Chemicals policy and regulation update

Index

1. Broad policy issues 2
1.1. Chemicals Strategy 2
1.2. Chemicals in Waste 2
1.3. Tracking of Chemicals in Products 2
1.4. Sustainable Chemistry 3
1.5. Unintentional Mixtures 3
2. Update from Devolved Administrations 4
2.1. Scotland 4
2.2. Northern Ireland 4
3. UK REACH – Update from Defra 5
3.1. Transitional registrations 5
3.2. Monitoring and Evaluation 5
3.3. Additions to the Authorisation List 6
3.4. Decision-making on Applications for Authorisation 6
4. UK REACH – Update from the UK Agency (HSE) 7
4.1. HSE 2022 to 2023 UK REACH Work Programme 7
4.2. UK REACH Independent Scientific Expert Pool 7
4.3. UK Agency Accredited Stakeholders 7
4.4. UK REACH Applications for Authorisation 8
4.5. Draft recommendation to the Authorisation List 8
4.6. Restrictions and Regulatory Management Options Analysis (RMOA) 8
4.7 Substance Evaluation 9
5. International Chemicals: Multilateral Environmental Agreements (MEAs) 10
5.1. Stockholm Convention – Persistent Organic Pollutants (POPs) 10
5.2. Minamata Convention on Mercury 12
6. International Chemicals: Voluntary international initiatives 14
6.1. Beyond 2020 framework on chemicals and waste (Strategic Approach to International Chemicals Management (SAICM)) 14
6.2. Partnership for the Assessment of Risk from Chemicals (PARC) 14
7. The OECD's Environment, Health and Safety (EHS) Programme 16

1. Broad policy issues

1.1. Chemicals Strategy

Our goal is to protect health and the environment while enabling economic growth through managing the production, use and disposal of chemicals.

The Government's 25 Year Environment Plan committed to a new strategy to tackle chemicals of concern and help ensure the levels of harmful chemicals entering the environment are significantly reduced. Following the end of the Transition Period and our departure from the EU, the Government is developing a Chemicals Strategy which will set out our immediate priorities, alongside any actions we will need to take to achieve safer and more environmentally sustainable management of chemicals for present and future generations.

Work on developing a Chemicals Strategy is underway. Minister Jo Churchill MP will be hosting a Ministerial Roundtable at the end of April, which will kick-start a series of external stakeholder workshops to help inform a forthcoming Chemicals Strategy. The workshops are expected to take place over Spring-Summer 2022 and will explore various themes for the Strategy. We will share any further information on the workshops with the CSF in due course.

1.2. Chemicals in Waste

Defra is working on several policy issues around chemicals in waste, and we hope to engage further with the UKCSF as a part of policy development in this area. If any members are interested in re-starting a chemicals-products-waste interface working group, please contact Jack Brown: jack.brown@defra.gov.uk.

1.3. Tracking of Chemicals in Products

As committed to within the 25 Year Environment Plan, Defra is working to consider how we will address the tracking of chemicals in products (in this instance meaning articles/objects, rather than substances and mixtures), to reduce barriers to recycling and reuse whilst reducing risks from harmful chemicals.

As part of this work, Defra commissioned research into the needs of waste operators for information on substances in products, including hazardous substances and critical raw materials. The main aim of the research is to understand what information is needed and in what format it should be communicated through supply and waste chains to enable innovation, improvement and investment in the sorting, and treatment of waste. The research included in-depth interviews with waste operators and other actors in the supply-waste chain. The results of the research are planned to be published later in 2022.

1.4. Sustainable Chemistry

Defra is currently exploring options to support the transition to and mainstreaming of sustainable chemistry. This includes developing our understanding of what 'Safe and Sustainable by Design' criteria could look like and how such criteria could be used to promote sustainable chemistry. Development of 'Safe and Sustainable by Design' (SSbD) criteria has been proposed as a step to support the transition to sustainable chemistry.

