

REACH in Force but Not Yet Enforced

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On 1 June, REACH entered into force and the European Chemicals Agency (ECHA) became operational. The IT tool for registration dossiers, IUCLID5, has been released and can be downloaded via the Agency website (http://ec.europa.eu/echa/home_en.html).

For companies, the only current legal requirement is to format Safety Data Sheets according to the GHS standard¹. Industry has a further 12 months to prepare before actual pre-registration and registration begin. However, EU Member State regulators have agreed that the SDS requirement will not be enforced until 1 December 2010 unless other substantial changes are needed to any given SDS (e.g., on hazard information).

Although the REACH Implementation Projects (RIPs) are attempting to resolve some issues, even the Technical Guidance Documents produced by the RIPs appear unclear on certain issues. It is also unclear how the documents will be used by the Agency, Member State regulators or companies.

Fundamentally the burden of proof is on industry. Therefore it is the responsibility of companies to ensure that they are REACH compliant. EU companies that use chemicals and retailers of finished products are becoming increasingly concerned with the status of their supply.

A key management issue for international supply chains revolves around requirements for articles (i.e., finished products). In particular, REACH requires the communication of any 'substance of very high concern' that appears on the 'Candidate List' for Authorisation if present at above 0.1% weight per weight in any product regardless of tonnage. This communication extends to include consumers within 45 days of receipt of a request.

Understanding REACH takes time. The publication of RIP 3.1 documents and a 'Navigator' tool on the European Chemicals Agency website provides a very good basis for gauging how prepared you are. If the relevant personnel in your company are not familiar with the contents of these documents and have not developed a system to manage pre-registration, registration and communication of substances in articles, then your company has a lot of work to do in a short period of time.

¹ This only refers to the format of SDSs; a proposal for EU legislation on GHS is anticipated in the next few months.