

Guidance REACH: Obligations for Downstream Users

REACH, as the European Regulation on Chemicals (see **REACH - the basics** for more detail), has the potential to affect not just the chemical sector, but all manufactures that use or import substances and materials, either alone or in preparations (mixtures). This group of chemical users is referred to as 'Downstream Users'. In the majority of cases, CPI Members fall into this group. As a Downstream User of chemicals, there are specific legal obligations that will apply to you and potential business risks you should be aware of.

Potential risks to business

- Disrupted supply as a result of substances being withdrawn from the market or supplier's failure to identify your specific product use.
- Reputational damage with customers by failing to comply with disclosure requirements.
- Loss of business and threats of fines if the legal requirements of REACH are breached.

Obligations for Downstream Users

- **Ensure the substances you use are registered in accordance with REACH**
 - Manufacturers or importers of substances must register them with the European Chemicals Agency (ECHA). Registrations are being phased, depending on how much is placed on the market and how dangerous the chemicals are deemed to be. It is illegal to place on the market any substance that has not been registered or pre-registered in accordance with REACH.
 - Registration is the responsibility of the manufacturer or importer i.e. your supplier, but the Downstream User has an obligation to ensure substances used are registered, **and that the registration covers their specific use.**
 - Best practice would be to obtain a statement from your suppliers confirming they are:
 - aware of REACH and comply with its requirements,
 - Specific substances supplied to you are registered or pre-registered including your specific use.
 - If a supplier decides to withdraw a substance rather than seek registration, alternative suppliers or substitute chemicals will need to be sought.
- **Follow the instructions listed in Safety Data Sheets**
 - Suppliers have an obligation to provide information on substances and mixtures including risks from their use and control measures, in a specified format in Safety Data Sheets (SDS). Some SDS will have an annex containing exposure scenarios. This will give more specific information on

how to use the substance or mixture safely, and how you can protect workers, customers and the environment for a particular use.

- Downstream Users have a legal obligation to comply with the conditions set out in the SDS and any exposure scenarios attached. This obligation applies 12 months after you have received an SDS containing a REACH Registration number. Existing Health & Safety and environmental protection legislation continues to apply.
- **Check your use is covered on the SDS**
 - Read the descriptions in the SDS carefully. You will need to contact your supplier if the description of use is very different from the way you (or in some cases your customers) use the product. You should also contact your supplier if the way you use a substance is likely to lead to higher exposures than described in the SDS. There is an obligation on you to highlight discrepancies in the SDS.
 - If the exposure scenario does not fit your use, you can:
 - Ask your supplier to prepare an exposure scenario that does fit your use. If he refuses you can;
 - i. Find an alternative supplier who can provide exposure scenarios fitting your use or;
 - ii. Develop your own Chemical Safety Report and exposure scenarios (this would be an option where commercial confidentiality regarding the substance use is required);
 - iii. Change your working practices to fit the existing exposure scenarios.
- **Inform your supplier if risk management measures are inappropriate or if new information emerges**
 - Risk management measures are specified in the exposure scenario. Compare these to how you protect workers, consumers or the environment. Your measures should be as or more effective than those recommended in the exposure scenario.
 - You should inform your supplier if you think the risk management measures are inappropriate.
 - You also need to inform your supplier if you, or your customers, have new information relating to the hazards posed by a substance.
- **Be aware that some substances, now and in the future, will be subject to Authorisation or Restrictions (See REACH – the basics)**
 - An increasing number of substances will be subject to Authorisation or Restriction. Your suppliers should notify you, by SDS or letter, if this affects you.
 - Substances are placed on the “Candidate list” of Substances of Very High Concern (SVHC) in advance of any Authorisation or Restriction. This gives an early warning.

- Should a substance be Authorised, you can only continue to use the substance if its use is in accordance with the condition of an authorisation granted further up the supply chain. If your specific use is not covered, you will need to apply for an Authorisation to continue; otherwise you must stop using the substance by the defined 'sunset' date. Applying for Authorisation is complex and expensive, with any Authorisation granted being time-limited.
- **Inform customers if Substances of Very High Concern (SVHC) are in your product and above a concentration of 0.1%**
 - New substances are regularly identified as being SVHC by being placed on the REACH Authorisation 'Candidate List' by ECHA.
 - You have a legal duty to inform customers if your products contain any SVHC in concentrations above 0.1% by weight as soon as a substance appears on the Candidate List.
 - This is known as a *substance declaration*.
 - Customers frequently request a declaration to confirm SVHC are **not present** in the product. This is not a legal obligation under REACH, but a Customer Service issue.

This Guidance is a simplified summary of the obligations for Downstream Users under REACH. For more detailed guidance, Members should refer to the European Chemicals Agency (ECHA) Guidance.

ECHA Guidance for Downstream Users – December 2013

http://echa.europa.eu/documents/10162/13634/du_en.pdf

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