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Complying with REACH document delivery challenges

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Malcolm Carroll, director at Reach Delivery, discusses the challenges of REACH compliance, at a time when the regulations are set to affect more manufacturers

The next REACH deadline – 31st May – will see EU companies that manufacture or import phase-in (those already pre-registered) substances in quantities above 100 tonnes a year needing to register their chemicals with the European Chemicals Agency – ECHA. This move will bring many SMEs under the REACH umbrella.

REACH makes all parties in the supply chain – from manufacturers and distributors through to downstream users – directly responsible for the safety of the chemical substances they handle. One area, in particular, where this has caused changes is the shipping of chemicals and the requirements for documentation in the supply chain.

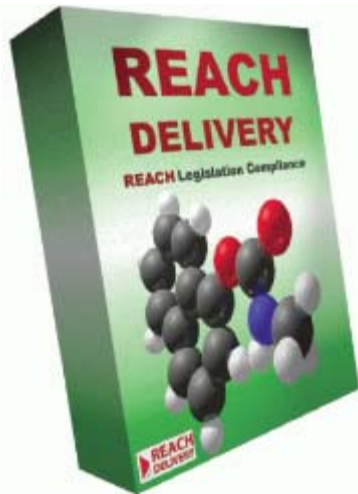
Under REACH, the responsibility is firmly on suppliers to ensure that their customers are supplied with Material Safety Data Sheets (MSDS), exposure scenarios and other critical safety information, often with the requirement to actually deliver and update at regular intervals, rather than simply sending these documents. In addition, the requirement to ensure that all internal personnel, who may come into contact with hazardous materials, are also provided with the most current MSDS, exposure scenarios has further increased record keeping requirements and increased already time consuming tasks.

To compound these challenges, a wave of new REACH-like health and safety regulations have being introduced around the world as well as updated domestic health and safety legislation, for example, in the USA with updates to OSHA, Hazcom and EPCRA. All these regulations put the emphasis onto manufacturers and distributors to provide more information about chemicals and their properties within MSDS and exposure scenarios and ensuring these documents are delivered directly to customers. It is not always enough to simply send information in the post or by email, there is often a need to implement the resources, systems and processes required to ensure the actual delivery of the documents in order to achieve compliance.

Another common element of these international regulations is the need to ensure that all employees within companies, who may come into contact with hazardous materials, are provided with the most current MSDS and exposure scenarios to ensure the use of chemicals is consistent and safe. To comply with these regulations chemical companies and downstream users world-wide must now consider not only how they maintain compliance but also how they can demonstrate their compliance, and most importantly, prove it should any legal action arise.

To do this they will need to have easily retrievable records and preferably audit trails of the MSDSs and exposure scenarios that have been sent and received by customers and their own staff.

They will also need to demonstrate that new or updated documents have replaced previous versions – both internally and externally – and maintain past versions and in many cases, keep records that demonstrate compliance for over 30 years. The additional work load in administration can be significant and needs to be anticipated. Automated systems which address this workload are now being implemented by many smaller SMEs.



In the UK, Control of Substances Hazardous to Health (COSHH) sits alongside REACH, with both calling for risk assessments and utilising the information in Safety Data Sheets. We are also seeing a great deal of overlap in legislation, mainly because the new international legislation has to co-exist most commonly with domestic health and safety directives. Whereas the requirement to register hazardous materials is clear in its own right, other elements have parallels in existing regulations. The supply and delivery of SDSs, for example, will often be addressed in more than one relevant piece of legal requirement.

Under EPCRA Section 313 in the US, chemicals suppliers must notify customers of any hazardous chemicals present in mixtures or other trade name products that are distributed to facilities. The notice must be provided to the receiving facility and may be attached or incorporated into that product's MSDS. If no MSDS is required, the notification must be in a letter document that contains specific information and accompanies or precedes the first shipment of the product to a facility.

MSDSs are also covered by the OSHA regulations, which ensure that the hazards of all chemicals imported into, produced, or used in US workplaces, are evaluated and that employees are given information about these hazards. OSHA requires all manufacturers, importers, and distributors of hazardous chemicals to provide the appropriate labels and MSDSs to the employers (companies) to which they ship these chemicals. The revisions to the Hazard Communication Standard (HazCom 2012) has tightened up this legislation still further.

Every container of hazardous chemicals sent must be labelled or tagged with the required information, accompanied by a MSDS. Any updates must also be sent to the customer. MSDSs must be readily accessible to employees when they are in their work areas during their work shifts.

The Workplace Hazardous Materials Information System (WHMIS) is Canada's national hazard communication standard. This communication standard addresses workers 'right to know', insisting that the MSDSs are readily available to workers who may be exposed to a controlled product. In Japan, the CSCL, PDSC and PRTR legislation outlines specific requirements for information delivery throughout the supply chain.

In Korea, the standard for classification and labelling of chemical substances and MSDS requires not only that the supplier should provide an MSDS to the customer, but that the recipient has an obligation to provide a confirmation of receipt back to the sender. Similarly in China, 'China GHS' requires that MSDSs are communicated to downstream users and that updates are provided as new information on hazards arises.

Australia's model, Work Health & Safety, sets out the obligation to prepare and maintain up-to-date information on an SDS, and to provide it to all customers or any person likely to be affected by a chemical.

In the UK, the Control of Substances Hazardous to Health legislation sits alongside REACH, with both calling for risk assessments and using the information in SDSs.

So, the issue of how MSDSs should be supplied and delivered to customers is being addressed in more than one piece of legislation. The requirements can vary, although many of the newer rules are far more stringent.

One thing is clear, however, global legislation is moving in the same direction as REACH and the onus is firmly on suppliers to ensure their customers are supplied with MSDS, ESs and other critical safety information.

System solutions

There is also a need to ensure that all personnel within an organisation that may come into contact with hazardous materials are also provided with the most current MSDSs and ESs and are using chemicals safely, consistently and correctly. The need for systems to aid and automate this whole process is very clear.

One such system is the new REACH Delivery 2013 edition, which is designed to enable companies to comply with all relevant international and domestic legislation easily and cost effectively. REACH Delivery 2013 supports the sending receiving, internal distribution and automated update of MSDS and associated documents for large and small companies alike. It meets the various

legislative requirements by guaranteeing delivery and monitoring and auditing actual receipt by customers and staff, as well as ensuring that the latest version of the document is always available.

Companies are using REACH Delivery to automate the sending and updating of documents, although their customers can still receive them by email, or they too can use REACH Delivery to receive, and send, documents. Either way, it is possible to monitor, track and report on the process, while retaining a delivery status on all documents sent to and received by their customers.

To demonstrate compliance, or in the event of a dispute, users are always able to access complete audit trails (with time and date stamps, version numbers etc). The saving, in time and cost of administering MSDS and other important documents under the new legislation, can be considerable.

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