



Environmental Health and Safety: Compliance Rules!

By Ron Taylor

Environmental Health and Safety (EH&S) compliance is fast becoming a major concern that spans virtually every industry, impacting the entire supply chain, from raw material and finished goods to transportation, distribution, and retail. As directors, we are responsible for ensuring corporate compliance with a myriad of local, state, federal, and international regulations governing the handling of chemicals and other hazardous materials.

No industry is immune from these requirements. This increased scrutiny is particularly relevant for retailers who have a brand to protect and often may not realize that many of the products they transport and sell are considered hazardous. With retail companies under significant pressure to maintain high quality service while cutting costs and reducing loss, it is becoming more and more challenging for them to manage compliance.

Utilities are under pressure to modernize their infrastructure, update transmission lines and equipment, and reform energy regulations. Upstream manufacturers also face a myriad of regulatory tasks to manage. The research and development (R&D) function must manage new chemical notifications, product registrations, export notifications and inventory reporting. Product testing staff need to carry out risk and safety assessments, safety data sheet authoring, and product labeling. Manufacturing operations staff need to manage

hazard assessments. These are just a fraction of the compliance tasks facing manufacturers.

Background

In the past, companies have been aware of compliance and risks associated with various activities throughout the product supply chain, but the management of these issues has been handled in compartments or silos within the organization. However, with the advent and adoption of enterprise resource planning (ERP) systems and the power of the Internet to facilitate efficient knowledge exchange, it is now possible to gain cross-functional views on compliance and risk activities. Companies that take advantage of these tools gain a competitive advantage in the marketplace.

Today, regulations are increasing in number, scope, and complexity. Recent examples include the Restriction of Hazardous Substances (RoHS) and Waste Electrical and Electronic Equipment (WeEE) regulations, and the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) requirements adopted by the UN.

As a result of these expanding and evolving regulations, managing the information associated with EH&S compliance has become a complex, time consuming, resource draining, and often expensive task. Environmental compliance requirements often dwarf those of the Sarbanes-Oxley Act (SOX) in their breadth and sheer complexity. It is because of the complexity of the requirements—and because of the financial and human cost of non-compliance—that more and more companies are shifting their focus from SOX to EH&S compliance.

Additionally, many board members have noted the new trend toward “going green” and other corporate social initiatives. This trend, when coupled with increasing financial pressure (as reflected in the growing influence of the Dow Jones sustainability indexes), has made EH&S compliance a hot topic at many recent board meetings, with many boards pressing for the development of corporate com-

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Director Summary: Increased intra-state, interstate, and global commerce, along with “going green” initiatives have increased the Environmental Health and Safety (EH&S) compliance requirements for companies in all industry sectors. By looking at the corporation from a product supply-chain perspective, directors can determine what practices their companies should have in place to promote across-the-board compliance.



pliance frameworks and the appointment of a Chief Compliance Officer (CCO).

The advent of the global economy also introduces a number of new variables into the compliance and risk equation, and often these variables may not be in the direct control of the company. The cost of non-compliance or excessive risk is no longer limited to fines and penalties nor does it only impact the affected employees. Increasingly, compliance and risk are associated with brand, image, and, in the end, customer loyalty.

Breaking Down a Complex Undertaking

As a corporate director charged with leadership, how do you go about getting your arms around this? Look at your business from a product supply chain vantage point, as detailed below, to gain a better understanding of the critical activities associated with each stage of the product supply chain.

Research and Development

Research and development (R&D) and formulation laboratories can make the biggest impact in making progress toward going green, and yet they probably get the least attention from corporate directors. Directors should encourage the executive team to require scientists and engineers working in R&D to be aware of global regulatory requirements and toxicological or eco-toxicological data. Commercial data aggregators can be used to facilitate or enhance the flow of information. The challenge, however, is to identify companies that provide more than just a compilation of regulatory text. The opportunity is to look for data and information providers who are known for distilling regulatory information into content that can be seamlessly integrated into platforms and tools. Generating and maintaining such data in-house can be highly inefficient.

MSDS's—Material Safety Data Sheets—provide employees and emergency personnel with the proper procedures for handling or working with substances in a safe manner. Key challenges in managing compliance and risk tasks in the research and development phase include properly managing MSDS's, having appropriate chemical sourcing practices, chemicals and samples inventory management, employee training in proper handling and disposal, and providing sufficient guidance to employees in the event of an incident. Often the sheer volume of products and sample materials involved in this phase can make this very challenging, administrative, and non-value added.