The UK is already actively engaging with the SSbD concept, as part of our OECD work on advanced materials and as part of our participation in the EU Horizon Europe research programme Partnership for the Assessment of Risk from Chemicals (PARC).

To further explore views on what parameters of 'safe' and 'sustainable' should be considered as part of Safe and Sustainable by Design (SSbD) criteria, as well as how policy can support mainstreaming of sustainable chemistry more broadly, Defra held an external workshop on 22nd of February 2022. The workshop was attended by approximately 40 representatives from government departments, devolved administrations, civil society, NGOs, and industry.

The outputs from the workshop are currently being analysed to understand next steps. If you have any questions, please contact Megan Thomsett: megan.thomsett@defra.gov.uk.

1.5. Unintentional Mixtures

An unintentional mixture typically includes chemicals from a variety of sources. Their compositions are usually unknown, may vary over time and in space, and include degradation and transformation products of chemicals released into the environment. Due to the large number of possible combinations of chemicals, the risk assessment and management of unintentional mixtures represents a particular scientific and regulatory challenge.

The Environment Agency are working with UKHSA to produce a report that will review the evidence on unintentional mixtures and consider options to address the issue under UK REACH. This has recently been presented to the Committee on Toxicity (COT) and the Hazardous Substances Advisory Committee (HSAC) to provide their expert advice on this report. Defra will consider the findings of the report and advice from the committees, taking these into account to continue to work with regulators and engage with stakeholders in developing policy options.

2. Update from Devolved Administrations

2.1. Scotland

Forum – The fifth meeting of the Scottish Chemical Policy Network (SCPN) took place on 16 December 2021, and the sixth meeting will be at the end of April. Anyone interested in participating in the SCPN or with any issues which they wish to present to the Scottish Government, should contact chemicals@gov.scot.

2.2. Northern Ireland

DAERA has finalised Northern Ireland's first Environment Strategy. The NI Executive endorsed Strategy forms part of the multi decade Green Growth agenda. However, the finalised Strategy cannot be published until it has been formally approved by a newly formed Executive. The Strategy is an open-ended, living document that will be supported by a series of action plans and targets and it confirms NI's environmental priorities for the coming decades.

It is intended that the Strategy will be adopted as Northern Ireland's first 'Environmental Improvement Plan' which is a statutory requirement under the Environment Act 2021, setting the Strategy in a legal context and putting in place a statutory requirement to monitor environmental progress against the Strategy on an annual basis.

3. UK REACH – Update from Defra

3.1. Transitional registrations

The deadlines for notifications of Grandfathered EU registrations and for Downstream User Import Notifications (DUINs) have now passed.

Companies that have not submitted a DUIN and wish to continue to import EU REACH registered substances into Great Britain at or above one tonne per year, can still submit a notification, if eligible to do so. They should do this as soon as possible to come back into compliance. Queries on this should be emailed to HSE at ukreach.grandfathering@hse.gov.uk.

Defra commitment to explore alternative arrangements for transitional registrations

Defra has committed to exploring alternative arrangements for UK REACH transitional registrations to support chemical businesses whilst upholding the highest standards to safeguard public health and the environment. The model we are proposing would reduce the need for companies to access EU REACH data packages, placing greater emphasis on improving our understanding of the uses and exposures of chemicals in the Great Britain context. Although it is too early to commit to this model, we wish to further explore its potential with stakeholders.

Defra also intends to consult on extending the deadlines for transitional registrations. The consultation will take place in Summer 2022.

3.2. Monitoring and Evaluation

The evaluation of the transition to UK REACH has commenced. This involves stakeholder interviews and surveys, along with management information. The focus of the evaluation at this stage is on how well UK REACH processes are functioning, the emerging costs and benefits of UK REACH to UK businesses, and how businesses are adapting to the regulatory changes. Currently several businesses, trade associations and NGOs are being contacted to participate in interviews. Later in the month, a survey to businesses will be issued. If you would like to know more or want to be involved, please contact Mags Bradley: mags.bradley@defra.gov.uk.

