



The Scottish Parliament
Pàrlamaid na h-Alba

Mark Roberts
CEO
Environmental Standards Scotland

By email only

**Net Zero, Energy and Transport
Committee**

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

netzero.committee@parliament.scot

12 June 2024

Dear Mr Roberts

The Persistent Organic Pollutants (Amendment) Regulations 2024

The Net Zero, Energy and Transport Committee will consider the Persistent Organic Pollutants (Amendment) Regulations 2024 at its meeting on 25 June. These would be UK regulations that the Scottish Ministers are proposing to consent to the UK Government making. The Scottish Ministers are seeking the view of the Scottish Parliament on this matter under an agreed [protocol](#) for scrutiny of certain proposed UK statutory instruments.

The proposed instrument would amend EU Regulation 2019/1021 on Persistent Organic Pollutants (POPs), which is now assimilated UK law. It will implement changes to the Stockholm Convention on POPs adopted by the Parties to the Stockholm Convention (which include the UK) in May 2023.

The Stockholm Convention lists 31 POPs, defined by four main criteria: they are persistent, toxic, bioaccumulative, and transportable across international borders. The Convention aims to protect human health and the environment by prohibiting, eliminating or restricting the global production and use of POPs.

The notification sets out that the 2024 Regulations will amend the current law in numerous ways: they will amend three existing entries in Annex I (Substances listed in the Convention and in the Protocol as well as substances listed only in the Convention); amend one entry and insert four new entries to Annex IV (List of substances subject to waste management provisions set out in Article 7); and insert two new waste classification descriptions, amend one and insert four new maximum

concentration limits to Part 2 of Annex V (Wastes and operations to which Article 7(4)(b) applies).

The amendments relate to a number of different POPs with multiple uses across various sectors, including POPs which have been banned for a number of years, and the restrictions refer to how POPs are managed as waste. Examples of products and uses potentially impacted include certain flame retardants used in plastics and textiles, electrical wire and construction materials, pesticides, and certain surfactants used in fire-fighting foams, paints and paper.

The key driver behind the changes is to reflect changes to international law via the Stockholm Convention but in some areas (according to the notification), the changes will go further than the Convention. The notification also provides a breakdown and comparison of a number of areas (see 'EU alignment' section in notification) where the 2024 UK Regulations will diverge from the EU POPs Regulation, following on from tightened restrictions introduced in the EU in 2023.

The power to amend Annexes to the UK POPs Regulation in response to amendments to the Stockholm Convention, or to scientific and technical progress, sits with the Secretary of State DEFRA for England, Welsh Ministers for Wales and Scottish Ministers for Scotland. But the UK Secretary of State may make changes for a devolved administration if, as here, they consent.

In appearing to consent to diverge from new EU law, the Scottish Ministers appear not to be "keeping pace" with EU law, which they have publicly committed to do "where appropriate". It appears that this is an area of policy where the Scottish Government would be able to make different provisions from the rest of the UK.

More information on the regulations is provided in the Cabinet Secretary for Net Zero and Energy's [notification letter of 21 May](#).

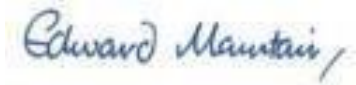
In advance of the Committee's consideration of the regulations, we would appreciate your views on the following areas:

1. Has ESS carried out any investigative work related to Persistent Organic Pollutants or is any work planned in this area under your work programme?
2. The notification sets out areas where UK POPs law will diverge from EU law – does ESS have any comments on the significance of these areas of divergence and what their implications could be for the environment?
3. Does ESS have any concerns about the capacity of the Scottish Government or regulators in this area regarding policy, enforcement or monitoring of environmental impacts?

Apologies for the quick turnaround but the Committee would appreciate a response by midday on Friday 21 June.

Please contact the Committee clerks should you have any questions.

Yours sincerely,

A handwritten signature in blue ink that reads "Edward Mountain". The signature is written in a cursive style with a trailing flourish at the end.

Edward Mountain MSP
Convener

Net Zero, Energy and Transport Committee