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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

2 August 2024

Dear Edward,

## **The Persistent Organic Pollutants (Amendment) Regulations 2024**

Thank you for your letter of 10 July 2024, in which you confirm that the Committee agreed by division that it is content for the Scottish Government to give consent to UK Ministers making regulations on its behalf in relation to this proposed Statutory Instrument.

I appreciate your summary of correspondence and points made by the Committee with regard to this instrument. As requested, I hope this letter provides reassurance on point 5 in your letter on EU alignment, but I would like to take the opportunity to also cover some of the additional points highlighted.

In relation to point 5, I note that the Committee had a difference of views on whether parts of the SI would mean that the UK temporarily misaligned with the EU, or whether this might only be the case in relation to some aspects of POPs regulations. You have asked me to clarify this position.

As set out in the notification, the SI makes a number of changes to the UK POPs regulation: (1) it adds three chemicals, agreed to be POPs at the Stockholm Convention, to the POPs regulation; (2) it adds or amends limits on the amount of certain POPs that can be present in waste before that waste must be subject to special management measures; and (3) it also makes changes to unintentional trace limits, some listed exemptions, and categorisations of wastes in line with changes to limits on POPs in waste.

It is the second of the SI's changes listed above that mean the UK POPs regulation will not fully align with changes already made to the related EU POPs regulation. In my previous letter to the Committee dated 19 June 2024, I set out in an annex a comparison of all these POPs in waste limits between the UK and EU regulations. This showed that, once the SI enters into law, for 21 of the 26 limits set for 30 POPs, the UK and EU POPs regulations will be aligned. This is an improvement on the current situation, where 18 of the 23 limits set for

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26 POPs in the UK POPs regulation tally with the equivalent 18 entries in the EU regulation (note that the SI introduces limits for four POPs that currently do not have entries in the relevant annex in the UK POPs regulation).

As highlighted by one Committee member, for two of the five cases where there is divergence, although the new limits will be the same, the difference here is that the UK has not made a clear commitment in the regulation's annex to lowering or reviewing limits by a future set date. For the other three cases, the SI does not propose a change to the limits currently stated in the UK POPs regulation.

In summary, the UK POPs regulation will not align with the EU for these five, very specific, waste limits for the reasons set out previously. These are that the proposals add or revise limits to reflect changes in guidance by the Basel Convention; or put in place limits suitable for GB in the absence of limits recommended at Convention level; and that last year's UK Government consultation also considered potential waste limit changes for three other POPs, but based on all evidence UK, Scottish and Welsh Governments concluded that it is premature to propose new limits for these. The UK POPs regulation does not preclude aligning with the few specific cases where there is divergence with the EU in the future once evidence is available.

However, I would like to highlight to the Committee that the UK POPs regulation makes a commitment under Article 15.2 to keep waste limits under constant review and to make legislative proposals to amend the relevant annexes to adapt to scientific and technical progress. I expect that such new information, through the work of others (e.g. other Parties to the Convention, of which the EU is one), in the open literature, and specific UK projects looking at waste streams and POPs, to become available in due course and we will consider whether this requires further amendments to the regulation in line with Article 15.2, where appropriate.

In relation to some of the other points mentioned in your letter, I agree that there is a need to prepare affected sectors and waste managers in Scotland for the introduction of new POPs in waste limits, but I do not support the suggestion that this would best be done via a Scottish Industry short-life working group. Given that the nations across the UK are dealing with very similar if not largely indistinguishable waste streams when it comes to POPs contamination and similar issues around identification, storage and management, I believe the best approach would be to use, and if necessary build on, existing engagement and networks to ensure that we are taking a joined-up approach to this issue across the UK.

Thank you again for your letter. I hope the above satisfactorily answers your question on EU alignment, and that the additional information I have offered addresses some of the other issues that the Committee and corresponding organisations raised with you.

Yours sincerely,



**GILLIAN MARTIN**

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