3.3. Additions to the Authorisation List

The UK Agency has provided its final recommendation of priority substances to be included in the authorisation list (Annex 14 – the list of substances subject to authorisation). See Section 4.5 for details on the UK Agency recommendation. Defra's Secretary of State and the Scottish and Welsh Ministers will decide whether to include these substances in the Authorisation List. Defra, Scottish Government and Welsh Government will be launching a joint Call for Evidence in the Summer to inform this decision.

3.4. Decision-making on Applications for Authorisation

Defra has received the first final UK authorisation application opinion from the UK Agency.

Defra's Secretary of State has made decisions, with consent from the Scottish and Welsh ministers, on 8 transitional applications for authorisation. These applications were from Great Britain-based companies for which ECHA had adopted a final opinion, but the European Commission had not made a final decision before the end of transition period. Details of these applications and the decisions made are available on GOV.UK.

4. UK REACH – Update from the UK Agency (HSE)

4.1. HSE 2022 to 2023 UK REACH Work Programme

The HSE 2022 to 2023 UK REACH Work Programme has been submitted to the Appropriate Authorities for approval. Once approved, the Work Programme will be published on the HSE website.

4.2. UK REACH Independent Scientific Expert Pool

The UK REACH legislation requires that HSE as the Agency for UK REACH will take Independent Scientific Advice (ISA) into account when forming opinions on restriction and applications for authorisation. HSE published an ISA statement in March 2021 to make transparent to all stakeholders the Agency's approach to gathering and using ISA. This is part of ensuring on-going transparency in the process of, and trust in, regulatory decisions and processes.

Following the publication of the statement, HSE began the recruitment of experts to its REACH Independent Scientific Expert Pool (RISEP). HSE ran a successful recruitment campaign lasting over a month, including interviews and external validation from a senior independent scientific assessor, and 36 experts were appointed to RISEP in June 2021. An induction meeting was held for the RISEP experts in July. An announcement regarding the makeup of the 'pool' along with publication of declarations of conflict of interest will be made soon, and HSE is currently working with the experts to agree the profiles that will be published.

4.3. UK Agency Accredited Stakeholders

The UK Agency (HSE) opened its invitation to stakeholders to apply for Accredited Stakeholder Organisation (ASO) status in April 2021 for those interested in closer cooperation in the UK REACH processes, authorisation and restriction.

So far 49 organisations have been granted Accredited Stakeholder status.

There is no closing date for the ASO process and stakeholders can apply at any time. Details on how to apply, including an information pack and application form, can be found on the Get involved in UK REACH page.

4.4. UK REACH Applications for Authorisation

The first UK authorisation applications (one new application and one review report) have been evaluated by the UK Agency. The final opinion for one is with the Appropriate Authorities for decision making and the second is in the final commenting stages to complete the opinion. Further applications have been submitted and public consultations on alternatives for these applications have been held or are underway. All such consultations can be found on the HSE consultations page. The Agency is currently in the process of developing their draft opinions for these new applications and Challenge Panel meetings are being arranged.

4.5. Draft recommendation to the Authorisation List

In line with its role as the Agency for UK REACH, the obligation in UK REACH and in the 2021 to 2022 Work Programme, HSE has produced a recommendation of substances for inclusion in Annex 14. Two substances have been recommended for inclusion (disodium octaborate and dicyclohexyl phthalate (DCHP)). Prior to publishing the final recommendation, HSE invited interested parties to submit comments on a draft recommendation via the HSE consultations page. The deadline for the submission of comments was the end of November.

4.6. Restrictions and Regulatory Management Options Analysis (RMOA)

Restrictions

In Spring 2021, Defra, along with the Scottish and Welsh Governments, asked HSE to prepare UK REACH restriction dossiers on the use or sale of lead in ammunition and substances with known hazards in tattoo inks and permanent make up.

Calls for Evidence (CfE) on each of these ran for 60 days last year and closed in Autumn (for lead ammunition in October 2021, and for tattoo inks in November 2021).

