Countdown To REACH — Complying With Document Delivery Challenges

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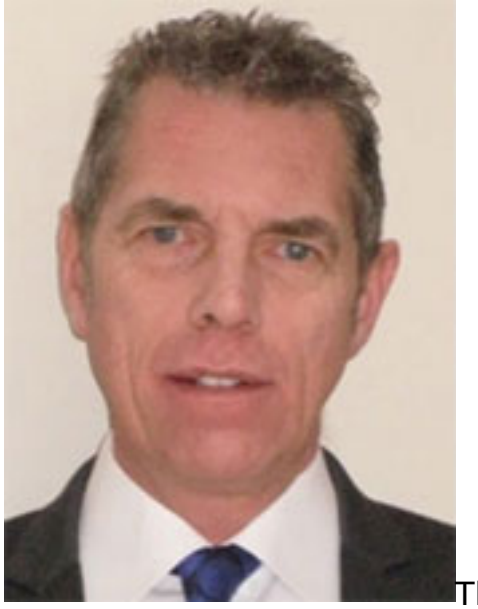

The countdown to the next Registration, Evaluation, Authorisation and Restriction of Chemicals [1] (REACH) deadline of 31st May is underway. This is the deadline for companies that manufacture or import in the EU phase-in (those already pre-registered) substances in quantities above 100 tonnes a year to register their chemicals with the European Chemicals Agency (ECHA). At this time, many SMEs will come under REACH this time and many of these companies will no doubt be finding the process of compliance complex, time consuming and challenging.

The aim of REACH is to improve and ensure the safe use of chemicals, and the one of the things that REACH does is make all parties in the supply chain — from manufacturers, distributors through 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 actually deliver and update at regular intervals, rather than simply sending these documents. In addition, the requirement to ensure that all employees that may come into contact with hazardous materials are also provided with the most current MSDS and exposure scenarios has increased record keeping and increased time-consuming tasks.

To compound these challenges, a wave of new REACH-like health and safety regulations have being introduced around the world, including China, Korea, Turkey and Switzerland. Updated domestic health and safety legislation, for example, has been pushed in the U.S. 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 e-mail, 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 MSDS 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 easily retrievable records and preferably audit trails of the MSDSs and exposure scenarios 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. They will also need to maintain past versions and, in many cases, records that demonstrate compliance for over 30 years. The additional workload in administration can be quite significant — smaller SMEs need do anticipate this additional workload or implement automated systems 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. For example, in the UK, the Control of Substances Hazardous to Health (COSHH) sits alongside REACH, with both calling for risk assessments and utilising the information in Safety Data Sheets. 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.

Under EPCRA Section 313 in the U.S., 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 U.S. 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 the Hazard Communication Standard (HazCom 2012) have tightened up this legislation even 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. 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, 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 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.

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

One system to aid in the automation of MSDS and ES requirement regulation is the 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 updating 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 around the world are using REACH Delivery to automate the sending and updating of their documents, although their customers can still receive them by e-mail, 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.

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.

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[1] http://en.wikipedia.org/wiki/Registration,_Evaluation,_Authorisation_and_Restriction_of_Chemicals