Wildlife & Countryside Link submission to: Consultation on extending the UK REACH Transitional Registration Submission Deadlines

Consultation on extending the UK REACH Transitional Registration Submission Deadlines

This response is on behalf of nature and animal welfare coalition Wildlife and Countryside Link (Link)

Many hazardous chemicals cause long-term damage to our environment or health or both, and are a key contributor to the pressure on and decline of our wildlife. Effective and protective regulation of these substances is needed to ensure that chemicals that cause harm are banned or restricted and replaced with safer alternatives. Data on the hazardous properties of, uses and effects of these chemicals are a core part of good regulation, and is needed to assess and evaluate risks to health and the environment, and to implement and legally defend controls on them.

This is the third deadline extension for companies to provide that data in six years, and will mean that the UK's regulatory system will have had to operate without it for almost a decade. These delays have contributed to considerable business uncertainty and to delays in much needed regulation of harmful chemicals for protecting health and the environment.

We would like to make the following general points on extending the deadlines for companies to provide chemical safety data on substances they place on the UK market:

- The consultation outlines measures that will be taken to mitigate risks associated with a further delay, but as we set out below, more robust action is needed. During this time the UK's regulation of harmful chemicals has been less protective than and fallen sharply behind the EU's, prolonging exposure to harmful substances that have since been banned or restricted in the EU.

- The delays have been caused by the challenge of finding a workable data model that could support the last government's preference for an independent 'sovereign' system for regulating chemicals. This has involved the near impossible task of finding a model for data that would minimise costs on industry from re-submitting packages registered at EU level, while maintaining environmental and health protections, but with the option of an aligned model that could achieve both (like that in Switzerland or the European Economic Area) off the table for ideological reasons. As set out below, the model under consideration, the Alternative Transitional Registration model (ATRm), has achieved cost reductions on industry, but at the expense of chemical safety. It proposes reducing to a minimum chemical safety data on the hazards to health or environment (due to the cost to industry of resubmitting data registered in the EU) but would make the system was too weak and slow for effectively addressing chemical risk and preventing harm. The consultation reassures industry “that the final information requirements will not exceed those outlined in the 2024 ATRm consultation”. The only safe and sustainable model these proposals could be used to support are for a system which aligns with the EU, and they should only be taken forward if accompanied by a clear plan for taking this forward.

Questions on Policy Options 8.

8. Please rank the following options in order of preference, with 1 being your most preferred and 4 your least preferred

Current Deadline (do nothing option)	Option 1	Option 2	Option 3	Tonnage	Hazardous Properties
27 Oct 2026	27 Oct 2029	27 April 2029	27 April 2029	1,000 tonnes or more per year	Carcinogenic, mutagenic or toxic for reproduction (CMRs) - 1 tonne or more per year Very toxic to aquatic organisms (acute or chronic) - 100 tonnes or more per year Candidate list of SVHC[6]
27 Oct 2028	27 October 2030	April 2031	April 2030	100 tonnes or more per year	Candidate list of SVHC substances
27 Oct 2030	27 October 2031	April 2033	April 2031	1 tonne or more per year	

Do nothing	
Option 1	2
Option 2	3
Option 3	1

Our preferred option of the three sets of deadlines for submitting data is the closest dates, in **Option 3**.

We recognise that a data model is not yet agreed to support the 'do nothing' option to keep current deadlines as they are, but further extensions should only be given go-ahead if **the following conditions** are met:

- There are more robust measures to mitigate the risks from extending the period without safety data.
- Critically, a plan is published to support a safe, cost-effective and secure model that aligns with the EU. This would finally resolve what has been one of the longest running challenges for post-Brexit regulation and would mitigate against future regulatory failure, the costs of which are borne by the public purse.

In addition, all the options should prioritise data on the most harmful substances, so that the first deadline for each option should include all substances that receive a mandatory hazard classification (not exclusively those that are carcinogenic, mutagenic or toxic for reproduction) regardless of tonnage band.

