

Can We Keep REACH from Exceeding Our Grasp?

Conference: Turning REACH Into An Opportunity
Panel: "Getting Information Through Supply Chains"
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Overview

- With REACH, an unprecedented level of data sharing is mandated *up and down* the supply chain
 - explicitly down
 - implicitly up
- Let's consider:
 - Who is responsible for what under REACH?
 - What is the intent?
 - How can companies make their compliance options less burdensome, and maybe even advantageous?

Data flow in US and EU

- In US
 - suppliers must provide MSDS; downstream users may request additional data
 - no requirement for suppliers to obtain data from downstream users on further use
 - limited data flow required down the supply chain; no data flow expected up the supply chain
- Under REACH
 - suppliers must provide properties and safety data to downstream users
 - downstream users must either:
 - provide “intended use” data to suppliers, or
 - assume the supplier’s responsibility to prepare an exposure scenario and develop the safety data

Data Flow (continued)

- Why must data flow down?: You have to know what substance you're dealing with, and how to mitigate its impacts.
 - REACH puts that responsibility on the original sources of the substance ("original" from the EU perspective - the manufacturer or importer)
 - Companies up the supply chain must send that data down
- Why must data flow up?: The impact of a chemical depends on the conditions of its use.
 - REACH requires the downstream user to:
 - ascertain that the supplier is actually in the EU (otherwise, the user assumes the responsibility of the importer)
 - tell the supplier about the intended use (otherwise, the user assumes the responsibility of the supplier)
 - Consequently, companies down the supply chain either must send that data up, or must themselves assume the responsibilities of companies higher up the chain

The Response

- A proposed approach:
 - The Oyster Principle
 - Minimize pain, maximize gain

Minimize Pain

- Worst case:
 - Every downstream user has a unique exposure scenario
 - Every supplier must prepare a unique safety data sheet for every customer, for every material
- Minimize duplication if specific industry sectors develop a set of base case exposure scenarios for the sector:
 - each downstream user need only gather data on exceptional uses
 - each supplier need only develop safety data for exceptional uses

Minimize Pain (continued)

- Sector-specific base case exposure scenarios:
 - will significantly ease regulatory compliance burden for both suppliers and downstream users

Maximize Gain

- Sector-specific base case exposure scenarios:
 - will provide framework for introducing risk-based assessment into chemical regulation (in the US and elsewhere)

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