HSE will publish these restriction dossiers in Spring 2022 for a six-month consultation and will start the opinion formation phase, which will involve RISEP.

PFAS RMOA

Defra, along with the Welsh and Scottish Governments, also asked the Environment Agency and HSE to prepare a RMOA to investigate the risk posed by per- and polyfluoroalkyl substances (PFAS) and to recommend the most appropriate options for managing any identified risks. A Call for Evidence to support the preparation of this analysis opened on 1 December 2021 and closed on 30 January 2022.

The next step in the process will be the publication of the RMOA, expected to take place in Summer 2022.

Other RMOAs

In addition, HSE has run an RMOA Call for Evidence in respect of four chemicals submitted for identification as substances of very high concern (SVHC) in EU REACH:

- DOTL: -dioctyltin dilaurate, stannane, dioctyl-, bis(coco acyloxy) derivatives and any other stannane, dioctyl-, bis(fatty acyloxy) derivatives wherein C12 is the predominant carbon number of the fatty acyloxy moiety
- PDDP: substances meeting the definition phenol, alkylation products (mainly in para position) with C12-rich branched or linear alkyl chains from oligomerisation, covering any individual isomers and/or combinations thereof (PDDP)
- Small Brominated alkylated alcohols – SBAA,
- 1,4-dioxane

All 4 calls for evidence closed on 10 April 2022.

4.7 Substance Evaluation

On 31 March 2022, HSE published the first Rolling Action Plan (RAP) for substance evaluation under UK REACH. HSE identified two substances/groups to be evaluated in the fiscal year 2022 – 2023: long chain chlorinated paraffins (suspected persistent, bioaccumulative, toxic (PBT)), and 2,2'-Diallyl-4,4'-sulfonyldiphenol (a potential endocrine disruptor).

HSE also published the criteria it used to select the substances.

5. International Chemicals: Multilateral Environmental Agreements (MEAs)

The face-to-face segment of the Basel-Rotterdam-Stockholm Triple COP is due to take place from the 6 to 17 of June. Basel Parties participants will agree the internationally legally binding technical standards for the shipments of waste, including plastic waste, household and mercury waste and electrical and electronic equipment. Rotterdam Parties participants will vote on the listing of seven chemicals under Annex III of the Convention and will propose enhancements to the effectiveness of the Convention.

They will also mandate upcoming work related to the compliance committee. Stockholm Parties participants will agree on new substances that will be restricted or banned internationally. They will also agree on how those substances will be treated within existing waste and legacy stockpiles.

5.1. Stockholm Convention – Persistent Organic Pollutants (POPs)

The UN Stockholm Convention on POPs agrees global bans of substances that fulfil the POPs criteria and requires all stockpiles and waste containing POPs to be identified and disposed of so that the POPs are destroyed or irreversibly transformed.

The Stockholm Convention Review Committee (POPRC)

The Stockholm Convention Review Committee (POPRC) meeting was held at the end of January 2022. The decisions of the meeting were as follows:

The draft Risk Management Evaluation (RME) for the pesticide, methoxychlor, was agreed with minor revisions, and the POPRC decided to recommend this for listing as a POP in Annex A of the Stockholm Convention, without any specific exemptions. This will result in the recommendation been made to the Conference of the Parties (COP) in 2023.

The draft Risk Profile (RP) for UV-328 (2-(2H-Benzotriazol-2-yl)-4,6-bis(2-methylbutan-2-yl)phenol), a UV stabilising chemical used in plastics, paints, and adhesives, was agreed, and has moved to the next stage of the review process and a call for information for Annex F (the RME) have gone out.

The draft RP for the flame retardant, dechlorane plus was not agreed as there was still uncertainty surrounding the toxicity data. However, the POPRC decided to review this further at the next meeting and, in addition, the RME is being drafted. Requests for information on both the Annex E and F were issued.