11. Please provide views and evidence on any cost impact to either the chemical industry or consumers, not detailed above, of extending the deadlines while the ATRm policy is being finalised

- *More robust measures are needed than those identified to mitigate the risks from extending the period without safety data.*

The consultation sets out the ways in which the impacts on the environment and health of delays to registered data will be limited.

The risks identified include constraints on and delays to "HSE's capacity to carry out some regulatory functions". However, the measures listed for mitigating these risks (para.17), burden and slow down the regulator with responsibility for gathering the data needed to ban and control harmful substances. For example, the measures include HSE gathering data from academic sources and using calls for evidence and undertaking Regulatory Management Option Analyses (RMOAs). Alongside a lack of capacity for undertaking these functions, the effect has been to make a slow system even slower. So that in the time it has taken the UK to adopt one restriction on a harmful substance (a very welcome restriction on lead in ammunition), the EU has adopted 13. These are described as 'regulatory delays', but during this time exposure to a hazardous substance continues and may increase, which can result in environmental and health costs which are ultimately borne by the public purse. For example, the failure to match the EU's wide-ranging ban on microplastics that are intentionally added to products, means that this significant source of irreversible environmental pollution can continue to pollute and accumulate in our waterways and wider environment. In addition, these delays will continue to widen over time without intervention. This is at time the system urgently needs to be sped up and improved, when levels of harmful chemicals entering our environment are increasing and already above safe levels.

The risk mitigation measures outlined have therefore been insufficient in preventing risks, as demonstrated by data showing how the UK is falling behind EU regulatory protections, and more robust action is needed. During this period the UK must adopt EU regulatory protections which are based on access to the full data and thorough and transparent evaluation of the risks and what's needed to control them.

- *A plan must be published to support a safe, cost-effective and secure model that aligns with the EU.*

In addition, as set out in submissions to the consultation, **the problems set out above persist under the proposed ATRm**:

- If enacted, **the ATRm would continue to burden the regulator with responsibility for gathering and chasing industry** for the data it needs to do its job. In doing so, it regresses from the core principle of good chemicals regulation of 'no data, no market, which places responsibility on industry to provide sufficient data to demonstrate they understand the risks of the chemicals they use and to provide a basis for regulatory decisions and controls. Indeed it reverts back to the discredited 'Existing Chemicals' regime that preceded REACH, which failed to regulate chemicals and led to the creation of EU REACH in 2006.

- The proposals **do not support a credible and reliable independent regulatory system**. The model is entirely dependent on the hazard information the European Chemicals Agency (ECHA) makes publicly available about a substance, but would not have access to the full chemicals' safety information on which those hazard conclusions and classifications are based. When regulators can only see a fraction of the hazard information accessible to its EU counterpart, it is difficult to see how the ATRm could support scientifically credible and evidence-led decisions to adopt different hazard classifications or indeed risk management decisions from the EU. While under the ATRm the UK will start to assemble fairly limited data mostly of chemical uses by the end of the decade, ECHA has been building on the most extensive database of chemical substances in the world, by assessing these substances in groups since 2019. This includes a commitment to assessing the "chemical universe" of registered substances by 2027 and identifying groups (of approx. 5-7,000) of chemicals of key concern for bans by the end of the decade.

- As the consultation acknowledges: "as hazard information relates to the intrinsic properties of a substance, there should not be divergence between EU and GB conclusions". **This policy is not consistent with HSE proposals to de-link GB**

Classification, Labelling & Packing regulation (GB CLP) and provide it with powers to adopt classifications proposals from around the world. To ensure chemicals policy is workable, there must be join up with different chemical regulations which cut across different government departments, regulators and arm's length bodies. We urge that this hole in chemicals regulation is addressed, via a policy of aligning with EU CLP.

