



From: ENV CARACAL
Sent: Freitag, 8. Januar 2021 07:42
To: [REDACTED]
Subject: FW: AmCham EU comments on essential use criteria

From: [REDACTED]
Sent: Thursday, January 7, 2021 4:48 PM
To: [REDACTED]
Cc: GROW CARACAL <GROW-CARACAL@ec.europa.eu>; ENV CARACAL <ENV-CARACAL@ec.europa.eu>
Subject: RE: AmCham EU comments on essential use criteria

Dear [REDACTED]

Thanks for your kind contribution, I will pass it on to the relevant colleagues.

Best regards

[REDACTED]

[REDACTED]



European Commission
DG Environment
Unit B.2 "Sustainable Chemicals"

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From: [REDACTED]
Sent: Thursday, January 7, 2021 12:03 PM
To: [REDACTED]
Cc: GROW CARACAL <GROW-CARACAL@ec.europa.eu>; ENV CARACAL <ENV-CARACAL@ec.europa.eu>; [REDACTED]
[REDACTED]
Subject: AmCham EU comments on essential use criteria

Dear [REDACTED]

thank you again for taking part in our Plenary meeting last month to discuss the Chemicals Strategy for Sustainability.

One of the aspects discussed in detail during the panel was the concept of essential use criteria. I wanted therefore to come back to you with a more detailed overview of AmCham EU's position on essential uses, expressed both in the attached position paper – developed in the context of the REACH restriction on PFAS – and in the paragraphs included below.

We are aware that the European Commission is seeking formal feedback on the paper circulated on essential uses in CARACAL. We are therefore also taking this opportunity to copy the general mailboxes included in the request for comments on that document.

We very much remain open to discussing this and other issues in the CSS with the Commission moving forward.

I remain at your disposal for any questions you may have.

Kindest regards,
[REDACTED]

AmCham EU views on essential use criteria under the Chemicals Strategy for Sustainability

AmCham EU takes note of the Commission's proposal in the CSS to define criteria for essential uses to ensure that the most harmful chemicals are only allowed if their use is necessary for health, safety or is critical for the functioning of society and if there are no alternatives that are acceptable from the standpoint of environment and health. According to the CSS, "criteria for essential uses [...] will in particular take into consideration the needs for achieving the green and digital transition". The Commission has offered further reflections on this proposal in a paper circulated for discussion at CARACAL in November 2020.

We would stress that existing REACH processes, including Restriction and Authorization, already create opportunities to address the criticality of a use, its importance for society, as well as the availability of alternatives which could ensure identical performance within the scope of an application while being economically viable. It is important, in our view, that such existing processes are not undermined through the introduction of a vague, horizontal definition of essential use.

From an economic and social perspective, essentiality should not be looked at in isolation when evaluating, restricting, or authorizing substances under REACH. Doing so can only lead to unjustified bans of large families of chemicals, as well as restrictions on uses that may be considered non-essential but that do not pose a direct risk or are an alternative to existing chemicals of concern where no more sustainable solution currently exists (e.g. chemicals used in closed systems).

AmCham EU strongly encourages the European Commission to take the following key elements into account as part of further action on criteria for essential uses:

1. 'Non-essentiality' is not in itself a condition to drive regulatory restrictions. AmCham EU members believe that restrictions should be considered if a risk associated with a given use has been identified.
2. Essentiality criteria should support, but not pre-empt regulatory decisions. A generic definition of 'essential uses' would not bring any additional value to the existing REACH processes. Instead, industry and authorities could benefit from a harmonized set of criteria to be considered when assessing essentiality for substances that are subject to regulatory processes. These could be used as a reference in the context of the socio-economic impact analysis by the ECHA SEAC committee under existing REACH processes.
3. Essentiality criteria should include socio-economic impacts and the availability of alternatives delivering the required performance.
4. Essentiality criteria must allow for a holistic consideration of what is 'essential' (including, for example, technological developments or pandemic response). Among other factors, this should include an assessment of substances' ability to deliver critical functionality and output to sectors of 'systemic relevance', and/or essentiality to the functioning of 'critical infrastructure' sectors for the benefit of society.
5. Essentiality also has a production asset dimension. If only essential applications are allowed, companies may not be able to respond to a medical/environmental emergency by shifting production to essentially required products (e.g. medical, hygiene, PPE).