

Managing CLP compliance

The essentials for business



A Chemical Watch report

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Managing CLP compliance

The essentials for business

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Edited by Mamta Patel

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Download the webinar

To accompany this report, Chemical Watch has produced a webinar on CLP led by Andrew Fasey. Companies purchasing this report are entitled to download the recording.

Speakers

- **Andrew Fasey**, author of this report.
- **Sandrine Lefevre-Brevart**, from the European Chemicals Agency, on **ECHA's notification tools**. She played a central role in developing these tools.
- **Francis Trudeau**, product manager of managed regulatory content at Atrion International, on industry strategies to manage regulatory compliance.

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CHAPTER 1

Introduction

This report offers a straightforward guide to a complex and dynamic subject. It is aimed at business managers and their hard-pressed staff who have looming deadlines to ensure their companies comply with Regulation (EC) 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, amending and repealing Directive 67/548/EEC (the Dangerous Substances Directive or DSD) and Directive 1999/45/EC (the Dangerous Preparations Directive or DPD), and amending Regulation (EC) No 1907/2006, commonly known as the CLP Regulation.

The report offers a step-by-step guide to the key elements of CLP, its implications for companies, and how the duties under CLP can most effectively be addressed. It is not a comprehensive and detailed guidance document covering all things CLP; there are plenty of other information sources for this (see useful links page 85). This report will have succeeded if the reader emerges with a clear view of their duties under CLP as well as good ideas on how to implement CLP as effectively and efficiently as possible. To this end the report uses case studies and suggested approaches for company preparation to give practical ideas and support.

The CLP Regulation entered into force on 20 January 2009 following its publication on 31 December 2008 in the Official Journal. Although it has not attracted the political furore that REACH did, in many ways it will have as important repercussions for companies. Its requirements require rapid, coordinated, effective and efficient action to ensure compliance. Planning to meet these requirements in co-ordination with the requirements of REACH will give many advantages to companies as they are unquestionably linked.

One key difference from REACH is the very obvious international dimension. CLP implements in the EU the Globally Harmonized System for the classification and labelling of chemicals (GHS). The GHS will continue to be implemented in most countries across the globe over the coming years. Time and effort spent implementing CLP in the EU should therefore confer additional benefits on companies in improving their access to non-EU markets as well. It is therefore important for such companies to plan their implementation activities with a global view rather than of just the EU.

Unfortunately the lead times for many will be short. The three most pressing deadlines under CLP are:

- * **1 December 2010** which is the deadline for the (re)classification of substances in accordance with CLP
- * **3 January 2011** (in practice **24 December 2010**) is the first deadline for the notification to the classification and labelling inventory of substances placed on the market on 1 December 2010 (notifications are due 30 days after placing on the market starting from 1 December 2010) and
- * **1 June 2015** for the (re)classification of mixtures in accordance with CLP.

There are transitional arrangements for the (re)classification of substances and mixtures already placed on the market.

CLP sets out the rules for classification (eg. classification criteria for human health, environmental and physicochemical end-points), labelling (eg. hazard communication elements such as pictograms, hazard and precautionary statements), and packaging (eg. child resistant fastenings).

COMPANY PREPARATION

CLP – the bottom line hits:

- * Inventory preparation and updating
- * Systematic reviews of requirements from, and related to, CLP
- * IT systems to manage CLP
- * Reclassifying, relabelling and repackaging products
- * Updating SDS
- * Training (eg. staff implementing CLP and workers using classification and labelling information)
- * Following CLP and GHS developments (the GHS is updated every two years and CLP will need to follow these changes. The EU will also introduce other changes such as adding substances to the list of those that are harmonised in the EU).
- * Testing for physicochemical properties of substances and mixtures if this information does not already exist (NB. this is now a requirement but it is often overlooked).

CLP not only places duties on companies (primarily those manufacturing, importing and placing on the market chemical substances and mixtures). It also lays down the rules for the authorities (national and European) on how to agree 'harmonised classification and labelling' for certain, generally high hazard, substances.

CLP also mandates the development of a classification and labelling inventory by giving duties to those placing substances on the market (on their own and in mixtures) to notify specific information to the European Chemicals Agency (ECHA). NB. there is no tonnage threshold for these notification requirements, in contrast to the registration obligations under REACH.

The notification requirement applies 30 days after a substance is placed on the market starting from 1 December 2010. The deadline for many will therefore be 3 January 2011 which, taking the Christmas and New Year break into account when it is understood that the REACH-IT system will not be operational, means making the notification before 24 December 2010.

