



### Prosecutions

#### Rice Company Fined £140,000 after Employee Fatality

Veetee Rice Ltd, a rice manufacturing company in Rochester, Kent, has been fined £140,000 for health and safety breaches after one of its employees died when his leg became entangled in a machine.

Veetee Rice Ltd had already pleaded guilty, at a previous hearing at Medway Magistrates' Court on 10 September 2009, to contravening regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998. The company was also ordered to pay costs of £20,500.

On 11 September 2006 an employee accessed a rice silo and his leg became trapped in the underfloor screw conveyor - a piece of machinery used to take rice from the silo. He died from his injuries.

The company had failed to ensure that dangerous parts of the machinery could not be accessed by members of staff, or that dangerous moving parts were stopped before anyone entered the danger zone.

Mike Walters, HSE Principal Inspector in Kent, said:

"This incident could have been prevented if Veetee Rice Limited had ensured that a suitable system was in place to prevent access to the silo unless the screw conveyor was electrically isolated. If the company had fitted a simple padlock on the access hatch to the rice silo - which could have cost as little as £10 or £15 - then this tragic incident would not have happened."

Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998 states: Every employer shall ensure that measures are taken to prevent access to any dangerous part of machinery or to stop the movement of any dangerous part of machinery before any part of a person enters a danger zone.

#### Salus Be Wise

Generally, any equipment which is used by an employee at work is covered by the Provision and Use of Work Equipment Regulations (PUWER), for example hammers, knives, ladders, drilling machines, power presses, circular saws, photocopiers, lifting equipment (including lifts), dumper trucks and motor vehicles.

Similarly, if you allow employees to provide their own equipment, it too will be covered by PUWER and you will need to make sure it complies.

Salus services offer a range of tools that can help.

The above incident could have been prevented through many means, including:

- Adherence to legislation (Provision and Use of Work Equipment Regulations)
- Salus guide (Work Equipment)
- Guidance (Provision and use of work equipment regulations 1998 explained)
- Information (Safe Use of Work Equipment – Code of Practice and guidance)



### Worker Crushed to Death at Pet Food Firm

A pet food manufacturer has been fined £100,000 and ordered to pay £28,380.91 costs after one of its workers was crushed to death at its Northamptonshire factory. The Health and Safety Executive (HSE) prosecuted Butcher's Pet Care Ltd, of Baker Group House, Crick, over the incident in November 2003. The company pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work etc. Act 1974.

On 17 November 2003, the employee was killed when a palletising machine at the company's factory on Crick Industrial Estate crushed him. The machine is used to take cans of pet food from conveyor belts and stack them in layers on pallets. It is fully automatic and operated by sensors. The machine should have been fully enclosed with an interlock system to prevent anyone gaining access until the power is shut off.

The HSE's investigation found that the employee entered the caged area via a gap in the fencing created by the stair rails, to reposition a jammed pallet. When the pallet was freed, it set the machine in motion, trapping and killing him.

HSE Inspector for Northamptonshire Neil Craig said:

"This was far from being an isolated incident. The unfenced gap between the stair rails had been there for nearly two years and it had become common practice for employees to nip through it to fix problems on the machine in an effort to keep the production line running."

This matter is related to the case against Philip Thompson, Operations Director at Butchers Pet Care Ltd who was fined £10,000 at Northampton Crown Court on 12 October 2009, having pleaded guilty to breaching Regulation 11(1) of the Provision and Use of Work Equipment Regulations 1998, for failing to ensure the palletising machine was properly guarded.

### £95,000 Fine for Crushed Hand

Food manufacturing firm Tulip Limited has been ordered to pay £94,523 in fines and costs after one of its employees had three fingers crushed in a packing machine.

The employee was attempting to clear a blockage in a Multivac packing machine at the company's site in Beveridge Way, Kings Lynn, Norfolk, when the incident happened on 27 November 2007.

The Health and Safety Executive (HSE) prosecuted Tulip Limited (Seton House, Warwick) over its role in the incident. The investigation found the machine did not have the required guarding and the company had not provided sufficient training.

On 17 June 2009, the company pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974. It admitted failing to prevent access to dangerous parts of the machinery and failing to make a sufficient risk assessment of the Multivac machine.

Subsequently, at Norwich Crown Court on 4 November 2009, the company was fined £65,000 and ordered to pay costs of £29,523.

HSE Inspector Steven Gill said:

"This was a nasty incident which could have been avoided had the company checked how safe the machinery was and taken precautions to protect staff. The defects in the guarding had been identified in the company's own safety audit reports but nothing was done about them. Companies should have systems in place for not only identifying defects, but ensuring that any defects are remedied. There should also be systems in place to ensure that workers, including workers whose first language is not English, have appropriate instruction and training on the use of machinery."



### News

#### **Employment Agencies Warned Over Asbestos Removal Vacancies**

Eleven employment agencies have been warned by the Employment Agency Standards inspectorate (EAS) after advertising for asbestos removal workers without properly checking the health and safety implications.

