

REACH Update

The REACH regulation is driving significant changes, not just to the chemicals industry, but to all industries that use or process chemicals. Organizations are being affected throughout their supply chains, including chemical manufacturers, distributors, formulators, companies which manufacture components and products, and retailers selling consumer goods.

Ambitious Goals

REACH is arguably more aggressive than anything that has been attempted in chemical regulation in the past. Registration, which will be required to manufacture or import in-scope chemical substances in the EU marketplace above the 1 tonne/year threshold, requires submittal of risk assessment data. By one estimate, the risk assessment data needed to register the anticipated 30,000 to 100,000 substances will need to be developed at 400 times the rate which has been the norm under the pre-REACH patchwork of 40 chemical management regulations in the EU member states. And under REACH, this responsibility belongs to industry, not the authorities.

Regulatory Insight Essential

Navigating through REACH takes more than just reading the regulations. Although there is a laudable goal to implement REACH consistently throughout the member states, there exist many conflicts in interpretation by individual countries. It is true that REACH implementation program (RIPs) documents are intended to provide clear and technical guidance, however even these documents are in a state of flux.

Batteries provide a good example of how interpretations under REACH can and will vary. Some member states have classified batteries as preparations, and the implications of this view are that every chemical substance within a battery would need to be identified and assessed individually. The other view held by some member states is that a battery is an "article" with a defined shape which determines its function to a greater degree than its chemical composition. This interpretation, which has become the prevailing view of how batteries should be interpreted under REACH, should result in a lower regulatory burden for battery manufacturers.

The key initial goal for companies impacted by REACH should be to understand how REACH applies to their products, manufacturing operations, sales channel model, and supply chain, and to formalize a compliance strategy. Insight into the REACH regulations, development of RIP documents, and evolving interpretations is essential to charting a course that minimizes business impact and ensures compliance with REACH.

Substances of Very High Concern (SVHCs)

SVHCs, a category of substances under REACH which includes carcinogens, mutagens, reproductive toxins, and chemicals which are persistent and bioaccumulative, is a looming

concern for industry. Under REACH, use of SVHCs in the EU will have to be authorized, a process which will require companies to demonstrate the substances can be used safely and that there is no feasible alternative. And under REACH, customers, consumers, and NGOs have the right to request information on the presence of SVHCs in products and industry is legally obligated to disclose that information.

The initial "candidate list" of SVHCs is expected to be published by the EU authorities at the end of 2008, and may list as few as 100 or as many as 2000 substances. This may become a de facto "red list" that companies will come under pressure to eliminate from their products, and as a result some companies are laying the groundwork now to begin eliminating potential SVHCs from their products.

Supply Chain Impacts

For some companies, the greatest concern is how REACH may impact the continued availability of chemical substances that are important for manufacturing, R&D, etc. Even at this relatively early date, certain chemical suppliers have notified companies that they intend to discontinue providing certain substances due to REACH and/or to related, similar regulations such as the Biocide Directive. Companies are taking action to manage such potential "vulnerabilities" in the chemical supply chain to avoid serious cost and schedule implications associated with finding alternative sources and/or re-qualifying processes and products to use new chemistries.

REACH and CMS Providers

CMS providers who do business in the EU may have direct REACH obligations, for example to register chemical substances which they import into the EU. Almost certainly, REACH will result in increases in the cost of chemicals, and CMS providers should take this into account as they structure new contracts with their customers.

But there are opportunities for CMS providers to provide business value to their customers by facilitate REACH compliance and minimize business risk. Below are some ways that CMS providers can engage proactively with their customers around REACH:

- Assist with and manage the communication within the supply chain that will be necessary to register substances and communicate risks
- Assist customers with obtaining the data necessary to determine their REACH obligations
- Anticipate supply chain disruptions and provide alternatives
- Support customer efforts toward eliminating the most toxic and dangerous chemicals from the supply chain.
- Collaborate with customers on chemical substitution needs
- Provide training and awareness to customer organizations regarding REACH

About the Author

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Doug manages REACH projects for US clients and is part of a global WSP team, based in the United Kingdom, delivering comprehensive services to assist clients with all facets of REACH compliance.

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