

## The enforcement of REACH and CLP

This website is all about the enforcement of REACH (a new European Community Regulation on chemicals and their safe use (EC 1907/2006), dealing with the Registration, Evaluation, Authorisation and Restriction of Chemical substances) and the new EU Regulation on the classification, labelling and packaging of chemical substances and mixtures (known as CLP). The main target group for this website consists of private-sector firms, which is why the information on the website is geared to their needs. Enforcement authorities can refer to the [enforcement portal](#) for information.

The REACH and CLP Regulations are enforced by a team of inspectors from three different inspectorates, that is the [Labour Inspectorate](#), the [Food and Consumer Product Safety Authority](#) and the [Inspectorate for Housing, Spatial Planning and the Environment](#). The aim is to ensure that the Regulations are enforced effectively and to minimise the administrative burden on the private sector. Enforcement is intended to be uniform, selective and risk-based.

The enforcement of the REACH and CLP Regulations is the prime responsibility of three inspectorates, the Labour Inspectorate, the Food and Consumer Product Safety Authority and the Inspectorate for Housing, Spatial Planning and the Environment. Each target group has been allocated one inspectorate, which is responsible for all communications with the target group in question. The division of responsibilities is broadly as follows:

- The Labour Inspectorate is responsible for professional users of chemical substances and mixtures). The Food and Consumer Product Safety Authority supervises manufacturers, importers and traders in substances , mixtures) and articles for use by consumers ([Inspectie SWZ](#)) ([www.zelfinspectie.nl/gevaarlijkstoffen](http://www.zelfinspectie.nl/gevaarlijkstoffen)) en [www.inspectieszw.nl](http://www.inspectieszw.nl)) and
- The Inspectorate for Housing, Spatial Planning and the Environment is the regulator for manufacturers, importers and traders in mixtures (or preparations) and articles intended for professional users.
- The Department for the State Supervision of Mines (SSM) and the Customs Administration are also involved in the enforcement of REACH and CLP. Finally, Inspectorate for Housing, Spatial Planning and the Environment as former Public Works and Water Management Inspectorate also plays a role in information-sharing on companies and persons who are subject to supervision.

The REACH and CLP Enforcement Steering Group is responsible for the contents of this website.

## Enforcement in practice

The regulations covering the enforcement of REACH and CLP are set out in Chapter 9 of the Environmental Management Act (*Wet milieubeheer*). Supervision and administrative enforcement are dealt with in Chapter 18 of the Environmental Management Act and the General Administrative Law Act (*Algemene wet bestuursrecht*). Section 18 of the Environmental Management Act states that Chapter 18 of the Act also applies to the REACH and CLP Regulations.

Under the Economic Offences Act (*Wet economisch delicten*), any infringements of the terms of Chapter 9 of the Environmental Management Act are classified as 'economic offences' and as such subject to criminal enforcement.

In other words, the provisions of REACH and CLP are liable to enforcement under both criminal and administrative law.

Section 9.3.3 (5) of the Environmental Management Act enables the enforcement of certain restrictions of Annex XVII of REACH with an administrative fine as set out in the General Chemical Product Safety (Commodities Act) Decree.

REACH and CLP are enforced principally in accordance with the terms of administrative law.

Administrative enforcement may result in

- a written warning,
- an administrative order,
- an order subject to a penalty for non-compliance
- an administrative fine.

Criminal enforcement of the Regulations may result in

- the compilation of an official report and
- prosecution by the Public Prosecution Service.

### Frequently asked questions

1. [Who is responsible for enforcing REACH and CLP in the Netherlands?](#)
2. [Why is it that the Inspectorate for Housing, Spatial Planning and the Environment, the new Food and Consumer Product Safety Authority and the Labour Inspectorate all work together, but don't actually perform any joint inspections?](#)
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#### **1. Who is responsible for enforcing REACH and CLP in the Netherlands?**

REACH and CLP are enforced by a joint team representing three different inspectorates, that is the Inspectorate for Housing, Spatial Planning and the Environment, the new Food and Consumer Product Safety Authority and the Labour Inspectorate. The department for the State Supervision of Mines (which monitors compliance with REACH and CLP on the continental shelf) is also involved, as is the Customs Administration (which performs import inspections). Where appropriate, the inspectorates share information with the Transport, Public Works and Water Management Inspectorate.