The EAS received intelligence that employment agencies were advertising vacancies for asbestos removal workers without having the proper HSE licenses. The inspectors found that, although no workers had been placed yet, the agencies were not taking the necessary steps to prevent risk to them. The inspectorate therefore issued warning letters.

Of the 12 agencies investigated, 11 were found not to have complied fully with the requirements of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. A total of 57 infringements of the law were identified, including failing to explore the health and safety implications of the advertised work with the hirer and failing to fully inform the applicant of the risks. Some had also failed to check the identity, qualifications, experience and training of the worker they intended to supply.

Failure of any agency to address the non-compliance could result in criminal proceedings or a possible ban from trading of up to ten years.

#### **Paper Industry Unites to Improve Health and Safety**

Unite, the UK's largest union, and the paper industry employers, the Confederation of Paper Industries (CPI) have come together in a campaign to improve health and safety at all levels in the industry. To prevent further accidents Unite and the CPI have launched a 'Say No' and 'Say Yes' campaign.

The UK paper-related industries continue to see a high level of serious machine accidents. During the last two years there have been several deaths and a number of very serious accidents in paper mills, corrugating plants and recovered paper operations. This is in spite of a reducing number of minor accidents.

The 'Say No' campaign calls on firms to look at unsafe tasks, for example to:

- not take risks
- not do dangerous work
- not cut corners
- not put production before safety.

'Say Yes' is a call to make the industry safer by:

- acting on health and safety complaints and queries
- working together on risk assessments and safe systems of work
- reporting near misses
- conducting joint accident and incident investigations
- undergoing joint health and safety training
- recognising that good health and safety is good for business.

#### **Salus Be Wise**

**The measures highlighted above can be adopted by all companies looking at reviewing and improving their health and safety systems.**

### SSIP Forum to Address Construction Health and Safety

The Safety Schemes in Procurement (SSIP) forum has been set up to simplify the prequalification stage of procurement, reduce duplication and improve standards of health and safety in construction projects.

The SSIP was launched following the introduction of the revised Construction (Design and Management) Regulations, which came into force in April 2007, and which introduced the Stage 1 Core Criteria for assessing health and safety competence of contractors and consultants working in the construction industry. The introduction of these competence criteria provided an opportunity for existing health and safety prequalification schemes to build on and formalise mutual recognition already in operation amongst some schemes.

In April 2007, an initial meeting was held at the Health and Safety Executive's Headquarters, which included representatives from the Contractors' Health and Safety Assessment Scheme (CHAS), Constructionline, Exor Management Services and the National House-Building Council (NHBC) to discuss the potential for the SSIP Forum. During the following two years, SSIP Forum founder members agreed and signed up to an ethos that it should act as an umbrella organisation to facilitate mutual recognition between health and safety pre-qualification schemes, wherever it is practicable to do so.

The SSIP forum is intended to:

- act as an umbrella organisation to facilitate mutual recognition between health and safety pre-qualification schemes wherever it is practicable to do so
- actively advise and influence clients about acceptable interpretation and appropriateness of health and safety competence standards in UK schemes
- embrace the core guidance on competence and training in the Approved Code of Practice (ACoP) of the Construction (Design and Management) Regulations 2007
- to actively advise and influence clients (buyers) on acceptable interpretation and appropriateness of health and safety competence standards in the UK.

## Guidance

### A Risk Assessment Based Approach to Managing a Fire Safety Inspection Regime

The Department for Communities and Local Government (DCLG) has published this guidance document (IRMP Guidance Note 4) to provide advice to Fire and Rescue Authorities (FRAs) and to those developing integrated risk management plans on how to determine a fire safety inspection programme for non-domestic premises.

#### *Background*

Integrated Risk Management Planning (IRMP) is about improving public safety, reducing the number of fire incidents and saving lives.

This guidance replaces the previous IRMP Guidance and is intended to offer a high-level framework for developing and managing a risk-based inspection programme which takes account of the Regulatory Reform (Fire Safety) Order 2005 (the Fire Safety Order) and the updated 'Other Building Fire Frequencies' data underpinning the Fire Service Emergency Cover (FSEC) Toolkit.

#### *Guidance*

The aim of the revised guidance is to help FRAs to:

- determine a fire safety inspection programme for non-domestic premises that is based on an assessment of the risk posed by generic types of premises and individual buildings
- apply a risk based approach to the fire safety inspection process



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- ensure that fire safety inspection programmes contribute to IRMP and the associated preventative, protective and response arrangements.

The development of a fire safety inspection programme allows each FRA to demonstrate that it is delivering its enforcement responsibilities and focusing its resources on those premises that represent the greatest risk to life in the event of fire. This involves prioritising inspections and enforcement action according to the level of risk within individual premises.

This guidance note offers advice on developing a risk based inspection programme using the relative risk score. This score was developed for the FSEC toolkit, which is a robust, third-party validated risk assessment and resource deployment tool. All quantified risks in the document have been scored on the basis of 'societal' life risk defined as the risk of five or more fatalities occurring in any one incident in an 'other building'.