- There is no credible middle ground where the UK accepts some EU regulatory decisions and not others, without a fully functioning independent regulatory system to support it, including duplicate packages of chemical safety data registered in the EU. The government has set out **the importance of stable, predictable and consistent regulation** for providing the stability needed for investment, consumers and businesses. The recent proposals to delegate powers to HSE to adopt regulatory decisions from other countries (on biocides and hazard classifications), would do the opposite of this [HYPERLINK TO LINK SUBMISSION], due to huge variations in the reliability and trustworthiness of different regulatory systems – from the robustness of the data used, methods of evaluation and influences on regulatory decisions, including from companies wanting to keep their products on the market.

- *The deadline extensions should only go ahead if a plan is published to support a safe, cost-effective and secure model that aligns with the EU.*

- There is no safe or stable chemicals regulatory regime which can be used to support current data proposals under the ATRm other than one which aligns with the EU. One example is Swiss system, which does not require full registration data for chemicals that are registered in EU REACH, but almost entirely aligns with EU rules, with deviations rare and relatively minor. A UK system should dynamically align with the EU, as we can see no justifiable reason why EU risk management decisions should not be automatically adopted by the UK. A protective and transparent system would instead assume the applicability of EU risk management measures to the UK and gear the economy to the most rigorous standards by default.

- A plan will need a legislative mechanism for easily adopting EU regulatory decisions. Over the years, there has been positive rhetoric about not wanting "to diverge for the sake of it", about making the restrictions process faster and more efficient or enabling regulation to "act as quickly as possible where risks have been identified, drawing on work by UK regulators and from other sources". However, measures put forward – such as a shorter restrictions process - would do nothing to address the very significant problems in the system, which has meant it has been far too slow at regulating harmful substances and controlling pollution at source. A plan for enabling a system which aligns with the EU would need to use the Product Regulation & Metrology Act 2025 (PRaM Act) or provide powers in primary legislation for adopting EU protections, along the same lines those in the PRaM Act. Powers in legislation such as the Environment Act or REACH Regulations do not have the magic ingredient which resides in the PRaM Act, which says the Government can replicate EU provisions, i.e. where it considers it appropriate to do so. The helpfulness of these powers is that the Secretary of State is entitled to regard as conclusive any view reached by the EU as to issues relating to the safety of products. By contrast a shorter restrictions process would continue to require the regulator to build the evidence for controls including of UK risks – which has been a key reason for regulatory slowness and at times inertness, as it requires significant regulatory capacity and data.

- A properly aligned system would require considerably less public spending than an independent regulatory system, while maintaining high environmental and health standards. It is also consistent with dynamically aligning with the EU on pesticides and would be a precondition for a closer relationship with the EU on chemicals and for removing barriers to trade on industrial goods. It is also a necessary prerequisite if the UK is to meet its commitment to reducing levels of harmful chemicals entering the environment, which mirror the UK's commitments under international environmental law.

Extending the deadlines for selecting 20% of dossiers for compliance checking under Article 41(5) of UK REACH

12. Do you agree with the government's proposal, as set out in paragraph 9 of Part 1, to move the current compliance check deadlines so that they align with the proposed submission deadlines?

YES

Please explain the reasons for your answer

- It is consistent with any extension of deadlines, that the legal requirement for compliance checks on no fewer than 20% of registration dossiers is also extended in line with those new dates.

- However, there is a need for better enforcement of non-complaint dossiers for 'novel substances', which are those which were not registered in EU REACH prior to 1st January 2021, which this extension does not affect. This is in light of earlier reports HSE is issuing fewer 'draft decisions' calling for more data on the substances' health and environmental effects compared to EU, preferring a softer approach of giving 'quality observations'.

- While there will be minimal information on registered substances for compliance checks until registration data is submitted, there needs to be clearer and publicly available information on the 'transitional registrations'. There is a confusing array of different and seemingly overlapping categories of substances that are also registered in EU REACH that companies manufacture or import into the UK - including grandfathered substances, Downstream User Import Notification (DUIN) and New Registration of an Existing Substance' (NRES) – and it is not clear the quantities in which these substances are imported into or manufactured in the UK.

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 90 organisations to use their joint voice for the protection of the natural world and animals.

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The following organisations support this consultation response:

Angling Trust

Bumblebee Conservation Trust

CHEM Trust

Fidra