



IP REACH issue 3
01 October 2010

Dear Sir or Madam

**Re: REACH Compliance - 1. 2010 registration deadline
2. SVHC's**

Indestructible Paint, as a supplier of coatings, recognises the role that we have under REACH as a downstream user. We recognise that the regulation places a heavy burden of communication within the supply chain and poses a threat to any business operating within the European Union.

Due to the complexity of our supply chain we are finding it impossible to track every chemical component used in our coatings. We are working on a weekly basis with our supply chain and using the data available from ECHA to ensure that we are compliant with the REACH legislation and to avoid any continuity of supply issues.

The severity of the threat to business in Europe is summarised by Caroline Spelman, Secretary of State DEFRA and Rt Hon Vince Cable, Secretary of State Business in their letter to the European Commissioners. (reproduced below)

Indestructible Paint is working diligently to maintain our continuity of supply. If the continuity of supply for one or more of our products is threatened for any reason, all affected customers will be notified immediately.

In response to our obligations under the regulation and enquiries from our customers, Indestructible Paint can confirm the following:

1. 2010 registration deadline

Indestructible Paint recognises that the 2010 chemical registration deadline is a potential threat to our and our customer's business continuity.

Indestructible Paint is not intending to delete any products / product ranges due to the 2010 registration deadline. We have a close liaison with our Raw Material supplier base who assures us that there is no intention to discontinue any of our raw materials due to the 2010 deadline.



At Indestructible Paint we identified that we use in the region of 500 individual raw materials. Evaluation of the MSDS data for these materials identifies 1000+ chemical components. Within our capabilities we are monitoring the data issued by ECHA to ensure that the chemicals we identified within our raw material supplies meet the required registration deadlines.

Details of the current SVHC list can be found at:

http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp

2. SVHC notification

Indestructible Paint does not use any of the SVHC's listed on the current Candidate List of Substances of Very High Concern for authorisation updated 18/06/2010.

Indestructible Paint is aware that proposals are in place to add further chemicals to the SVHC list in 2011. If any user of Indestructible Paint coatings is concerned with the implications of the revisions to the SVHC list, please send an e-mail to the REACH co-ordinator or sales department specifying the Indestructible Paint code for the coating in question.

Compliance with REACH is an integral part of our business at Indestructible. We will work closely with our customers to ensure a sustained supply of products and to develop the future generation of coating solutions.

If you wish to discuss this matter or require additional information, the REACH co-ordinator for Indestructible Paint is:

Richard Banks Tel: 0121 702 1517 e-mail: richard@indestructible.co.uk

For MSDS updates our contact is:

Sue Harris Tel: 0121 702 1501 e-mail: sue@indestructible.co.uk

Yours faithfully
For and on behalf of Indestructible Paints

Richard Banks
Project Chemist



The Rt Hon Vince Cable MP
Secretary of State for Business,
Innovation & Skills

Antonio Tajani
Vice-President of the European Commission
and Commissioner for Industry and Entrepreneurship
European Commission
Rue de la Loi 200
B-1049 Brussels

Janez Potocnik,
Commissioner for Environment
European Commission
Rue de la Loi 200
B-1049 Brussels, Belgium

4 October 2010

Dear Commissioners,

REACH: IMPACT OF REGISTRATION ON DOWNSTREAM USERS

We are writing to you about a serious issue concerning the potential impact of REACH registration on industry downstream users. The specific concerns are:

- that some substances will not be registered at all by the November deadline; and
- that some uses of substances will not be included in the registrations.

I understand that industry representatives have also brought their concerns directly to your officials.

We believe that simple precautionary action (a 12 month 'period of grace') could be undertaken now by the European Chemicals Agency (ECHA) to tackle this risk, and help ensure the REACH regime operates effectively and achieves its long-term objectives. Taking action now is also important for the two further registration deadlines in 2013 and 2018.

As you will already be aware from the work of the Directors' Contact Group, particular sectors of industry have raised concerns that the REACH registration process does not require manufacturers or importers to declare their intentions to register a particular substance, or its use, in advance of the registration deadline. Downstream users are reporting that some manufacturers and importers are liaising with their customers in the spirit of REACH, but that a significant number are keeping their registration plans – which may include a decision to avoid registration altogether by no longer supplying the substance – confidential for commercial reasons.

