

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee
c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

Our Ref: OME ID:4906
Your Ref:

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

24 June 2024

By email: netzero.committee@parliament.scot

Dear Edward,

Persistent Organic Pollutants (Amendment) Regulations 2024

Thank you for your letter of 12th June. Please see our response to your questions below.

1. As enforcement agency for POPs, were you consulted on the proposed changes in the 2024 UK Regulations and can you share your views?

SEPA were aware of the proposed regulatory revisions and consultation and highlighted the consultation to industry. We did not provide a direct response.

2. What monitoring information is available for the presence of POPs (specifically those which the Regulations are impacting on) in the environment in Scotland? Is information available on whether the levels of POPs are currently in line with requirements regarding good ecological status under the Water Framework Directive or other requirements?

The legislative drivers for environmental monitoring largely relate to water quality monitoring and are predominantly driven by the implementation of the EU Water Framework Directive (WFD).

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Chair
Lisa Tennant

CEO
Nicole Paterson

Angus Smith Building
SEPA
Unit 6, 4 Parklands Avenue
Holytown
Motherwell
ML1 4WQ

Tel: 03000 99 66 99
www.sepa.org.uk

Several POPs are also Priority Substances under WFD. SEPA uses a risk-based approach to chemical monitoring taking account of environmental risk and laboratory capability, balancing our statutory reporting obligations with a better understanding of the risks from emerging chemical issues.

By their nature POPs are long lived in the environment and are difficult to remove once there. Some POPs listed under WFD are no longer monitored as they have been restricted or banned from use for many years and previous monitoring showed declining trends in the Scottish environment. For other POPs we continue to monitor to ensure overall trends are declining, such as polychlorinated biphenyls (PCBs).

Some POPs are also classed as ubiquitous PBT (Persistent, Bioaccumulative and Toxic) substances meaning that concentrations are measured in biological organisms in water. Monitoring of contaminant levels in biological organisms is complex and resource intensive. Chemical status under WFD has been assessed in those water bodies where monitoring data are available. Based on our available data to date, there are very few instances where priority substances, that are also POPs, have caused a water body to fail the chemical status test in Scotland.

Using our risk-based approach SEPA is prioritising its monitoring capabilities using novel analytical screening techniques to improve understanding of chemical prevalence in the environment and target future chemical and ecological monitoring more effectively. We are also developing specific analytical techniques for POPs of increasing concern, such as per- and polyfluoroalkyl substances (PFAS).

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3. Specifically regarding areas where the notification states that the proposed UK Regulations do not align with EU law, do you agree with the assessments made by the UK Government that lack of evidence and challenges around industry implementation and cost mean tighter restrictions are currently not possible?

The broad Defra position is not to tighten restrictions without fully understanding impacts and industry capability to address these. Greater clarity around the current evidence gaps is expected to arise from evidence through the next Conference of Parties cycle and SEPA welcomes the opportunity this affords to review and consider this evidence.

4. What are the key enforcement challenges with the current POPs regime and how will they be impacted by the proposed changes?

The most significant enforcement challenge is the number of potentially affected waste streams to consider. Ongoing and future research into likely waste streams affected by the proposed changes should include all 4 UK agencies to ensure comparable levels of understanding of the environmental risks and impacts as well as any available funding streams to resource their regulation. This would help to align our approaches where appropriate and to carefully balance the sound environmental management of POPs wastes with wider Circular Economy ambitions.

I trust the above information is helpful, but should you wish to discuss the above matter further, please do not hesitate to contact ask@sepa.org.uk.

Yours sincerely

Lin Bunten
Chief Operating Officer; Regulation, Business and Environment