

News from the European Section

The Spring Meeting of the European Section will be on 21 April 1994. The location is the Apollo Hotel, in Birmingham, UK. The Theme is "Technical Advances in Personal Protection."

The papers to be presented on respiratory protection are listed below.

"Respiratory Protective Equipment for Medics/Paramedics"

Per-Gunnar Johnsson
FOANBC Defence, Sweden

"Physical/Psychological Effects of Wearing Powered Respirators"

George Robins
CBDE Porton Down, UK

"Protection Factors of Military Respirators"

Hein Jaeger
TNO Prins Maurits Laboratory, Netherlands

"Alternatives to Carbon Tetrachloride for Canister Testing"

Paul Malloy
Associated Octel, Limited, UK

"Pulse Sampling for contaminants Inside Hoods"

Tom Proctor
Health and Safety Executive, UK

"Review of Interaction of Respiratory Protection Equipment with Personal Protective Equipment"

Julia Johnstone
Institute of Occupational Medicine, UK

For further information on the meeting call or write:

Mo Willcocks
ISRP
3M UK PLC
3M House 1-6
PO Box 1
Bracknell, Berkshire
RG12 1JU
0344 858853

At the Fall Meeting in September 1993, Ms Alison Edwards made an interesting presentation concerning enforcement of personal protective equipment regulations. Ms Edwards, a Senior Executive Officer with the Local Authority Coordinating Body on Food and Trading Standards (LACOTS), presents some of the difficulties involved in making the EEC function. The following article—taken from notes of her presentation to the meeting of ISRP (Europe) at Sheffield on 28 September 1993—is excerpted from the Newsletter of ISRP (Europe) December 1993.

Enforcement of Personal Protective Equipment Regulations 1992

Alison Edwards

Senior Executive Officer, LACOTS

Now that the Regulations implementing the PPE Directive have been published in the Government's new style new approach fashion, you will all know that local trading standards authorities have been allocated the enforcement responsibility. Maybe for the first time you are having to

ask yourselves questions about the trading standards service perhaps because you have had no previous contact. So let me tell you a little bit about the service. There are 126 trading standards authorities providing a completely unique and totally comprehensive fair trading and con-

sumer protection service to businesses and consumers. They deal with something like 80 Acts of Parliament and nearly 1000 sets of Regulations concerned with product safety, fair trading, legal metrology and food composition and labelling. They receive approximately one million complaints from consumers and businesses each year and take 15,000 prosecutions as well as issue 100,000 letters of warning. They are an outward looking local authority service very familiar with the trials and tribulations of industry and are tuned to the problems of businesses small and large. The Government has recognised this and funded the training of all trading standards officers in quality assurance, with 450 of them to assessor level. This reflects the emphasis within the service put upon 'getting it right first time' and it is this preventative enforcement approach that you in industry will find trading standards officers adopting when dealing with your products and services.

Business in the UK therefore has a tremendous advantage over its competitors in Europe in having available a 'one stop shop' trading standards service of such a comprehensive nature such that it can discuss any of its trading standards matters locally with its 'home authority'. The 'home authority principle' is equally something that is fairly unique to the UK trading standards service, and one that we are trying to spread throughout Europe. It means that the trading standards authority in whose area a company's decision making base operates, assumes a responsibility for advising and guiding that company either in a proactive or reactive way, to ensure that its products comply with the law on a 'get it right first time' basis. This home authority principle is intended to help relieve the burden on small and large business and emphasizes the cooperative arrangements that exist between a business and a modern-day trading standards enforcement authority. It is a principle subject to enthusiastic support from Government and industry representatives and, although there are problems, it works very effectively. Notwithstanding the moratorium on enforcement provided by the PPE Regulations, you in the audience should not be surprised if you are therefore contacted by your home trading standards authority in these early days of the Regulations seeking to establish a rapport with you and to look at the application of the Regulations to your product range.