The three new proposals discussed at the POPRC, chlorpyrifos, long-chain perfluorocarboxylic acids their salts and related compounds, and the UK proposal for chlorinated paraffins with carbon chain lengths in the range of C14 to C17 and at least 45%

chlorination were all progressed to the next stage of the review process and requests for Annex E information have been requested. There was a compromise with the UK's proposal that the scope should be reduced to include the carbon chain length C14 only. Unless more information can be provided at the RP stage to allow the longer chain lengths to be added into the scope.

There will be further opportunities to comment on the draft RMEs and RPs, and these will be made available on GOV.UK for a commenting period.

Other items covered at the meeting were the review of information related to specific exemptions for decabromodiphenyl ether and short-chain chlorinated paraffins, process for the evaluation of perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride, the review of an indicative list of substances covered by the listing of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, and long-range environmental transport. For the first two items these generated calls for information, there were further additions to the indicative list for PFOA and work on the document on long-range environmental transport will continue. All these items will be discussed further at future POPRC meetings and the upcoming COP.

UK National Implementation Plan (NIP)

As reported previously, the UK NIP has been updated to reflect the additions of decabromodiphenyl ether (decaBDE) and short chained chlorinated paraffins (SCCPs) to the Stockholm Convention in 2017. The consultation response will be published in May 2022. The updated NIP will then be submitted to the secretariat of the Stockholm Convention ahead of the Conference of the Parties (COP) in June.

POPs in soft furnishings waste

The report of the research by the Environment Agency that involved analysis of nearly 1,000 samples of waste soft domestic seating was released to stakeholders in October 2021. We continue to work with a stakeholder group (including representatives from waste industry, furniture industry, charity sector, local authorities, and devolved administrations) to consider the implications of the report findings.

The Environment Agency is developing guidance that provides advice on how to comply with the legal requirements. It applies to organisations such as waste management businesses, local authorities, and charities but it does not apply to householders.

In 2021, we launched a survey to Local Authorities across the UK to inform the guidance and to help us understand how best to support LAs to adapt their operations for handling soft furnishings waste.

Other POPs research

The landfill leachate project is nearing completion. It has sampled leachate from several landfill sites across England. The samples have been analysed for POPs and PFASs, the results of which are now being interpreted and the report drafted. This project will meet one of the commitments made in the previous update to the UK NIP.

5.2. Minamata Convention on Mercury

The fourth Conference of the Parties (COP 4.2) took place in Indonesia from 21 to 25 March 2022. Progress was made on a variety of issues in which the UK has an interest.

Parties adopted key decisions on:

- updated guidance on national action plans on artisanal and small-scale gold mining (ASGM)
- guidance on preparing release inventories
- terms of reference (ToR) for the next review of the Convention's financial mechanism
- measures to improve clarity in national reporting with the aim of producing more meaningful data
- an initiative on mainstreaming gender in Convention activities
- the budget for 2023 and the programme of work

A non-binding Declaration on combatting the illegal trade of mercury developed by the government of Indonesia was formally presented to the Minamata Executive Secretary.

The Parties agreed to the phase-out, by 2025, of eight mercury-containing products but no consensus was reached on the phase out of some button-cell batteries, certain high accuracy switches and relays, and three types of linear fluorescent lamps. These will be revisited.

Two new measures were agreed for Parties to exclude: the use of mercury in bulk form by dentists and the use of dental amalgam for the treatment of deciduous teeth of patients under 15 years, and of pregnant and breastfeeding women, except when considered necessary by the dental practitioner based on the needs of the patient.

Parties agreed to begin the arrangement for the first effectiveness evaluation, ahead of the treaty deadline of August 2023. However, consensus was not reached on the adoption of the ToR, so this aspect is deferred to COP 5. The COP did approve the ToR for the scientific advisory group and the effectiveness evaluation framework.

The COP struggled to reach agreement on thresholds for mercury contaminated wastes as Parties have taken different regulatory approaches. This issue will be further discussed by an expert group before COP 5.

