

Malcolm Carroll

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## REACH: are you compliant?

The deadline has passed for companies that manufacture or import in the EU phase-in (those already pre-registered) substances in quantities above 100t a year to register their chemicals with the European Chemicals Agency (ECHA). Many SMEs now come under REACH this time and many of these companies will no doubt have found the process of compliance complex, time-consuming and challenging.

REACH is the European Community Regulation on chemicals and their safe use (dealing with the Registration, Evaluation, Authorisation and Restriction of Chemical substances). Its aim is to improve and ensure the safe use of chemicals, and one of the things it does is make all parties in the supply chain – from manufacturers, distributors to downstream users – directly

responsible for the safety of the chemical substances they handle. One area where this has caused changes is the shipping of chemicals and in particular, 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 deliver and update at regular intervals, rather than simply sending these documents. In addition, the requirement to ensure that all internal personnel who might come into contact with hazardous materials are also provided with the most current safety data has increased record-keeping and increased already time-consuming tasks.

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To compound these challenges, a wave of new REACH-like health and safety regulations has been introduced around the world, including in China, Korea, Turkey and Switzerland, as well as updated domestic health and safety legislation – for example, in the USA – with updates to OSHA, Hazard Communication Standard (Hazcom) and EPCRA. What these regulations have in common is the emphasis they place on manufacturers and distributors providing more information about chemicals and their properties within MSDS and exposure scenarios, and ensuring these documents and any other critical information is delivered directly to customers. It is not always enough simply to send information in the post or by email, as this only presumes it will reach the customer; 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.

As stated, another common element of these international regulations is the need to ensure that all employees within companies who might 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 it, 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 MSDS 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 internally and externally, plus maintain past versions, and in many cases record that compliance for over 30 years. The additional workload in administration can be quite significant and needs to be anticipated or automated systems to address this workload implemented by many smaller SMEs now.

To add further complexity to the situation, we are 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 safety data, for example, will be addressed often in more than one relevant piece of legal requirement. 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.

Under EPCRA Section 313 in the USA, 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. These regulations are aimed at making sure that the hazards of all chemicals imported into or 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 SDSs to the employers (companies) to which they ship these chemicals. Revisions to HazCom 2012 have tightened up this legislation still further.

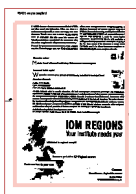
Every container of hazardous chemicals sent must be labelled, tagged, or marked with the required information, accompanied by a MSDS at the time of the first. Any updates must also be sent to the customer. MSDSs must be readily accessible to employees when they are in their work areas during their work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

The Workplace Hazardous Materials Information System (WHMIS) is Canada's national hazard communication standard and 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, PDSCL and PRTR legislation outlines specific requirement 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 also that the recipient has an obligation to provide a confirmation of receipt back to the sender. Similarly in China, where China GHS requires that MSDSs are communicated to downstream users and that updates are provided as new information on hazards arise. Australia's Model Work, Health & Safety sets out the obligation to prepare and maintain up-to-date information on an MSDS, and to provide it to all customers or any person likely to be affected by a chemical.

Thus, 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 globally, although many of the newer rules are, as was expected, 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 MSDSs and other critical safety information. Often, too, there is a requirement actually to deliver, rather than simply send, these documents. There is also a need to ensure that all personnel within an organisation that may come into contact with hazardous materials are provided with the most current safety data 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. It supports the sending, receiving, internal distribution and automated update of MSDS and associated documents for large and small companies. 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 need to be able to demonstrate compliance or, in the event of a dispute, access complete audit trails.

#### About the author

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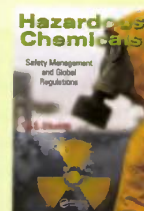
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An easily accessible guide to scientific information, this book covers proper management, precautions and related global regulations on the safety management of chemical substances. It can help workers and safety personnel prevent and minimise the consequences of catastrophic releases of toxic, reactive, flammable or explosive chemical substances. It also details safety measures for transportation of chemical substances by different routes, such as by road, rail, air, and sea. The author discusses the importance of knowledge in avoiding negligence during the use and handling of hazardous chemical substances, stressing the importance of proper management and judicious application of each chemical substance irrespective of the workplace, and shows how safety and protection of the user, workplace and the living environment can be achieved.

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