

Briefing for the Citizen Participation and Public Petitions Committee on PE2117: Ban the use of toxic chemicals along our coasts

The petitioner is calling on the Scottish Parliament to urge the Scottish Government to ban the use, on coastal jetties or slipways, of any chemical labelled "very toxic to aquatic life with long lasting effects" or carrying the "Dead Fish" pictogram. The petitioner raises concerns that the Scottish Environmental Protection Agency (SEPA) is licensing the use of sodium hypochlorite by the local authority to kill seaweed on jetties and slipways in South Queensferry to reduce slip risk. The petitioner states that this product is labelled as "very toxic to aquatic life with lasting effects".

SEPA regulatory functions – ‘CAR regime’

SEPA is Scotland's main environmental regulator for the water environment and pollution. The key legal framework in Scotland for protecting the water environment is provided by [the Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011 \(as amended\)](#), or 'CAR regime'. The framework covers both direct discharges into the water environment or where there is a risk of diffuse pollution from activities on land.

Under the CAR regime, SEPA risk assesses proposed activities before granting, if appropriate, an authorisation. The type of authorisation required depends on the environmental risk of the proposed activity. There are different levels of control:

- General Binding Rules: a set of mandatory rules which cover specific low risk activities, but no specific authorisation, or registration of the activity with SEPA, is required.
- Registration: for small-scale activities that individually are considered to pose low environmental risk but, cumulatively, can result in greater environmental risk. Operators must apply to SEPA to register these activities.
- A 'simple' licence or 'complex' licence: which must be granted by SEPA, allowing for site-specific conditions to be set to protect the water environment from activities that pose a higher risk. Licences can cover linked activities on several sites over a wide area, as well as single or multiple activities on a single site.

The [SEPA CAR Practical Guide](#) sets out the level of authorisation required for different activities in more detail. This includes what level of authorisation

is required when chemicals are used in close proximity to the water environment e.g. coastal waters, versus being directly released to the water environment.

Approval and labelling of chemicals (GB-wide)

The regulation of chemicals is a complex area. For the purposes of environmental protection, waste management and public health this is a devolved issue, with significant overlaps with reserved areas - particularly animal testing, product standards and labelling (with some exceptions) and health and safety in the workplace.

Chemicals are generally approved for use under GB-wide regimes that replaced centralised EU frameworks post EU-exit. The principal regulatory frameworks are [UK REACH](#) and [the GB Biocidal Regulation](#), both of which are overseen by the Health and Safety Executive (HSE). Other [Regulations include the Control of Pesticides Regulations \(COPR\)](#), relevant here as the petitioner raises concerns about use of an algicide as an anti-fouling product, which would require to be first approved under the COPR.

Product labelling is a reserved matter, with some exceptions in relation to food, agricultural and fish products. [The Classification, Labelling and Packaging \(CLP\) of substances and mixtures Regulation](#) seeks to ensure consistent labelling of chemicals including in relation to key environmental risk, hazard and safety data. The CLP Regulation (part of assimilated EU law) is based on a global system, adopting the UN Globally Harmonized System of the classification and labelling of chemicals (GHS). The HSE is the relevant agency overseeing GB CLP functions for substances on the GB market.

The UN GHS addresses classification of chemicals by types of hazard and harmonised hazard communication. This includes requirements to label products with short and long-term aquatic hazards i.e. from “harmful to aquatic life” through to “very toxic to aquatic life with long-lasting effects” ([see chapter 4.1 of the UN GHS guidance](#)). The GHS also covers when products should come with a “warning” or “danger” label and where a hazard ‘pictogram’ should be displayed ([see HSE webpage for pictograms used, including the ‘environment’ hazard pictogram](#) referred to by the petitioner). The UN GHS in itself is advisory - the details of when hazard pictograms must be displayed are set out in [the CLP Regulation](#).

NB/ The classification of a substance does not in itself restrict or control the use or supply of that substance. It would be up to SEPA (under the CAR regime) to assess the risk to the environment associated with approved chemicals bearing any such labels or pictograms.

Authorisation of use sodium hypochlorite by SEPA highlighted by the petitioner

Sodium hypochlorite is toxic to aquatic organisms. The specific level of hazard will depend on the product and concentration, which would be approved and

labelled according to the systems above. It is also highly reactive with organic matter in the environment (producing chlorine – sodium hypochlorite is a major ingredient in household bleach).

SEPA has issued a CAR registration to the City of Edinburgh Council for “the application of a product containing sodium hypochlorite onto land near to the water environment”. The registration specifies the locations (two piers in South Queensferry) and method of application (low mounted spray bar on a road sweeper with the edges of the pier manually applied) covered and specifies that use will be limited to ten applications per year. The registration covers use of an ‘algae inhibitor’, defined as “A solution containing up to 10% sodium hypochlorite as the only active ingredient”.

The CAR practical guide sets out that registration activities under CAR (i.e. not requiring a licence) can include:

“The application of pesticides, which are plant protection products within 1 metre of any river, burn, ditch or loch, as measured from the top of the bank; within 1 metre of a wetland; or within 1 metre of any transitional water or coastal water as measured from the shoreline where:

1. The treated plants are not invasive species outwith their native range
2. No pesticide will enter the river, burn, ditch, wetland, loch, transitional water or coastal water.”

The petitioner has previously raised concerns with SEPA that sodium hypochlorite is entering coastal waters in relation to this authorisation. This was dealt with as a complaint which was not upheld (responded to in May 2024). SEPA said it was satisfied that the City of Edinburgh Council is not using an algae inhibitor in excess of that authorised, with the inhibitor applied once per month from April to September during 2023, and the City of Edinburgh Council have advised SEPA that algae inhibitor is not applied when rain is forecast (and is applied as the tide is outgoing).

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