



# Office for Environmental Protection

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UK REACH Policy & Legislation Consultation Team  
Department for Environment, Food and Rural Affairs  
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23 July 2024

Dear Sir/Madam,

## **Response to Consultation on UK REACH**

I am pleased to submit the Office for Environmental Protection's response to the consultation on proposed changes to UK REACH.<sup>1</sup>

We recognise the importance chemicals play in our economy and in our society. Government must ensure that the UK harnesses chemicals regulation to both realise economic benefits and effectively manage environmental risks.

Defra has rightly emphasised, within this consultation, its commitment not to weaken legal protections for the environment. However, some of the proposed changes may put this at risk. How Government intends to implement any new system of regulation will be crucial to maintaining high levels of environmental protection.

Government has not yet confirmed whether it will change the proposed updates to chemicals policy put forward by the previous administration. Therefore whilst our response addresses the proposals outlined in the consultation, we acknowledge that these may not now be adopted. We trust our observations nevertheless will be beneficial should Government decide to amend chemicals policy as proposed in this consultation or as it considers other possibilities.

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<sup>1</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as assimilated and amended.

We note that there was a long delay in publishing this consultation since its announcement in December 2021. While clearly recognising the possibility of a change of approach, we highlight the importance of Government acting at pace to confirm its policy in this area, and to set out its trajectory to do so.

We will watch the further development of UK chemicals law and policy with interest and would be pleased to provide further comment or assistance should that be helpful.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'G Stacey', with a long horizontal flourish extending to the right.

Dame Glenys Stacey  
Chair  
Office for Environmental Protection

## OEP's view of proposed changes to UK REACH

A revised UK REACH could provide a more effective regulatory framework and strengthen access to information on use of and exposure to chemicals, to deliver improved environmental outcomes. However, the successful implementation of any new system will be crucial to maintaining or increasing levels of environmental protection.

As required under the Environment Act 2021,<sup>2</sup> Government has a responsibility to ensure a high level of protection for human health and the environment, consistent with Article 1 of UK REACH.<sup>3</sup>

Mitigating chemical pollution by tackling it at source through regulatory action requires timely and comprehensive data on environmental hazards. Changes to UK REACH must be driven by genuine benefits to the environment or necessary efficiency improvements, ensuring that environmental protection remains robust, if not enhanced.

UK REACH covers England, Scotland, and Wales, whereas Northern Ireland is under EU REACH. It is unclear what steps have been taken to ensure that issues stemming from internal divergence within the UK will be mitigated.

Goal 4 in the Environmental Improvement Plan (EIP) also sets out the importance of using and managing chemicals safely and minimising their environmental and human health impacts. Last year, in our report on Government's progress with improving the natural environment in England, we found progress with this goal to be off track and delayed.<sup>4</sup> We underscored the limited overall prospects of meeting ambitions and the continuous delay in delivering key policies and frameworks.

For example, the plan to explore a new model for transitional registration as well as a delay in registration deadlines was first announced in December 2021.<sup>5</sup> We would therefore encourage Government to bring forward any subsequent consultations for stakeholder comment without undue delay. Many of the questions in the consultation invite feedback from users of UK REACH. Given that we are not a user of this legislation, we have focused on general observations which we believe need to be

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<sup>2</sup> Environment Act 2021 (c. 30), Schedule 21, 1(2).

<sup>3</sup> 'UK REACH: Article 1 Consistency Statement' <<https://www.gov.uk/government/publications/uk-reach-article-1-consistency-statement-on-extending-submission-deadlines-for-transitional-registrations/uk-reach-article-1-consistency-statement>> accessed 3 July 2024.

<sup>4</sup> Office for Environmental Protection, 'Progress in Improving the Natural Environment in England 2022/2023'. [www.theoep.org.uk/report/government-remains-largely-track-meet-its-environmental-ambitions-finds-oep-annual-progress](http://www.theoep.org.uk/report/government-remains-largely-track-meet-its-environmental-ambitions-finds-oep-annual-progress).

<sup>5</sup> Department for Environment, Food and Rural Affairs, 'Deadline for UK REACH to be extended' (6 December 2024), [Deadline for UK REACH to be extended - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/deadline-for-uk-reach-to-be-extended), accessed 21 June 2024.

addressed to achieve the finalised Alternative Transitional Registration model objectives of increasing efficiency and maintaining high environmental standards.<sup>6</sup>

### Registration-related requirements

Government must be confident that requiring businesses to provide only the hazard classifications for hazard information requirements<sup>7</sup> will not undermine the aim to significantly reduce harmful chemicals entering the environment.

The proposed new powers for regulators to undertake transitional evaluations for regulatory data collection<sup>8</sup> are essential if the reduced registration dossier requirements are applied. Putting the onus on regulators to obtain data when needed has historically led to slow progress in regulatory action, including banning or restricting the most harmful chemicals. This has been evident in both EU REACH<sup>9</sup> and (even more so) its predecessor, the Existing Substances Regulation.<sup>10</sup> In UK REACH, there have been no new authorisation or restriction entries into the Candidate List of substances of very high concern, Authorisation List (Annex 14) or Restrictions (Annex 17) since EU Exit. Therefore, we have significant concerns about the proposed relaxation of the 'no data, no market' principle in this approach.

