report on the Forum's activities in 2016.

#### Meetings

The forum convened three times in 2016. In the autumn of 2016, the Forum devoted part of its meeting to alignment with sectoral and interest groups in the EU.

#### Preparation of the new Biocidal Products Regulation coordinating task

Mid-2017 the Forum was assigned a new coordination task for the Biocidal Products Regulation (Regulation (EU) 528/2012). To prepare for this in 2016 the Commission set up a Biocide Enforcement Group (BEG). The Netherlands participated in the three meetings of the BEG in 2016. Preparations are currently being made to assign the coordination of the harmonised enforcement of the Biocidal Products Regulation to a subgroup of the Forum instead of the BEG. This should be achieved during the course of 2017.

#### Sessions about REACH and working conditions

In the EU Forum Inspectie SZW contributes to the integration of REACH in working conditions by providing train-the-trainer sessions. These address aspects of the Working Conditions Act and REACH.

#### Promoting a level playing field

In 2016 the Forum drafted joint viewpoints for a number of practical enforcement issues. These were made available to enforcement services in the different countries (as part of the Manual of Conclusions). The objective is to promote a level playing field for all companies involved.

#### Inspection projects

A number of joint inspection projects were carried out in 2016 under the management of the Forum. The following table includes the projects in which the Netherlands participated, and the state of affairs at the beginning of 2017.

Project	Focus	State of affairs
REACH EN FORCE 4	Producers, importers and users of substances, substances in mixtures and substances in articles in relation to Appendix XVII to REACH (banned substances).	Completed, report is being drafted

REACH EN FORCE 5	Producers, importers and users of substances related to a detailed safety data sheet.	Preparation and implementation in 2017
REACH EN FORCE 6	Producers, importers and users of substances and mixtures related to CLP obligations.	Selection and beginning of preparations. Implementation in 2018
Second authorisation obligation pilot	Substances for which the authorisation obligation entered into force in 2015.	Implementation and reporting in 2017

### **Restrictions Working Group**

Several working groups are linked to the Forum, in which Dutch inspectorates participate. The ILT participates in the Restrictions Working Group. It prepares recommendations from the Forum related to the enforceability of restrictions for new substances, groups of substances or mixtures (entries), which are included in Appendix XVII to REACH. In this working group a sub working group is involved in harmonising analysis methods for restrictions. The NVWA is involved in this. In 2016, the Forum issued recommendations to the Risk Assessment Committee (RAC) and the Socio-economic analysis Committee (SEAC).

### **Senior Labour Inspectors Committee**

Inspectie SZW sits on the Chemical Experts working group of the Senior Labour Inspectors Committee (SLIC). This is a meeting of European labour inspectorates set up by DG Employment. This working group focuses on resources for implementing the REACH regulation in monitoring activities of the labour inspectorates. Enforcement experiences and problems are also shared.

The working group is present in the ECHA Forum as an invited expert and participates in activities initiated by ECHA. In 2016, a contribution was made (once more) to the Forum's train-the-trainer sessions. SLIC is also working on a guide for the relationship between OELs (threshold values for the workplace) and DNELs<sup>23</sup>, and for the use of these values. In addition, discussions take place on the implications of authorisations for certain substances and the cohesion and bottlenecks with working conditions legislation.

### **Exchange Network on Exposure Scenarios**

Inspectie SZW also participates in the Exchange Network on Exposure Scenarios (ENES). In the first instance, this cooperation network focuses on establishing good practices for compiling and applying exposure scenarios. This is done by sharing knowledge, techniques and approaches for developing and applying (REACH) exposure scenarios.

Another of the network's objectives is to develop effective communication between actors in the supply chain, focused on the protection of human health and the environment. The following parties cooperate in the network: sectoral organisations (Cefic, Concawe, Eurometaux, Fecc, A.I.S.E and DUCC), ECHA and Member States.

In 2013, the network established the 'CSR/ES Roadmap' that describes the route to good quality information about the safe use of substances in the Chemical Safety Report and the detailed SDS. In recent years, various actions from the Roadmap have been implemented. A format was established for exposure scenarios and

<sup>23</sup> Derived No-Effect Level

methods were developed for assessing exposure to mixtures and for communicating about control measures. Communication was also improved with the help of 'sector use maps', with which the user can communicate information about his/her applications to the person drafting the exposure scenario in a standardised manner.

Many of these developments focus on manufacturers and formulators. At the end of 2016, a decision was taken to focus future activities related to exposure scenarios more on end users. To this end ENES will continue in a new programme that will focus more on these new target groups. Inspectie SZW endorses these developments.