The guidance does not suggest fixed frequencies for inspection based on particular levels of risk. However, inspection frequencies can be informed in three main ways:

- by the generic level of relative risk, particularly for premises which are currently unknown to the FRA but also to provide a high level comparison of risk between different occupancy types
- by the relative risk score for an individual premises, which is known to the FRA and has been assessed using a suitable tool
- by the relative risk band, which is composed of relative risks scores for individual premises grouped together for ease of management.

Professional judgement based on experience and expertise is a key element in determining the level of risk and needs to be taken into account (and recorded) as part of the overall process.

### Chemical Safety Assessment in a Nutshell

The European Chemicals Agency is producing a set of simplified versions of Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) guidance documents, with the aim of making the guidance more accessible.

This document, one of the publications in the new 'Guidance in a Nutshell' series, attempts to explain, in simple terms, the principal issues associated with the Chemical Safety Assessment (CSA) required under REACH. It should be borne in mind, though, that the information presented in this guide does not constitute legal advice. For that, reference must be made to the REACH Regulation itself.

The guide covers:

- what CSAs are
- when such an assessment is required
- the preparation needed for CSAs
- the time and level of expertise required
- the importance of communicating information throughout the supply chain.

This is a technical document which does not lend itself to a short summary, but a brief outline of the key elements of the assessment process is given below.



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### *The REACH Principle*

REACH is based on the principle that the onus is on the industry to ensure that the substances it manufactures and places on the market have no adverse effects on human health and the environment. In this respect, CSAs play an important part in ensuring that risks are identified and controlled.

### *CSAs*

The CSA process is intended to identify the conditions under which the manufacture and use of a substance is regarded as being safe. It consists of three main elements, namely:

- hazard assessment – collation and evaluation of the available relevant information on a given substance, eg its intrinsic properties, its manufacture and use, and related emissions and exposures. The aim is to identify the hazards associated with the substance, their potential effects on human health and the environment, and (where possible) determine safe thresholds for exposure
- exposure assessment – measuring or estimating the dosages of the substance to which humans or the environment are or maybe exposed. These 'exposure scenarios' will cover all the identified uses and life stages of a substance
- risk characterisation – compares the levels of exposure with the threshold levels for each effect. Under REACH, risks are regarded as being controlled where a substance's exposure levels are below the threshold levels for humans and the environment. Where there are no threshold levels, emissions and exposures have to be minimised or eliminated for the risks to be regarded as controlled.

Once the risks are under control, the assessment ends. Where this is not the case, the assessment has to be refined, either by gathering more information on the substance, or changing the conditions under which it is manufactured or used, or by making more precise estimations of exposure. Assessment is an iterative process which continues until the risks can be shown to be under control.

The conditions under which the risks are under control are known as the final exposure scenario.

### *When Are CSAs Required?*

CSAs must be undertaken for all substances subject to REACH registration in quantities of ten tonnes or more per year, per registrant. There are, however, exceptions, namely where the substance is present in a preparation in quantities below certain threshold limits, and for intermediates manufactured and used in accordance with strictly controlled conditions.

Normally, the obligation to carry out an assessment and document it as part of the Chemical Safety Report (CSR) rests with the substance manufacturer or importer, but there may be situations where downstream users have to make their own assessments.

### *How to Prepare an Assessment*

Assessments should deliver the following outputs:

- an assessment of any hazards presented by the substance
- identification of the exposure scenarios, that is the conditions under which the risks arising from the substance's manufacture and use are regarded as controlled
- documentation of the relevant data and information in the CSR
- implementation of the conditions of use and manufacture intended to control the risks
- communication of the conditions of use down the supply chain.



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The actual assessment process consists of the following steps:

- gathering and evaluating information
- identifying the hazards
- classification and labelling
- threshold level derivations
- PBT and vPvB assessment.

### *Classification and Labelling*

The criteria under which substances and preparations can be classed as dangerous are set out in Directive 65/548/EEC and Directive 1999/45/EC. Classification of a substance as dangerous is a critical input in the assessment process.

### *Derivation of Threshold Levels*

Where possible, the registrant will define the threshold levels for exposure below which, the risks to the environment and human health can be regarded as being controlled. The Derived No Effect Level (DNEL) represents the threshold above which humans should not be exposed, while the Predicted No Effect Concentration (PNEC) represents the concentration of the substance in any environment below which, adverse effects would be unlikely to occur through short-term or long-term exposure.

### *PBT and vPvB assessment*

The PBT and vPvB assessment addresses concerns over a substance's ability to persist and bio-accumulate in the environment, as well as its toxic effects. This is required for all substances for which a CSA has to be conducted.

### *Communication Within the Supply Chain*

It is important that manufacturers and importers consider all identified uses of a substance in their CSR for registration of that substance. In particular, it is vital that relevant information in the CSRs is communicated to downstream users of the substance so as to ensure its safe use. This is done through the safety data sheet and the exposure scenarios attached.

Downstream users must also communicate up the supply chain, any new information on a substance's hazardous properties or any other matter that might compromise the risk management measures identified in the safety data sheet. Where a downstream user decides to carry out his own assessment for any use not covered by the registrant's assessment, he assumes responsibility for defining and communicating the safe conditions of use.