COMPANY PREPARATION**A message to senior managers:
Why you should take the bottom line hits**

Front-line regulatory compliance staff complain that it was hard enough to convince senior managers to sanction resources for REACH compliance, even with its high profile. After taking that hit, it has been difficult to convince them to free funds for another significant compliance initiative, especially when it can sometimes appear to be an add-on to REACH and particularly when the goal-posts keep moving due to changes in official guidance and evolutions of the GHS itself. To help, here are some tried and tested arguments you can deploy to get what you need:

- * **Improved market access:** CLP implements GHS which introduces a global approach to hazard identification (ie. classification against given criteria) and hazard communication (ie. labels and SDS). Therefore there are particular benefits for companies trading with non-EU countries. It is anticipated that the GHS will be implemented across the world in the next few years. While its implementation will not be identical in all markets and sectors, the differences are relatively minor (although potentially significant). Furthermore, it is likely that differences will be largely ironed out over a period of time as the world gets used to using the GHS. A global investment in effective and efficient implementation of the GHS is likely to pay for itself many times over in the coming years. Effective implementation of CLP now will stand the company in good stead for the future implementation of the GHS across the globe.
- * **Improved harmonisation with transport rules:** GHS, and therefore CLP, largely lines up with the existing system for the transport of dangerous goods and this degree of harmonisation will increase over the coming years.
- * **An intense period of regulatory compliance** coming up:
 - Classification and labelling inventory; notifications to ECHA from end 2010
 - Substances to be reclassified to CLP by 1 December 2010
 - Mixtures to be reclassified to CLP by 2015
 - Safety data sheets (SDS) to be updated in-line with CLP (and REACH)
 - Products to be classified and labelled in compliance with CLP
 - NB. there is no tonnage threshold for classification or the classification and labelling inventory in particular!
- * **Harmonisation with downstream EU laws:** All relevant EU legislation will over time reflect CLP. It will therefore be essential to apply CLP to your own products to see how other legislation applies to them.
- * **Procurement implications:** Procurement needs to take into account the updated CLP requirements; for example, are suppliers compliant, has the classification and labelling changed as a result of CLP and what will this mean for you as a company?
- * **Sales implications:** Sales will need to take into account the updated CLP requirements; for example, using competent and timely implementation of CLP as a selling point. Sales teams will also need to be aware of changes to the classification and labelling of the company's products and what this will mean for customers.

*** Looming enforcement:** Enforcement authorities will be looking carefully at company implementation of CLP as well as REACH; in many cases they are likely to be enforced as a ‘package deal’. It is therefore advisable that companies have thorough and up-to-date inventories available to show inspectors. They will tend to investigate more deeply and thoroughly when a specific complaint has been made against a company and/or their systems, such as inventories, are non-existent or considered to be weak.

To achieve this notification requires companies to have a clear understanding, and record, of all the chemicals that are supplied to them, produced by them, and supplied to customers regardless of quantity. A comprehensive inventory is perhaps the best way to approach this and will also be very useful in describing a company’s compliance activities to the enforcement authorities if this is required. Inventories produced during preparations for a company’s REACH obligations are a useful starting point but it is important to remember that for CLP compliance, low volume substances - under the one tonne registration threshold for registration under REACH – will have to be added.

One other key difference from REACH is that importers are required to make a notification themselves even if the substance is covered by an OR agreement for REACH purposes; however if the substance has already been registered by an OR the importers covered by the OR agreement do not need to make a notification. The good news is that they can combine resources with other firms in order to submit group notifications as long as the lead notifier is an importer or manufacturer of the substance concerned.

The classification of substances has a wider significance than just the labelling and packaging of chemicals, which on its own is essential. Many pieces of EU legislation take as their starting point, for some or all duties arising from them, the classification and labelling of the chemicals they cover. For example, legislation dealing with consumer products, pollution control, waste, worker health and safety, detergents, and cosmetics all refer to the classification of the chemicals they cover.

All relevant pieces of legislation should eventually be amended to reflect the introduction of CLP. It is possible that in a few cases the application of CLP will change the classification of chemicals and, as a result, the duties that arise through other ‘downstream’ legislation. The ‘change’ in classification may arise from applying CLP criteria that are different to those under the DSD and the DPD that it replaces; it may be a consequence of using the ‘translation tables’ in Annex VII of the CLP; or it may be due to the different rules that apply in CLP to the classification of mixtures.

However, it is actually far more likely that the massive increase in data on substances produced by the registration requirements in REACH will lead to a change in the classifications of many substances and mixtures. Classification of substances and mixtures is based on “available data” (with the exception of physicochemical properties), so as the available data increases so will the accuracy of the classifications of the substances concerned. This will mean that many more chemicals are likely to become subject to ‘new’ obligations under downstream legislation. This is something that companies need to bear in mind, otherwise they risk being non-compliant with all the problems this may cause.

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Find out how you and your organisation can:

★ Prepare for CLP compliance – we describe how planning to meet these requirements in coordination with the requirements of REACH will give many advantages.

★ Apply a global perspective – CLP implements within the EU the Globally Harmonized System for classification and labelling – so time and effort spent on CLP will also improve access to non-EU markets.

★ **Implement changes efficiently and effectively** – with help from our case studies and suggested approaches.

★ Share information with colleagues – our aim is to provide an easy-to-read reference and practical guide that will help both front-line staff and their senior managers.

★ **See how leading firms** are tackling these and other changes: Procter & Gamble, Rio Tinto, Yara, Syngenta, Ecolab

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