#### **2. Why is it that the Inspectorate for Housing, Spatial Planning and the Environment, the new Food and Consumer Product Safety Authority and the Labour Inspectorate all work together, but don't actually perform any joint inspections?**

In order to minimize the amount of inconvenience caused, it has been agreed, in accordance with the principles of uniform supervision and comprehensive enforcement throughout the production and supply chain, that each inspectorate should monitor and enforce all aspects of REACH and CLP among their specific target groups. The aspects concerned are environmental safety, consumer safety and safety at work. This is why the authorities have decided to adopt a system of 'one-stop' supervision, which means that one specific inspectorate has been designated as the principal contact and enforcement agency for each target group. The inspectorates share information on the results of their inspections, thereby improving the quality of their supervision work. See Publications for more information on the Annual Reports.

#### **3. What legislation has been passed in the Netherlands to adopt REACH and CLP?**

REACH and CLP can be both take immediate effect in the EU member states. In other words, they do not first need to be implemented in domestic legislation. Nonetheless, the domestic legislation in the Netherlands has been adapted to take account of REACH, and certain implementing regulations have been drawn up. These are set out in Chapter 9 and 18 of the Environmental Management Act. The majority of these regulations are concerned with the criminal enforcement of REACH and CLP; they also lay down certain rules about the way in which compliance with the two Regulations should be supervised. Finally, they contain rules on the

enforcement of the Regulations under administrative law and set out the legal basis for the formulation of any supplementary rules that might be needed to enforce them.

#### **4. How are REACH and CLP enforced in the Netherlands?**

There are two routes for enforcing REACH and CLP in the Netherlands: one is based on administrative law and the other on criminal law.

Administrative enforcement by the Minister of Housing, Spatial Planning and the Environment is arranged in 18.2b section 1 of the Environmental Management Act, and for the Minister of Health, Welfare and Sport and the Minister of Social Affairs and Employment is this arranged in 18.2b section 2.

#### **5. What penalties are incurred by those infringing REACH and CLP?**

Under section 1a (1 and 2) of the Economic Offences Act, any infringement of the provisions set out in parts 9.3 and 9.3a of the Environmental Management Act is regarded as constituting an economic offence. Under section 1 point 4 of the Economic Offences Act is this set out for the General Chemical Product Safety (Commodities Act) Decree.

Such infringements are classified as offences or crimes if they are committed intentionally (see section 2 of the Economic Offences Act). Special investigating officers are empowered to investigate such infringements and compile official reports on them. The sanctions that may be imposed on those infringing REACH and CLP are set out in sections 9.3.3 (1 and 2) and 9.3.3a (1 and 2) of the Environmental Management Act. Sections 9.3.3 (1) and 9.3.3a (1) cover 'serious' offences, whilst sections 9.3.3 (2) and 9.3.3a (2) relate to 'minor' offences. Any contravention of these sections is treated as an economic offence under the Economic Offences Act.

#### **6. What instruments can the authorities use in enforcing REACH and CLP?**

Depending on which infringement the following actions can be taken:

- a written warning,
- an administrative order,
- an order subject to a penalty for non-compliance
- and/or an administrative fine.

A written warning is a letter in which the offender is notified that an infringement has been found to have been committed, and giving them an opportunity to rectify the situation.

Under an administrative order, the offender is obliged, at its own expense, to rectify, cease doing or restore to its former state whatever has been done in breach of the regulations or, as the case may be, to do whatever has not been done in breach of the regulations.

An order subject to a penalty for non-compliance has the same effect as an administrative order, except that the offender is obliged to pay a sum of money if it refuses to rectify the situation and/or its consequences.

The administrative fine is a criminal sanction imposed on the company or the person who committed the offense. The purpose of the administrative penalty is to confirm the norm. The difference with an administrative order lies in the fact that within the administrative fine there is a form of culpability.

#### **European Enforcement of REACH en CLP**

Both REACH and CLP legislation are direct effective for all member states: for the enforcement of this legislation the inspectors from three different inspectorates, that is the Labour Inspectorate, the Food and Consumer Product Safety Authority and the Inspectorate for Housing, Spatial Planning and the Environment work together with the ECHA en the ECHAForum.

#### **Publications**

**Annual reports:**

- [Enforcement of REACH and EU-GHS\(CLP\) 2012](#)
- [Enforcement of REACH and EU-GHS\(CLP\) 2011](#)
- [Enforcement of REACH and EU-GHS\(CLP\) 2010](#)
- [Enforcement of REACH and EU-GHS\(CLP\) 2009](#)
- [Enforcement of REACH 2008](#)

**Information**

- [Link to ECHA-site guidances and FAQ's](#)

**Hulpmiddelen**

- [Notes on VIB's](#)