

- Home
- News
- Feature Articles
- Industry Events
- Magazine
  - Editorial Schedule
  - Circulation
  - Media Pack
  - Reprints
  - Subscriptions
- Advertise
- Digital Edition
  - Archive Digital Editions
- Online Issue
  - Latest Online Issue
  - Online Issue Archive
- Search
- Contact us

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Environment & Regulations

## Delivering the documents

Malcolm Carroll, director of Reach Delivery, presents a way of keeping up to speed with tougher international legislation

With the new year upon us, the chemicals industry is focusing its attention on the next REACH landmark. By 31 May 2013, companies that manufacture or import phase-in substances (i.e. those already pre-registered) in quantities above 100 tonnes/year will need to register their chemicals and be fully compliant. 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.

To compound these challenges, we are seeing a raft of new REACH-like health and safety regulations in countries including China, Korea, Turkey and Switzerland. Additionally, we are seeing updated domestic health and safety legislation in the US, with updates to the Occupational Safety & Health Administration (OSHA), Hazard Communication (HazCom) and the Emergency Planning & Community Right-to-Know Act (EPCRA). Some of these regulations overlap with REACH. How can companies keep on top of the increased international regulations and ensure that they are compliant?

When REACH came into force in 2007, it placed responsibility on the safe shipping and distribution of chemicals in a highly regulated environment firmly on the shoulders of the industry, making all parties in the supply chain, from manufacturers and importers through to downstream users (DSUs), directly responsible. Much of the focus to date has been on the wider process of registration, but another area currently attracting more attention is those 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 material safety data sheets (MSDSs), exposure scenarios (ESs) and other critical safety information.



REACH affects the shipping as well as the manufacture of chemicals

Looking beyond REACH, companies also need to comply with new international health and safety regulations. These regulations vary but they all have in common an emphasis on manufacturers and distributors providing more information about chemicals and their properties within MSDSs and ESs and ensuring that these documents and any other critical information are delivered directly to customers.

As is also the case with REACH, it is not always enough simply to send information in the post or by email, as this only assumes that the documents have reached the customer. There is often also 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 that these international regulations share with REACH is the need to ensure that all employees within companies that may come into contact with hazardous materials have the most up to date MSDSs and ESs to ensure the consistent and safe use of chemicals. This has all increased record-keeping and lengthened some already time-consuming tasks.

To comply with these regulations, chemicals companies and DSUs 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. In order to achieve this, they need easily retrievable records - preferably audit trails of the MSDSs and ESs that have been sent and received by customers and their own employees.

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. Many companies, including SMEs, should also now be considering the implementation of automated systems to address this workload.



Material safety data sheets have taken on new importance under stricter global legislation

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 with domestic legislation, most commonly 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 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.

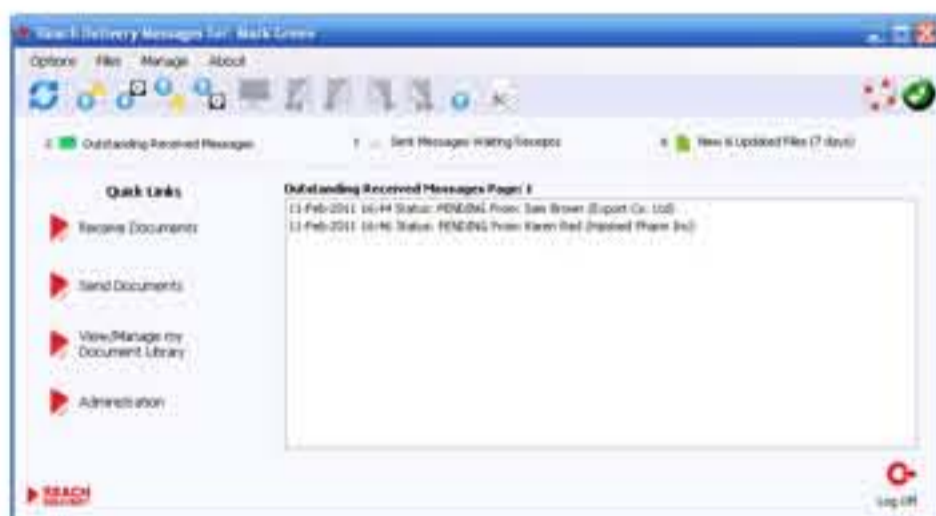
MSDSs are also covered by the OSHA regulations. These regulations are aimed at making sure that the hazards of all chemicals imported into, produced, or used in US workplaces are evaluated and that employees are given information about these hazards. OSHA requires all manufacturers, importers, and distributors of hazardous chemicals to provide the appropriate labels and MSDSs to the employers (companies) to which they ship these chemicals. Revisions to HazCom standards in 2012 have tightened this legislation up 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 the national hazard communication standard in Canada. 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 requirement for information delivery throughout the supply chain.

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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 arise.



REACH Delivery is a PC-based plug-and-play system

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

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 MSDS, ESs 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 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 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.

Companies around the world are using REACH Delivery to automate the sending and updating of their documents. Their customers can still receive them by email, or they too can use REACH Delivery to receive - and send - their documents.

Either way, 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. 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, is considerable.

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### Latest Issue

