



Since the mid-1990s, European environmental regulations have been catching up and superseding the U.S. in influencing the production and use of chemicals and metals in the global supply chain. The surface finishing industry has faced major pressures but also opportunities in this period as new materials restrictions – both mandatory and voluntary – have emerged in the automotive, electronics, aerospace and other sectors. Many of us have come to know this story intimately, and we obviously operate differently today than we did just several years back.

The ever-changing business and regulatory climate in North America is challenging enough for finishing firms and suppliers. However, the complexities and impacts of new European environmental rules on the scene make the future just that much more uncertain without proper guidance.

See the new NASF Guidance for both finishing and chemical supplier companies at www.nasf.org.

NASF Launches REACH “Outreach” at DC Forum, SURFIN

Just over two months ago (*June 1, 2008*), the European Union’s (EU) massive regulation on Registration, Evaluation, Authorization and Restriction of Chemical Substances (REACH) went into effect. In anticipation of the rule, the industry held a special panel discussion during the *2008 NASF Washington Forum* in May to discuss its likely impacts and applicability to the finishing industry. NASF also launched a full-afternoon session during SUR/FIN in Indianapolis to address emerging compliance issues. Along with REACH, the top-notch SUR/FIN panel of automotive, aerospace and defense finishing experts warned of the EU’s flawed risk approach and hazard classifications for over 140 nickel compounds, some of which may be covered by REACH requirements. Nickel Carbonate, nickel sulfate and other compounds are clearly in the line of fire and NASF’s continued advocacy for the industry on nickel spans from Washington to Brussels as the fall approaches.

In the meantime, finishers and suppliers alike are receiving inquiry letters from their large customers – many originating from automotive or aerospace companies – requesting that finishers respond and certify whether a coated part or component being supplied is “REACH-compliant.” For some larger global customers, the costs of REACH compliance are estimated to be in the hundreds of millions of dollars over the next decade. For finishers and suppliers, knowing how REACH affects you and conveying an accurate understanding of the law to all customers will be critical going forward.

Expanded NASF Education Effort on REACH: Chemical Suppliers

To help job shops and supplier companies in the industry successfully navigate the new requirements, the NASF is expanding its REACH education and guidance effort. For **chemical suppliers** to the metal finishing industry, the summary in this month’s issue explains what your basic obligations are, how “registration” under the new law works, and how REACH registration impacts you and your downstream customers.

How Does REACH Apply to Me in General as a Chemical Supplier?

As of June 1, 2008 under REACH, EU manufacturers and EU importers (those selling into the EU) have new obligations in order to continue to manufacture, import or use new and existing chemicals in the EU. Most immediately, you must determine whether the products you ship to the EU are subject to **Registration**. In addition:

- For *new chemical substances*, prior to registration there is now a mandatory pre-consultation period with the competent authorities to locate any test data on the substance from prior filings.
- For *existing chemical substances* (those listed on the European Inventory of Existing Chemical Substances (EINECS)), the time needed to register can be extended only by pre-registering by December 1, 2008. Companies that manufacture or import an existing substance in quantities of 1 metric ton per year or more that fail to pre-register the chemical during this six-month window of opportunity will lose the additional time for registration that is being given to pre-registered chemicals, also referred to as the "phase-in period."
- Substances manufactured or imported in the EU *under 1 metric ton* annually per EU manufacturer or importer are exempt from REACH Registration.

For pre-registered substances only, registrations are due in the following timeframes:

- **December 2010** for substances > 1000 (metric) tons, Carcinogen, Mutagen, and reproductive toxicants in Categories 1 & 2, and substances in Environmental Effects Category R50/53 substances > 100 tons
- **June 2013** for Substances > 100 tons
- **June 2018** for Substances > 1 ton

Does REACH Apply to Ingredients and Finishes Shipped to the EU?