We also recommend that Government consider how it will build in flexibility to adapt the proposed approach at the appropriate pace to monitor and update changes in registrations such as updated predicted no-effect concentration and derived no-effect level values, or domestic or Globally Harmonized System classification and labelling.<sup>11</sup> Due to the extensive global trade in chemicals, it is essential to have consistent and appropriate information on the chemicals the UK produces. Information on chemicals imported from the rest of the world is also needed. This is crucial for controlling chemical exposures and protecting both people and the environment.

Since the inception of UK REACH, the EU has recognised new hazard categories, including endocrine disruption, persistence, bioaccumulation, mobility and environmental toxicity. These categories, which address serious health and environmental impacts, are currently absent from UK REACH and GB Classification, Labelling and Packaging of Chemicals.

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<sup>6</sup> Ibid, p. 7-8.

<sup>7</sup> Ibid, p. 18.

<sup>8</sup> Ibid, p. 26-28.

<sup>9</sup> European Environmental Bureau, *The Need for Speed: Why it takes the EU a decade to control harmful chemicals and how to secure more rapid protections*, July 2022.

<sup>10</sup> Nigel Haigh, *EU Environmental Policy: Its Journey to Centre Stage* (Routledge 2016), p. 82-83.

<sup>11</sup> Globally Harmonized System (GHS) of classification and labelling of chemicals. [www.unece.org/about-ghs](http://www.unece.org/about-ghs).

The decision on whether Great Britain adopts similar hazard classes and criteria rests solely with Government. However, considering the consultation proposes to use EU hazard classifications during the registrations of substances under UK REACH, it does not address how this difference will be managed.

As these hazards often relate to the most serious health and environmental impacts, if Government fails to address this gap when implementing any changes to UK REACH, its greater focus on risk and environmental protection will be undermined.

### **Use and exposure information requirements**

The aspiration reflected in the consultation to improve the quality of information on use and exposure is positive. Enhanced use and exposure data will enable Government to monitor chemicals, and manage the associated risks, throughout their lifecycles, including their disposal. It will also increase Government's ability to prioritise substances for risk management, selecting the most effective regulatory instrument to do so. The measures and resources allocated to these functions must address the considerable challenges with collecting data of sufficient quality and of keeping it updated.

In the consultation, the requirements for use and exposure data related to environmental hazards are expected to increase. The new baseline level for this data will be more comprehensive, known as Level 2.<sup>12</sup> In our view, Government could go further. It could gather detailed information on all substances that fall under the UK REACH, Annex 13, Section 1 criteria (persistent, bioaccumulative and toxic (PBT), or very persistent and very bioaccumulative (vPvB)) at Level 3.

Collecting Level 3 data would help Government understand how these substances are used, managed and disposed. Gathering this information would support the aim to move towards a circular economy by avoiding the accumulation of PBT or vPvB chemicals in recycled products and enabling water recycling and reuse. This would also boost adherence to commitments under the Stockholm Convention to increase the destruction or irreversible transformation of persistent organic pollutants.

### **Improving the UK REACH restrictions process**

We support the proposals to consolidate the consultations,<sup>13</sup> and the incorporation of advice from the UK REACH Independent Scientific Expert Pool (RISEP) with the final Risk Assessment and Socio-Economic Analysis opinions. Given the engagement with RISEP for independent advice, it is reasonable to reduce the consultation response time to align with other government consultations. This should allow regulators sufficient time

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<sup>12</sup> Department for Environment, Food and Rural Affairs, 'Consultation on UK REACH' (16 May 2024), p. 21.

<sup>13</sup> *ibid.*

to develop their responses, especially considering the repeated extensions to current restrictions proposals.

However, work has only started on three new restrictions, with none implemented in the 42 months since EU Exit. The inefficiencies in Government's approach to tackling chemical pollution at source through regulatory action will not be solved by the proposed changes to the statutory consultation requirements alone. Further improvements to UK REACH, or its current implementation, should be identified, to enable Government to act as quickly and efficiently as possible where risks have been identified. This would uphold the principal aim to ensure a high level of protection of human health and the environment.

### **Environmental Principles**

The Environment Act 2021 introduced the Environmental Principles Policy Statement (EPPS), one of the four cornerstones of a new framework for environmental governance. It is a legal requirement that Ministers have due regard to the EPPS when making policy, with the aim of ensuring that environmental principles are properly integrated into the policymaking process.

It is therefore an ongoing requirement to have due regard to the EPPS as Government develops policy through this consultation. The information provided in the consultation does not set out how policymakers have had due regard to the EPPS to date. We would welcome increased transparency overall in respect of how the duty to have regard to the EPPS is being integrated into policymaking, and would be happy to meet and discuss this further with the policy team in respect of this consultation.