1 Victoria Street, London SW1H 0ET
www.bis.gov.uk

Enquiries +44 (0) 20 7215 5000 | Minicom +44 (0) 20 7215 6740 | Contact us www.bis.gov.uk/contact-us

Registered Address; 19-25 Pentos Drive, Sparkhill, Birmingham B11 3TA; Tel: 0121 702 2485, Fax: 0121 778 4338

E-Mail: sales@indestructible.co.uk; Web: www.indestructible.co.uk

Registered in England 1376995



For downstream users this means that they will only know definitively that a substance has been registered once it is included on the European Chemicals Agency's public database, or the supplier includes the registration number with a shipment. There is a very real risk, therefore, that downstream users will only discover that a substance they use has not been registered *after* it has been withdrawn from the market. They may then face a period of shutting down activity until they can find another supplier. This could have disruptive knock-on effects on other important manufacturing sectors that use chemicals – the automotive and aerospace sectors are among those who have already voiced their concerns. If there is no alternative supplier within the EU they might have to import the substance themselves, in which case they would have the choice of ceasing activity until they have registered (if it is a substance covered by the 2010 registration deadline), or continuing to operate illegally. There would in either event be significant additional expense, which SMEs particularly will find hard to bear, especially in the current economic climate.

Another related issue is that of some registrants refusing to accept downstream uses that do not conform to those of the registrants'. One motive seems to be so they can follow the reduced requirements for intermediates. If the registrant does not provide an appropriate explanation they would be in direct contravention of Article 37(3) of REACH and could be subject to enforcement action. However, regardless of whether an explanation is given refusal to accept downstream uses in a registration potentially leaves the downstream user in the same situation as if the substance had not been registered at all.

We understand of course that REACH places on industry the responsibility for constructive co-operation between suppliers and their customers in the registration preparation process. However, there is a real risk that one of the primary REACH objectives of enhancing industry competitiveness and innovation will be seriously compromised should 'loopholes' such as these be exploited for short-term gain by certain companies at the expense of others.

We therefore urge strong efforts by the Commission and ECHA to send a robust message to registrants encouraging compliance with the spirit as well as the letter of REACH, and to ensure that registration intentions are communicated in good time to downstream users so that they can make reasonable business continuity arrangements for alternative supplies if the decision is not to register a substance. It seems almost unnecessary to point out that if a supplier wants to maintain its customer base, then it makes sense to ensure their customers remain loyal by communicating the information they need to stay in business. For our part, we will be ensuring this message is passed to UK industry.

In the end, should some downstream user businesses find themselves in the position after 30 November of either having no supplies, or operating illegally because their use has not been included in the registration, we would request a flexible interpretation of Article 37 (Downstream Users) to enable Member States to adopt a pragmatic approach to those business effected. We would also urge strongly that the Commission and ECHA issue a formal call, perhaps through the ECHA Enforcement Forum, for Member



situations when assessing their priorities during the year after 30 November. This 12 month 'period of grace' would mean that downstream users would have time to arrange for substances they use to be registered without having to face formal action by enforcement authorities. It would therefore be a common understanding among enforcement authorities. Appropriate account should be taken of all efforts to secure registration intentions prior to the deadline, to enable such companies to make suitable alternative business continuity arrangements. The UK REACH enforcement authorities already have a good track record of pragmatic enforcement action, and will continue this approach.

A further point worth emphasizing is that allowing 12 months for downstream users to arrange for substances to be registered will also ease the burden on ECHA by spreading the additional load from necessary information requests required by potentially thousands of new registrants, at a time when ECHA is already very busy with immediate post-registration activities.

We would like to assure you of the UK's continuing commitment to the successful implementation of REACH, and identifying workable solutions to issues that arise during that process to the mutual benefit of all concerned.

A handwritten signature in black ink, appearing to read "Caroline Spelman".

CAROLINE SPELMAN
SECRETARY OF STATE DEFRA

A handwritten signature in black ink, appearing to read "Vince Cable".

RT HON VINCE CABLE
SECRETARY OF STATE BIS