



HOW TO comply

Squaring up to tougher international legislation. By **Malcolm Carroll**

When REACH - the EU System on Registration, Evaluation, Authorisation and Restrictions of Chemicals (REACH) came into force in 2007, it placed responsibility on the safe shipping and distribution of dangerous or hazardous goods in a highly regulated environment firmly onto the shoulders of the industry, making all parties in the supply chain from manufacturers, distributors through to downstream users directly responsible. Much of the focus to date has, of course, been on the wider process of registration, but one of

the main areas currently attracting more attention is in addressing the parts of the legislation regarding the shipping of chemicals and in particular, the requirements for documentation in the supply chain.

As is often the case with new legislation, there have been reports of significant increases in administration and monitoring as companies try to ensure that their customers are supplied with Safety Data Sheets, 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, that may come into contact with hazardous materials, are also provided with the most current Material Safety Data Sheet (M)SDS, exposure scenarios etc. has increased record keeping and increased already time consuming tasks.

Currently, the industry is focusing its attention on gearing up for the REACH landmark of 31 May 2013, when companies that manufacture or import in the EU phase-in (those already pre-registered) substances in quantities above 100 tonnes a year will need to register and meet the full compliance legislation for their products. This stage of REACH will impact a greater number of companies and far more SMEs many of whom will be finding the process of compliance complex, time consuming and challenging.

Looking beyond the REACH legislation in the EU, we have also seen a wave of new REACH-like health and safety regulations being established outside the EU including China, Korea, Turkey, Switzerland etc. as well as updated domestic health and safety legislation for example in the USA with updates to OSHA, 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 Material Safety Data Sheets and exposure scenarios and ensuring these documents and any other critical information is delivered directly to customers. It is not always enough to simply send information in the post or by email as this only assumes they have reached 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 indicated above, another common element of these international regulations is the need to ensure that all employees within companies, that may come into contact with hazardous materials, are provided with the most current (M)SDS and exposure scenarios to ensure the use of chemicals is consistent and safe.

To comply with these regulations chemical companies and downstream users worldwide 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 (M)SDS 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, plus maintain past versions and in many cases, record that demonstrate 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 Sheets for example will be addressed often in more than one relevant piece of 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 Safety Data Sheets

The Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 - Hazardous Chemical Storage Reporting Requirements, in the USA, 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 (M)SDS. If no (M)SDS 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.

Material Safety Data Sheets are also covered by the Occupational Safety and Health Administration (OSHA). These regulations are aimed at making sure 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 chemical manufacturers, importers, and distributors of hazardous chemicals to provide the appropriate labels and material safety data sheets 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 a Material Safety Data Sheet at the time of the first shipment of the chemical. Any updates must also be sent to the customer. (M)SDS must be readily accessible to employees when they are in their work areas during their work shifts.

Workplace Hazardous Materials Information System (WHMIS) is Canada's national hazard communication standard. This communication standard addresses workers 'right to know' insisting that the (M)SDS are readily available to workers that 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 (M)SDS requires that not only should the (M)SDS be provided by the supplier to the customer, but that the recipient (the customer) has an obligation to provide a confirmation of receipt back to the sender.

Similarly in China, China GHS requires that (M)SDS 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

SDS, and to provide it to all customers or any person that is likely to be affected by a chemical.

As you can see the issue of how Material Safety Data Sheets should be supplied and delivered to customers is being addressed in more than one piece of legislation and the requirements can vary globally, although many of the newer rules are as 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 (M)SDS, exposure scenarios and other critical safety information, often with a requirement to actually deliver, rather than simply sending these documents. 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 (M)SDS and exposure scenarios 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 is a plug and play networked service that you use from your own computer. It supports the sending receiving, internal distribution and automated update of (M)SDS and associated documents for large and small companies alike. It meets the various legislative requirements by guaranteeing delivery and monitoring and auditing the actual receipt by your customers and staff, as well as ensuring that the latest version of the document is always available.

Companies around the world are using REACH Delivery to automate the sending and updating of their documents, although their customers can still receive them by email (or they too can elect to 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, whilst retaining a delivery status and audit trail on all documents sent to and received by their customers. The saving, in time and cost of administering (M)SDS and other important documents under the new legislation, is considerable.

The service is available to all companies worldwide. It is low cost and easy to use, and you can try it out for free or receive a free demonstration on www.reachdelivery.com. Complying with REACH 2013 and other health and safety legislation is a challenge many organisations are now facing but with the right system in place – companies can have peace of mind that they are compliant in terms of the delivery of critical safety information to their customers and staff. ♦

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Malcolm Carroll is director at REACH Delivery. REACH Delivery is an electronic mail service, which works seamlessly with email, yet it guarantees delivery and receipt of documents and messages, monitors and reports on delivery/acceptance status and provides audit trails and compliance reports. In fact it works whenever confirmed delivery and audit is required – externally to other companies and internally to your own staff.

For further information visit:
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