CHEM Trust submission to: Defra consultation ‘Extending the UK REACH Submission Deadlines’

The submission has been made on behalf of CHEM Trust, a UK registered charity. Our overarching aim is to prevent man-made chemicals from causing long term damage to wildlife and humans, by ensuring that chemicals which cause such harm are substituted with safer alternatives. Further details: https://chemtrust.org/policy/

As set out in the Impact Assessment accompanying this consultation, we are consulting on 3 options:

- **Do Nothing** would not change the current submission deadlines. (27 October 2023, 27 October 2025, and 27 October 2027).
- **Option 1** would extend all current submission deadlines for each tonnage band by 3 years, giving submission dates of October 2026, October 2028 and October 2030.
- **Option 2** would extend the first submission deadline by 3 years to October 2026. The second by 2 years to 2027 and the third by 1 year to 2028. Option 2 is government’s preferred option because it means that the transitional registration data is still received as early as possible, while allowing industry sufficient time to comply.

8. What is your preferred option:

Do nothing

**Reasons**

The current safety data requirements for substances registered in UK REACH should be maintained alongside the associated deadlines for submitting this data. As the new registration requirements under development, that will replace the current requirements, are weaker and less protective of health and the environment. For example, the reliance on data the EU makes publicly available (so that the costs on companies of having to purchase potentially expensive EU REACH data packages are minimised) will not be sufficient for evaluating and screening many substances, particularly those with complex endpoints. It’s also unclear if the proposed new model is even viable, as intellectual property laws could make it difficult to publish some of the publicly available data, and it relies on use and exposure data which is very difficult to collect.

In addition, NGOs have not received much-needed reassurances about basic principles (or even minimal requirements) that will underlie the new model. Currently no reassurances have been given that the new model will incorporate much needed improvements to the information requirements transposed from the EU REACH model which were identified in the EU’s Chemicals Strategy for Sustainability. For example, the expansion of information requirements to allow for the identification of EDCs, PMTs, vPvM and the introduction of a Mixture Assessment Factor, and the extension of information requirements to lower tonnage bands. The model also needs to address problems in the current system which rewards inadequate and unreliable data. Measures are needed, for example, to give HSE greater powers to ensure registration dossiers are compliant and up to date, such as the ability to revoke registration numbers in cases of clear non-compliance.

It must be noted that expert civil servants have been handed the almost impossible task of squaring a circle within existing policy parameters. The way the model is currently constructed, which insists on a fully standalone system, makes it extremely difficult to minimize costs and burdens on industry without leaving consumers and the environment less protected from problem chemicals. The opportunity should now be taken to explore a pragmatic, stable alignment-based option which would both minimise the costs and burdens
on industry and the taxpayer, but provide better public health and environmental protections. The Swiss system, for example, does not require full registration data for chemicals that are registered in REACH, but follows EU decisions on regulating chemicals as a default. We propose that such a model could retain the sovereign ability to diverge after a request, subject to demonstrable reasons why the UK context is different, that was open to challenge.

15. To what extent do you agree or disagree with the government’s assessment of the impacts on human health and environmental protections in paragraphs 38-40 and 44 of the IA?

The government’s assessment of the impacts on human health and environmental protections says that the system “will still be able to ensure a high level of protection for human health and the environment”. This concerningly concedes that not only will the new system not protect UK consumers, workers and the environment to same level as those in EU, it will not maintain an equivalent level of protection as the current model.

Having to operate for over five years without safety data for the most hazardous and highest tonnage substances, and between 8-9 years for remaining substances, will make it more difficult for HSE to identify, control and enforce protections from known chemical risks, reducing the level of protection for the environment and public health. As the scientific understanding about a chemical is constantly evolving, good chemicals management requires access to up-to-date chemical safety data and ongoing review. These delays would therefore increase the risk of unsafe or inadequately assessed chemicals on the market. It will also make it difficult to defend controls from legal challenge. It is not uncommon in the EU system for chemicals companies to challenge the evidence used for controls, which can result in a control having to be withdrawn.

During this extended delay without full information on chemical safety, the UK should adopt the risk management decisions made by the EU, which has access to the full data and can properly evaluate the risks.

NB: the first of the staggered deadlines for both options (27th Oct 2026) should cover all substances on the most recent SVHC Candidate List, not just those on the list before 31st Dec 2024.

_In case of queries about the above information, please contact Chloe Alexander, on chloe.alexander@chemtrust.org._

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