The most contentious agenda item at COP 4.2 was the arrangements for its first effectiveness evaluation. Parties agreed to begin the evaluation ahead of the treaty deadline of August 2023. However, Iran blocked the adoption of the ToR for the effectiveness evaluation group,

so this aspect is deferred until COP 5. The COP approved the ToR for the scientific advisory group, as well as the overall effectiveness evaluation framework.

COP 5 is tentatively scheduled for 28 October to 4 November 2023.

6. International Chemicals: Voluntary international initiatives

6.1. Beyond 2020 framework on chemicals and waste (Strategic Approach to International Chemicals Management (SAICM))

In February 2022, the Beyond 2020 Secretariat released a roadmap to IP4 document, setting out their intention for the next round of in person negotiations, IP4, to take place on the 29th of August to the 2nd of September 2022 in Bucharest, Romania. This will be followed by an in person ICCM5 in the Autumn of 2023 in Bonn, Germany.

Discussions at IP4 and ICCM5 will endeavour to negotiate and agree formalise the content of the beyond 2020 framework SAICM Framework, including the measurables such as targets and indicators, and future budgets. Other areas for agreement include governance and mechanisms to aid implementation and processes for determining 'issues of concern'.

The Secretariat also released a document outlining the outcomes of the Virtual Working Groups. Countries will be asked if the document reflects the Virtual Working Group discussions.

The Resolution for a Chemicals Science-Policy Panel passed at UNEA 5 in February/March 2022. The resolution convenes an ad hoc open ended working group (OEWG) to develop proposals for the establishment of an independent Science Policy Panel and requests the Executive Director to convene an intergovernmental meeting at the conclusion of that work for the purpose of considering the establishment of the panel. The ambition is for the ad hoc OEWG to conclude its work by the close of 2024.

6.2. Partnership for the Assessment of Risk from Chemicals (PARC)

PARC is a proposed research and innovation programme under Horizon Europe to support EU and national risk assessment and risk management bodies with new data, knowledge, methods, networks, and skills to address current, emerging, and novel chemical safety challenges.

The UK remains committed to association to Horizon Europe and stands ready to formalise this at the earliest opportunity. The ongoing delays in the process have led to uncertainty for researchers, business and innovators based in the UK.

To provide reassurance, on 15 March 2022 the government (BEIS) extended the scope of its financial safety-net (first announced in November 2021) to a second wave of eligible, successful UK applicants to Horizon Europe which will guarantee funding if they are not able to sign their grant agreements with the EU before end December 2022. The guarantee will

support UK researchers whatever the outcome of the association process. Details regarding the scope and terms of the extension to the funding guarantee are available on the UKRI website. We are working with UKHSA to understand if this has any significant implications for UK's participation in PARC but are still confident of UK's participation in the partnership.

7. The OECD's Environment, Health and Safety (EHS) Programme

The Office for Economic Development's (OECD) EHS programme covers the safe use of chemicals, nanomaterials, pesticides, biocides, and products of modern biotechnology. It aims to protect health and the environment, while avoiding duplication of effort, ensuring that efficiencies are made and barriers to trade avoided.

Recent streamlining has brought responsibility for the EHS programme under the Chemicals Committee (renamed as the "Chemicals and Biotechnology Committee"), which now reports directly to the OECD Council. Its mandate remains the same, although with work growing in Risk Management, a new working party has been developed to cover this area. This will bring together a comprehensive list of working programmes including hazard and exposure assessment, nanomaterials, pesticides, biocides, chemical accidents, pollutant release, PFAS, sustainable chemistry, and economics, as well as a Test Guidelines Programme.

Despite COVID-19, international work at the OECD has continued effectively with meetings shifted rapidly to a virtual format resulting in few delays to their work plan. Defra continues to have oversight of the EHS programme

The most recent meeting of the Committee on the Safety of Chemicals and Biotechnology was held in February 2022 and attended by Defra.

For OECD updates - Sign up to MyOECD and subscribe to Chemical Safety News.