

# NGO concerns about industry proposals to reduce chemical safety data requirements in UK REACH

## Introduction

There are over 20,000 chemicals substances registered for use, in millions of different products. To protect our health and the environment from serious harm and prevent costs to society from chemical contamination in air, soil and water, we need an effective system of chemical management, which relies on information on the safety of chemicals.

The UK Government has decided not to remain part of the EU REACH system, regarded as world-leading, and to instead establish an independent regime. EU REACH has the ability to pool data, resources, expertise and workload across all its member states, resulting in the world's most comprehensive database of chemicals safety and use. Regulators now have the challenging task of establishing a separate UK REACH regime (covering Great Britain, with Northern Ireland remaining within EU REACH), and a chemicals safety database to which UK industry must re-submit safety data already registered in EU REACH. **This re-submission of data comes at a substantial cost to industry.**

## What is the industry proposing?

Parts of UK industry are now asking the Government to deregulate UK REACH, removing the requirement to submit safety data on all substances:

- Under the original industry proposal, the full chemical safety data registered in EU REACH (for all substances) would only be requested for those designated as priority substances by the UK regulator.
- A second option under consideration would require industry to provide a more detailed chemical safety report for all substances, but not all the data provided to the EU system.

## The problems with the industry proposals

- Chemical management decisions must be made on the basis of comprehensive and robust scientific data for all substances. **The loss of this data would considerably weaken the ability of the regulator to identify, control and enforce protections from known chemical risks**, significantly reducing the level of protection for the environment and public health. **This deregulation would break a repeated promise of the Government to maintain protections** and a promise that the UK system would be 'better' than EU REACH.<sup>1</sup>
- **The principle of 'no data, no market' would be violated.** The Environment Bill commits to protect this "fundamental principle" from easy amendment.
- **Chemicals' regulation would revert to the discredited, ineffective regulation of the past.** Requiring full safety data for just 'priority' substances was part of the EU's 'Existing Chemicals' regime that preceded REACH.<sup>2</sup> This regulation started in 1993 and by 2005 only three restrictions had been introduced.<sup>3</sup> Delays to regulatory action were one of the main reasons for the creation of EU REACH and its shift to the "no data, no market" principle.

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<sup>1</sup> Rt Hon Michael Gove MP, when Secretary of State for the Environment, 20 July 2017, <https://hansard.parliament.uk/Commons/2017-07-20/debates/3087E6DC-8EB6-4DFD-9B0E-AFE3C1968BB0/OralAnswersToQuestions>.

<sup>2</sup> CHEM Trust, 29 June 2017, 'A move to safer chemicals? Ten years of the EU's REACH chemicals regulation', <https://chemtrust.org/reach-10-years-on/>.

<sup>3</sup> Nigel Haigh 'EU Environmental Policy: its journey to centre stage' (2016), p.82.

- As scientific understanding about a chemical is constantly evolving, **good chemicals management requires access to up-to-date chemical safety data and ongoing review**. Many registered chemicals will at some point need to be evaluated or re-evaluated for safety. These proposals would have a knock-on effect on the obligation on companies to keep dossiers updated “without undue delay”, increasing the risk of unsafe or inadequately assessed chemicals on the market.
- It would **shift responsibility for demonstrating effective risk management of chemical harms from industry to the regulator**. This emulates the weaker, more US-style of chemical management, where responsibility is on the regulator to prove harm *after* a substance has been put on the market. Under the current system, this responsibility is shared. Manufacturers, importers and users of chemicals must provide sufficient safety data so the regulator can check that industry understands the risks of the chemicals they use, and to provide a basis for regulatory decisions. Industry proposals would require the regulator to chase the information for risk management and to explain why it needs this information. Worryingly, it would not even necessarily have enough information to know what information it is missing.
- Criteria would need to be set for when the regulator could ask for further information from industry, giving industry reason to challenge this justification, further delaying the regulatory process. Such legal challenges are routine in the EU REACH ‘Evaluation’ process, when regulators request additional data on health or environmental concerns. **The use of threshold criteria directly undermines the precautionary principle.**
- **The information that ECHA makes available externally** – such as REACH study results and robust study summaries – **is insufficient to regulate effectively**. It does not include the detail on safety tests and on uses, and on how industry reached its conclusions on the hazards and risks of a chemical. In many cases this is insufficient to perform a full hazard assessment, particularly for complex endpoints, as countries such as Canada and Australia have found.
- This approach would **make the UK regulator almost totally dependent on EU REACH data**. HSE would have to wait to see what risk management action the EU takes, and which substances it identifies as of concern, to know what the UK should prioritise. This would limit HSE’s ability to proactively assess risks for the UK, conduct its own substance evaluations or address concerns deemed most pressing to the UK, which have not been already looked at by the EU.

### **Conclusion and Recommendations:**

**This is a decisive moment for the future of public health and environmental protections from hazardous chemicals in the UK**, and an early test of the Government’s promise that the UK will be a green leader with stronger protections post-Brexit. Adopting industry proposals would open the door to increased chemical pollution and set a dangerous precedent for other areas of environmental regulation.

### **Recommendations:**

- **The government should reject both of these proposals, which will unacceptably weaken chemicals management in the UK.**
- **If the Government wants to reduce the costs on industry** by reducing the data available to the UK system, then **a safer and more pragmatic approach would be to adopt the risk management decisions that are made by the EU, which has access to full data and can properly evaluate the risks.**

This note sets out the shared concerns of: CHEM Trust, Fidra, Green Alliance, The Cancer Prevention and Education Society, Breast Cancer UK.