

Edward Mountain MSP, Convener  
Net Zero, Energy and Transport Committee  
c/o Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh EH99

Our Ref: 3485  
Your Ref:

If emailing, mark FAO:  
Ask@sepa.org.uk

27 March 2023

Dear Edward,

## THE REACH (AMENDMENT) REGULATIONS 2023 EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

Please find below SEPA's responses to the questions you posed regarding the REACH Regulations.

- Was SEPA consulted (by Scottish Government or directly by Defra or the Environment Agency) as part of the proposals to extend the registration and compliance check deadlines in these Regulations, and if so, what advice was provided?

SEPA does not have a regulatory role in relation to the registration process within REACH and was not consulted formally, by either Scottish Government or DEFRA, on the proposed change to the registration dates under REACH, or the proposed amendment to the Regulations. We were aware of the consultation on the proposal to change the registration dates through our close working relationship with Scottish Government which includes regular engagement and information sharing as well as other fora with industry and other regulators.

- How, in practice, might the delay in these deadlines impact on SEPA's abilities to fulfil its enforcement roles under UK REACH?

SEPA has no formal duty relating to registration of substances but could be asked to respond to the Environment Agency's (EA) requests for collaboration during the dossier evaluation (Article 40 etc).



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SEPA's role under the REACH Regulation includes responding to requests for collaboration from the EA when the Health and Safety Executive (HSE) (as 'the Agency' under UK REACH) has sought advice from the EA (Article 2B), for example on an application for authorisation to continue using a substance, or exemption from the general obligation to register for product and process orientated research and development (PPORD), particularly where the operator concerned for either is based in Scotland, and compliance assurance under the REACH Enforcement Regulations for such applications once granted.

To fulfil its duties, SEPA has the option to search the ECHA (European Chemicals Agency) database regarding substances. Therefore, to an extent, any data gaps affecting GB regulatory duties and compliance assurance (or enforcement) can be addressed irrespective of whether the registration phase is completed or not.

- Does SEPA have the information required under the current transitional system to effectively fulfil its functions and ensure a high level of environmental protection in relation to chemical use?

SEPA has collaborated with the EA on a number of PPORD and authorisation applications. In addition, SEPA has participated in prioritisation of restriction proposals, and consultations on the development of restriction dossiers. The registration of substances, including any extensions to the period of registration, has not impacted on the ability to provide appropriate responses to the EA.

SEPA is part of the UK Enforcement Liaison Group that provides coordination of compliance assurance and enforcement action, particularly of substance or article campaigns. Most of the issues that arise relate to substances or articles that are not permitted in the UK (restricted substances, or substances with no authorisation past the sunset date), rather than to failure to register a substance. This may change if companies start importing substances that are not appropriately registered (e.g. substances that have no GB registration after the required date, including those that may be registered in the EU). The extension to the registration dates will change the timing of this change, but not effect our response.

SEPA recently published its Chemical Framework and through our internal Chemical Network we will seek to use our regulatory tools and levers to influence chemical regulations and policy development in the future. We will work in partnership with other agencies and organisations to facilitate a joined-up approach to regulation within SEPA and have a shared understanding of our priorities and aims, both internally and externally.

We will protect the environment and human health using our regulatory tools and levers to ensure compliant, responsible and sustainable manufacture, use, storage, decommissioning and disposal of chemicals and products containing chemicals and support innovative alternatives to the most harmful chemicals and chemical containing products/articles, whilst preventing undesirable substitution.

- Does SEPA expect to be involved in the development of the alternative registration model referred to in the SI notification?

No.

- Has any advice been provided on this issue (the development of an alternative registration model) to date?

No.

I trust that these responses assist the Committee in its consideration of legislative consent.

Yours sincerely,

Nicole Paterson  
Chief Executive Officer