

Reach

10:42 AM EDT | October 29, 2010

Did Anyone Tell the Customer?

Companies making or transporting chemicals in Europe, or importing chemicals into Europe, have until the end of November before substances classified as high-volume or hazardous must be registered under the European Union's (EU) Registration, Evaluation, and Authorisation of Chemicals (Reach) program. Industry executives working on Reach expect most chemicals to be registered in time, but concern is rising that poor communication may lead to difficulties further down the supply chain.

There is an indication that some downstream sectors in the U.K., in particular, may be unprepared for the November 30 deadline. Senior members of the U.K. government recently sent a letter to Antonio Tajani, European commissioner for industry, and Janez Potocnik, European commissioner for the environment, calling for a phasing in of Reach registration to prevent "disruptive knock-on effects" on downstream sectors including aerospace and electronics. The Chemical Industries Association (CIA; London) says it did not lobby the U.K. government. "As far as we understand, the request for a period of grace has come from downstream-user sectors," CIA says.

The chances of a delay appear slim at this point. Tajani and Potocnik have publicly stated in recent months that the November 30 deadline will stand. Deferment of the deadline would lead to a lack of confidence in the system and in the subsequent registration deadlines scheduled for 2013 and 2018, they say.

The only softening of the deadline has been the European Chemicals Agency's (ECHA; Helsinki) concession in recent weeks that there will be exceptional circumstances for some registrations. ECHA says the use of these caveats is discretionary. "Every affected company will need to submit a Web-form as far ahead of the deadline as possible, providing detailed justification of its situation and an explanation of the measures that it has taken to comply with its obligations under Reach," ECHA says. ECHA will provide instructions on how to submit a registration by the deadline, upon receiving this information.

CIA may not have lobbied for a delay to the registration deadline but it has raised concerns about the impact of Reach on certain companies, including downstream firms. There has been a "financial and a communication cost" to Reach, CIA says. "Financial, because some joint registrants feel as though they are being 'held to ransom' to gain access to the data they need to support their own registration," CIA says. "There is also a communication cost as during the frantic activity to submit [dossiers] by the deadline, many registrants have failed to reassure their customers that everything is on track, damaging customer-supplier relationships that have been built up over many years."

A common question being addressed to the help desk of ReachReady (London), a Reach services group affiliated to CIA, in the absence of the reassurance many downstream users are seeking from their suppliers, is: "What happens if my supplier fails to register my use?" says Jo Lloyd, director at ReachReady. "Here we can offer some good news. If you receive goods for a use outside the scope of registration, you will not initially be doing so illegally; a recipient of a registered substance has six months from receiving the

news from the supplier to tell ECHA of the use and a year to complete a safety assessment that the substance can be used safely," Lloyd says.

Registrants seeking to circumvent the registration deadline by submitting their registration dossier prior to the deadline without meeting full data requirements are likely to be intercepted by ECHA's technical and financial completeness checks. The dossier, if it fails the checks, will have to be returned for completion prior to the registration deadline. ECHA says that dossiers will be randomly selected for checks. Dossiers submitted close to the November 30 deadline that fail may not be verified until well into 2011.

Nobody will know how successful the first registration phase of Reach has been until the November 30 deadline has passed, but at *CW* press time the number of substances registered with ECHA was in excess of 7,000. That compares with Reach pre-registrations of more than 1 million. The disparity is because of multiple pre-registrations by individual companies, whereas there will only be one lead registrant for each substance for full registration.

Registration numbers are set to ramp up in the coming weeks, Reach experts say. "The good news is that as every day passes the number of successful registrations is also increasing, with 2,500 being submitted to ECHA for processing in one week alone," CIA says. Confidence is building at ReachReady "that lead registrants will submit in time," CIA says.

Chemicals that must be registered by November 30 are those manufactured or imported into the EU in volumes of more than 1,000 m.t./year; substances deemed to be hazardous such as carcinogens, mutagens, or reproductive toxicants, known collectively as CMRs, that are manufactured or imported into the EU at volumes of more than 1 m.t./year; and substances deemed to be toxic to aquatic organisms that are manufactured or imported into the EU at rates above 100 m.t./year.

Individual chemical companies and chemical industry associations—as well as other organizations registering substances under Reach, including ReachReady and ReachCentrum (Brussels), the Reach services arm of Cefic—tell *CW* that their members are on schedule to register products ahead of the November deadline. ReachReady has about 110 Reach consortia among its customers. Almost all of ReachReady's lead registrants have registered their substances, says Leo Appelman, managing director at ReachReady.

That confidence is replicated, in certain cases, further afield. Nizhnekamskneftekhim, Russia's second-largest chemical company behind Sibur, says it has successfully registered 17 substances under Reach.

Some companies are nevertheless expected to be challenged by the November 30 deadline. "Many companies are struggling," says Jytte Syska, president at Ariel Operations and managing director at information services provider 3E Co. (Carlsbad, CA). However, "many companies are reporting that the lead registrant has issued their registration and now the other companies in the substance information exchange forum have to each submit their separate registration," Syska says. Companies also are "putting a lot of effort" into meeting requirements related to Material Safety Data Sheets (MSDS), due to be in place from December 1, 2010. "A big challenge has been understanding the requirements," Syska says. "The guidance from ECHA has been delayed and in certain areas is non-existent."

The Light Olefins & Aromatics Consortium (LOA; Brussels) is on track to complete the Reach registration of 135 basic petrochemicals and plastics including benzene, butadiene, ethylene, polypropylene, polyethylene, toluene, and xylenes. The consortium has 51 members, including BASF, BP, and Shell Chemicals, and it is arguably the most important Reach consortium of all because its products are critical feedstocks for the broader chemical industry.

LOA has spent about €6 million (\$8 million) running a secretariat, says Mike Penman, an industry veteran who, as head of consulting group Penman Consulting (Brussels), is leader of the consortium.

The group predicts that it will be able to recoup its costs by selling data to companies outside of LOA that need to register the same substances. Typical costs are €5,000-€10,000 per document. “We have €300,000 per week coming in,” Penman says. There are nevertheless “still some people even from large companies not aware” of their obligations to register their products under Reach by the November 30 deadline, despite its proximity, Penman says.

ECHA has on numerous occasions told industry that those companies failing to meet their Reach obligations will be policed. “No data, no market” has been the mantra of Geert Dancet, the head of ECHA, for many months. Reach will be enforced at the EU member state level. Each member state has been required by the EU to put in place an enforcement system. Fines for breaching Reach rules total €50,000-€100,000 for the first infringement. The Forum for the Exchange of Information on Enforcement also is operating as an umbrella group at EU level.

The chemical industry faces a series of further deadlines, even after the November 30 time limit has passed. The first of these is January 3, 2011 for the chemical labelling and packaging (CLP) registration. The number of CLP submissions by the January 3 deadline is “quite difficult to estimate but currently we believe it will be in the millions,” says Kevin Pollard, head of registration and dossier submissions at ECHA.

Reach services groups are also looking ahead to the 2013 and 2018 Reach registration deadlines for relatively smaller-volume chemicals, including specialty chemicals. A potentially major fallout from Reach—the removal of certain products from the EU market due to Reach costs—will to a great extent have been played out by the 2013 deadline. Lessons being learned now will inevitably come into play then, particularly those related to communication with downstream partners. Alex Scott