In these days of New Approach Directives, trading standards officers are increasingly being

seen by Government as the 'CE mark policemen'. This largely reflects the fact that these officers are very much geared towards the monitoring and surveillance of products in the marketplace and are well used to dealing with a huge variety of trades and businesses. They are not insensitive to commercial difficulties and have a determined bent to see fair competition. They are familiar with Europe and European legislation stemming from the days of the Cassis de Dijon case in the late 1970s when the Germans complained that French Cassis contained too little alcohol which was bad for your health! LACOTS has been largely leading the way in attempting to replicate the relatively even playing field in enforcement in the UK in Europe. With European Commission support it has produced a range of research reports and directories on who does what and how in other European Member States in the enforcement of trading standards type legislation. These directories have been well received and widely purchased by those in industry and anybody else concerned to see how things are done across the Channel. With LACOTS prompting, European collaborative bodies of enforcement practitioners have been developed and are now moving along very successfully. In the area of product safety, PROSAFE, the Product Safety Enforcement Forum of Europe, has been developed and has been working these past two years or more on extending administrative cooperation between those enforcement agencies throughout the EC and EFTA countries concerned with product safety legislation. PROSAFE will thus be looking at the PPE Directive to see where it might be of assistance in providing a vehicle for the level playing field we all seek.

So far as our UK regulations are concerned let me assure you that I was probably as surprised as any of you in the audience to see the form in which they were finally published. I have emphasized to you the style of enforcement that you will see from trading standards authorities but I would also wish to emphasize that those authorities will deal in a very determined fashion with any wrongly CE marked goods either produced in the UK or shipped into the UK from elsewhere. If you are ever concerned about having to compete against such products which you suspect are inappropriately CE marked you should not hesitate to draw the product to the attention of your local trading standards authority. You will find their philosophy is very much one of 'business must be allowed to get on with business'—but not at the expense of fair competition or consumer safety.

We are worried about the way in which the new Regulations have been produced because whilst the Government may appear to make life simpler for you in business we suspect it may have made it a lot more difficult. There remains considerable uncertainty as to requirements and offences because they are not spelt out in the new Regulations. Stephen Harris and his colleagues at the DTI had the onerous task of producing administrative guidance to supplement the Regulations—so instead of detailed Regulations and broad guidance notes we will now see broad Regulations and detailed guidance notes! LACOTS is discussing with DTI its concerns and we shall be issuing some sort of guidance to enforcement authorities. This will seek to clarify the position regarding the application of the General Safety Requirement in Section 10 of the Consumer Protection Act 1987 to PPE and the relevance of CE marked and non-CE marked PPE so far as offences are concerned. We do not support the concept of legislation that is unenforceable in the absence of, for example, harmonized standards and for that reason we have been supporting the DTI's position concerning the amending Directive. We look forward to seeing further information from the Commission on the classification of simple, middle, and complex PPE, and we hope that the necessary harmonized standards develop apace.

We, like the DTI and HSE, are anxious to see the Commission give every priority to resolving the issues of classification and scope. The categorisation table in the DTI guidance document is the best there is in Europe. It was evident at a Commission PPE Working Group meeting in Brussels on 27 July, attended by both DTI and LACOTS, that the Commission know the problems concerning categorisation and scope but lack resources to push through a solution. Perhaps the European Safety Association will be able to help in this area. LACOTS will be concerned to see any categorisation solution given legal status—other-

wise there will be no 'even playing field' in the EC on PPE product categorisation and that will be a total nonsense for UK businesses.

Notified bodies are something that further concerns us. Only about 40 have so far been notified in the EC (20 in France and 10 in the UK). They have a critical role under Article 11 of the Directive—for example deciding levels of sampling and inspection—and it will be crucial to fair competition that they are all equally competent and notified against the same criteria. The DTI will have to decide how it monitors UK notified bodies. Trading standards officers are as we see it not only policing products and the CE mark but also the competence of notified bodies, because if a wrongly CE marked product is found it suggests that not only is there a problem with the product, but also the system of production—a system that may well have been approved by a notified body.

Some of you will have seen the DTI "Efficiency Scrutiny Report on the Implementation and Enforcement of EC law in the UK"—it is a huge document making 102 recommendations. It performed a case study on the implementation of the PPE Directive in the UK. The Scrutiny Team were fairly critical of the Directive itself suggesting that if it had been proposed post-Maastricht it would not have seen the light of day.

I hope I have shed some light on the way in which trading standards authorities approach their enforcement responsibilities and I hope you have found it encouraging. If you remember nothing else of what I have said, it would be helpful if you can at least remember the role that your home trading standards authority can play in assisting you and the role that LACOTS can play in coordinating enforcement in the UK and our input into Europe.