REACH registration applies to a substance on its own, when it is a component of a preparation, or if the substance is intended to be released from an article under normal or reasonably foreseeable conditions of use. When shipped to the EU, this means that a chemical substance alone or as an ingredient of a finish or paint is subject to registration – unless applied in advance to a part that meets the criteria for an exempt article (discussed later on below). Only substances must be registered, individual preparations or articles as such do not.

When My Ingredients or Finishes Are Shipped to the EU, Do I Need to Register?

Not directly. This is because U.S.-based companies cannot register under REACH. Only EU-based companies can. If you supply chemical substances either alone or as part of a formulation to the EU, each individual customer in the EU has an independent obligation to register each chemical substance in the product that they are importing above 1 metric ton per year. U.S. companies may hire an "only representative" (OR) located in the EU to take on the registration burden for their EU customers though --- and this may be an option for you to assist EU customers.

What Are My Options to Assist My EU Customers?

A raw material supplier can either engage an OR in the EU to support its direct shipments and the shipments to the EU of products containing its substance by downstream customers. Optionally, a raw material supplier can work cooperatively with EU importers who want to register on their own.

To insure that your company has a market in the EU, your chemical substance and its specific use must be registered by your OR, your downstream customer in the EU, or your upstream supplier's OR. Failure to have your specific chemical and its specific use registered means no market in the EU. If you are not sure whether the registration requirement will apply to your chemical substance, you may want to submit a pre-registration for your chemical and its specific use before December 31, 2008, and then make a final decision on registration at a later date.

A chemical formulator shipping to the EU has three options: Rely on pre-registrations and registrations of their upstream suppliers, engage an OR themselves to support their EU customer(s), or work cooperatively with EU importers who want to register on their own.

Will My Proprietary Formula Need to Be Disclosed for Pre-Registration?

A company is not required to provide a confidential formula by REACH. The information that must be supplied for pre-registration is as follows:

- Substance name, Chemical Abstract Services Registry Number (CASRN) and EINECS Number
- Registrant contact details
- Deadline to register/Tonnage band

Pre-registration can be done on-line at <http://echa.europa.eu/reachit/pre-registration->

[it_en.asp](#); again, only an EU entity may be listed as the registrant for the filing to be accepted. Because substances must be pre-registered separately, in no set order, without specifying percentage in a composition, there is flexibility to mix and mask which substances go together. As noted, the identity of the substances in the formulation must be submitted because manufacturers and importers of a like substance will be grouped together in a Substance Information Exchange Forum. For this purpose, a list of pre-registered substances will be publicly available on the European Chemical Agency (ECHA) website as of January 2009. Additional information, however, such as reported tonnage and the names of pre-registrants, will only be available to fellow SIEF members.

How Do I respond to Customer Requests for Information on Substances of Very High Concern Right Now?

As most companies are aware, the Candidate List of Substances of Very High Concern (SVHC) is under development. While the criteria for listing are known, and drafts of the Candidate List are circulating, it is still largely unknown at this time whether the larger list will contain the substances that you provide. Therefore, you may respond to customers that you have no knowledge currently as to whether any of the substances present at 0.1 wt% w/w or more in your products, which would be the relevant question under Article 33 of REACH, will be added to the Candidate list of SVHCs when that list is published or later updated. You may choose to indicate that you will ask your suppliers for further information but we expect that they will await the publication of at least the draft Candidate list before responding to your inquiry (*at the time of this guidance, a draft list of a small number of initial chemicals was just beginning to circulate*).

Industry is urged to remain vigilant concerning the development of the SVHC List, specifically for proposals to add ingredients in metal finishes to this list. These listings can trigger downstream customer communication requirements, notification, the authorization process, and possible use restrictions. Substances that are exempt from registration as part of articles can be subject to these other requirements. This topic will be the subject of a future NASF briefing paper.

Further information on REACH and Metal Finishing Operations is Available through NASF. Contact Christian Richter or Jeff Hannapel at crichter@thepolicygroup.com or jhannapel@thepolicygroup.com.