

Compliance challenges

Malcolm Carroll, *Director, REACH Delivery International*, explains how tighter controls for chemicals are creating compliance challenges for those manufacturing and handling dangerous or hazardous chemical products.

The next landmark for REACH (the Registration, Evaluation, Authorisation and Restriction of Chemicals) compliance is 31 May 2013, bringing tighter European controls on the manufacture, movement and use of dangerous or hazardous chemical products. As with most other industries, the oil sector has been widely impacted by the phased introduction of REACH as it is directly relevant to most petroleum substances. It applies to chemicals manufactured, bought or imported, used in any stage of production or sold within the European Union (EU). The purpose is to protect and inform the workers, end users and customers that come into contact with hazardous substances at all stages of the supply chain.

This latest stage of REACH is expected to have a significant impact on both larger companies and small- and medium-sized enterprises (SMEs) in the petroleum industry who, like all other sectors of industry, will find the process of compliance complex, time consuming and challenging. To compound matters, a wave of similar legislation has been introduced in other parts of the world, increasing pressure to ensure compliance across the supply chain and adding further complexity into the mix.

Under REACH, companies in the petroleum sector will – like the manufacturers and their customers – need to demonstrate that their operations are covered by the required paperwork. This means ensuring that their employees and customers have access to relevant, up-to-date material safety data sheets (MSDSs) and exposure scenarios, and that they are using the most up-to-date versions of the documents across the business.

Since the EU introduced REACH in 2007, there have been reports of significant increases in administration as a result of companies having to ensure their customers are supplied with safety data sheets, exposure scenarios and other critical safety information. Under REACH, it is not sufficient to have sent the latest documents to customers; the

onus is on suppliers to ensure they have been received by their customers and that any subsequent updates have also been received. At the same time, companies are required to ensure that all internal personnel who may come into contact with hazardous materials are also provided with current MSDSs and other documents – which makes record-keeping even more time-consuming.

Looking beyond REACH legislation, we have recently seen a wave of REACH-like health and safety (H&S) regulations being established outside the EU in places such as China, Korea, Turkey and Switzerland. There has also been updated domestic H&S legislation in the US, for example, with changes to OSHA (Occupational Safety and Health Administration), Hazcom and EPCRA (Emergency Planning and Community Right-to-Know Act).

The common factor in all these regulations is their emphasis on manufacturers and distributors providing more information about the chemicals and their properties in MSDSs and ensuring these documents and other critical information are delivered directly to customers. It is no longer good enough to send information by post or e-mail, as this merely assumes they have reached the customer. Compliance requires implementing the resources, systems and processes in order to validate the delivery of the documents.

As indicated above, a related common element of the international regulations is the need to ensure that employees using, handling or transporting hazardous materials are fully aware of current safety requirements, so that actions are consistent and safe. Compliance, therefore, means that manufacturers, chemical companies and downstream users or handlers must consider how they maintain compliance and also how they can prove compliance in the event of an incident or even legal action.

To ensure compliance, they will need easily retrievable records – and prefer-

ably audit trails – of the MSDSs and exposure scenarios that have been sent and received by customers and are being used by their employees. They will also need to demonstrate that new or updated documents have replaced previous versions. It also requires maintaining copies of past versions and, in many cases, records that demonstrate compliance going back 30 years. The additional administrative workload is quite significant and needs to be anticipated – or transferred to automated systems as soon as possible.

Legislative overlap

To add further complexity to the situation, there is a great deal of legislative overlap – mainly because the new international legislation has to co-exist with domestic H&S directives. The requirement to register hazardous materials is clear in its own right, but other elements have parallels in existing regulations. The supply and delivery of MSDSs, for example, is often addressed in more than one relevant legal requirement.

In the UK, COSHH (Control of Substances Hazardous to Health) sits alongside REACH, with both calling for risk assessments and utilising the information in MSDSs. In the US, EPCRA Section 313: Hazardous Chemical Storage Reporting Requirements, requires chemical suppliers to notify customers of any EPCRA Section 313 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 MSDSs aren't required, the notification must be in a letter that contains specific information and accompanies or precedes the first shipment of the product to a facility.

Also in the US, MSDSs are covered by Hazcom and OSHA. These regulations are aimed at making sure that the hazards of all chemicals imported into, produced, or used in workplaces are evaluated and that employees are given information about these hazards. OSHA requires all hazardous chemicals manufacturers, importers, and distributors to provide the appropriate labels and MSDSs to the employers (companies) to which they ship the chemicals. Every container of hazardous chemicals sent must be labelled, tagged, or marked with the required information, accompanied by an MSDS at the time of the first shipment of the chemical.

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.

Meanwhile, in Canada, WHMIS (Workplace Hazardous Materials Information System) is the national hazard communication standard. It addresses workers' 'right to know', insisting that the MSDSs are readily available to workers that may be exposed to a controlled product. In Japan, the CSCL (Chemical Substances Control Law), PDSCL (Poisonous and Deleterious Substances Control Law) and PRTR (Pollutant Release and Transfer Register) legislation outlines specific requirements for information delivery throughout the supply chain. In Korea, the standard for classification and labelling of Chemical Substances and MSDSs requires that not only should the MSDSs be provided by the supplier to the customer, but that the recipient (the customer) has an obligation to provide the sender with confirmation of receipt. Similarly, the China GHS (Globally Harmonised System of Classification and Labelling of Chemicals) requires that MSDSs are communicated to downstream users and that updates

are provided as new information on hazards arise.

Australia's Model WHS (Work, Health and 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 that is likely to be affected by a chemical.

Automated process

As you can see, the issue of how MSDSs should be supplied and delivered to customers and employees is being addressed in many pieces of legislation. The requirements can vary widely, but – as expected – the global trend is towards more stringent rules. It is clear, however, that global legislative requirements are moving in the same direction as REACH, with the onus firmly on suppliers to ensure that safety information is passed down the supply chain. The need for systems to aid and automate this process is also 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 updating of MSDSs 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 and has replaced previous out of date versions. The service is available to all companies worldwide. It is low cost and easy to use, and customers can try it out free of charge.

Companies worldwide use REACH Delivery to automate the sending and updating of their documents. Their customers can receive them by email – or use REACH Delivery to receive (and send) their documents. Either way, companies have found they are able to monitor, track and report on the process, while retaining a delivery status on all documents sent to and received by their customers and staff. The saving, in time and cost of administering data sheets and other important documents, is considerable.

Complying with REACH 2013 and other health and safety legislation is a challenge for many organisations – but with the right system in place, companies can have peace of mind they are compliant in terms of the delivery of critical safety information to their customers and employees. ●