Manufacturing

Compliance performance improvement and risk management in the manufacturing phase of the product supply

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chain involves many variables. Key measures for product supply-chain related activities include process safety, employee safety, and workplace safety requirements.

Key enabling technology platforms and applications include MSDS authoring, MSDS distribution, product inventory management, and the associated management and regulatory reporting.

Corporate directors can encourage a wide variety of compliance tasks and activities to enhance product-related compliance performance. These include: regularly updating inventory of products; training for employees on proper handling; communication of product information to other stakeholders; regulatory reporting to local, state, and federal agencies on chemical related activities; proper preparation of materials for safe transportation; and appropriate measures for waste management and waste minimization. Other tasks include providing employees and stakeholders 24/7 around-the-clock support for product emergencies.

Distribution

Distribution-related compliance activities can vary widely depending on the activities undertaken by the distributor. Non-asset-based distributors are faced with much less complexity when compared with asset-owning distributors. Further, the scope of functions performed—ranging from formulation, blending, to re-branding—also has an impact on compliance and risk.

Product marketability and transportation regulatory content are critical for distribution companies. Technology application enablers include product inventory management and associated MSDS management and distribution, MSDS authoring (e.g., for formulators), and regulatory reporting. Key compliance tasks and activities include the foregoing for the manufacturers. Importers of chemicals would have responsibilities associated with registrations of products with the appropriate governing bodies in the countries to which they are imported.



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Transportation

With global supply chains and just-in-time inventory management being the reality of the day, most corporate directors realize that any compliance-related friction or disruption in the supply chain is very expensive. The compliance and risk responsibilities vary depending on your company's role in the supply chain. Companies that perform the role of the shipper typically have responsibilities to ensure that the product has been prepared for transportation in compliance with national and international regulations. Other key roles in the supply chain include transporters, and operators of transfer and storage facilities. This discussion focuses on responsibilities typically associated with the shipper.

Transportation regulatory content helps to ensure that all supply chain management systems can be populated with the most current regulatory data for global transportation. Corporate directors should encourage managers to explore opportunities in technology applications and platforms to include automation/pre-population of transportation documents, packaging labels, and emergency response information. Further, shippers have to respond to transportation related emergencies and provide access to MSDS's.

Usage

Usage includes chemicals used in the workplace and the retailing and selling of regulated products containing chemicals directly to consumers.

It is important for corporate directors to realize that access to regulatory content at the local level is important because many local agencies have jurisdiction over chemicals storage, dispensing, and handling. Other regulatory content includes information on limitations in selling certain product containing restricted ingredients to customers who can present appropriate identification. Technology and other application platforms should pro-

vide immediate access to MSDS's to employees who may come into contact with chemicals in the workplace, establishing a formal process to review and approve chemicals before they are added to the workplace, and managing permits and disclosures associated with chemicals handling. Corporate directors also need to ensure their companies are prepared at all times to handle workplace incidents and emergencies that involve chemical spills and accidents. Review management's plan and if there is none, make sure one is put in place.

Disposal

Regulatory content includes knowledge of waste streams, waste codes, and information relevant to waste classification and documentation. Key platform and application enablers include tools to manage the accumulation, tracking, disposal, and reporting on waste. Automation opportunities exist in preparing waste documentation, markings, and labels. Corporate directors should ensure that tasks and activities associated with compliance performance improvement and risk management are in place, including training for employees responsible for waste and disposal management; site management for proper accumulation; storage and transportation; classification/profiling of waste streams and products; working with pre-qualified waste haulers and disposal companies; and working upstream with R&D and manufacturing to support waste minimization. Review management's plan and if there is none, make sure one is put in place.

The Big Picture

A comprehensive view of compliance performance and risk management throughout the product supply chain helps corporate directors promote and sustain ongoing improvement. Directors can facilitate enhanced product compliance by encouraging managers to research and apply global regulatory content and information; technology platforms and applications; and activities and tasks associated with delivering compliance. Corporate directors should evaluate compliance tasks and activities closely to discern which activities are best managed in-house and which activities can be most effectively outsourced. ■

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