To:
Rt Hon George Eustice MP, Secretary of State for Environment, Food & Rural Affairs
Jo Churchill MP, Minister for Agri-Innovation and Climate Adaptation
Màiri McAllan MSP, Minister for Environment and Land Reform
Julie James MS, Minister for Climate Change

14 January 2022

Dear Ministers,

Approach to including Substances of Very High Concern on the UK REACH candidate list

We are writing with our serious concerns about the Government’s change in approach to regulating substances of very high concern (SVHCs) in Great Britain, published on 9th December.

It is our strong opinion that the “interim principles”, which require additional evidence to be collated prior to regulatory action, will both weaken and slow down our approach to identifying and controlling SVHCs. The use by Defra and HSE of these principles has already resulted in a significant decrease in the number of substances being considered for SVHC identification: just 4 out of the 10 substances identified by the EU.

Combined with other developments, including proposals to reduce the requirements for hazard data in UK REACH, we are concerned that the post-Brexit chemical regulatory system in development could open the door to GB consumers, workers and the environment having greater exposure to harmful chemicals than in the EU. It is also extremely concerning that such a fundamental shift in public and environmental protections has been introduced without public consultation or adequate evidence to justify such a shift.

We set out our concerns in more detail below and request the opportunity to discuss these in more detail at a time that is convenient to you.

The importance of SVHC identification

SVHC listing is an important regulatory mechanism for encouraging companies to replace harmful chemicals with safer alternatives.

Entry on the Candidate List carries with it immediate obligations on companies to provide sufficient information to its customers and to consumers to allow safe use. For example, it triggers the consumers’ ‘right to know’ about harmful chemicals in everyday products, allowing them to check whether the products they buy contain SVHCs. It also requires import notification if a product contains significant levels of SVHCs and puts a substance in line for eventual phase-out.

SVHC listing should only be based on the intrinsic properties of the substance. The basis for identifying a substance as an SVHC under Article 57 of REACH is whether a substance is formally identified as fulfilling one (or more) specified hazard criteria. For example, those that meet the criteria for classification as carcinogenic or are persistent, bio accumulative and toxic or have endocrine-disrupting properties. This hazard-based approach embodies key principles of sound chemicals regulation, including the precautionary principle.
The Government’s approach to SVHCs

Last month, the Government set out ‘interim principles’ that substances should only be included on the candidate list if they are a ‘good candidate for the authorisation list’. This will require a Risk Management Option Analysis to determine which substances are good candidates. RMOAs do not have a legal standing under UK REACH and rely on information submitted voluntarily. It is not in the interests of chemical companies to offer relevant information if it might restrict use of their products.

These principles were applied in HSE’s analysis of substances added to the EU Candidate list last year and resulted in fewer substances selected for SVHC identification. There has also been a corresponding reduction in the number of SVHCs recommended for ‘phase-out’, that are added to the UK authorisation list. HSE has recommended just two out of 25 SVHCs that were recommended by the European Chemical Agency between 2019 and 2021.

The risks from these changes for environmental, worker and public health protection

A process to help identify the best regulatory route seems reasonable, but this process is both inefficient and marks a significant departure from the existing system and from more precautionary and hazard-based approaches to chemicals management.

As set out above, **SVHC listing serves an important independent function from the authorisation procedure per se.** This process will delay acting on SVHCs and raise the threshold for adding a substance.

The SVHC system has a proven track record in sending a strong signal to the market to shift from SVHCs to safer alternatives. This change **weakens this regulatory incentive which has helped to foster innovation and growth in the development of safer chemicals and the creation of new markets for them.** It also **directly undermines consumers ‘right to know’ about SVHCs in the products they are using.**

As data is submitted voluntarily to a RMOA and without access to the full chemical safety data on which to make a proper assessment, this process should not be used as a basis for making important decisions about risk management.

It’s unclear what period of time these ‘interim’ principles aim to cover. However, with capacity across regulators already significantly stretched, we’re concerned that the additional RMOA requirement **will create a bottleneck and delay effective chemical regulation.**

In relation to substances that potentially relate to workplace exposure, we are concerned about the lack of worker voices, either directly or through their trade union organisations. They must be consulted and be able to provide a worker perspective. There needs to be full transparency and consultation on any changes, including additions and substitutions, and for worker representatives to be part of reviews with an ability to influence decisions in line with the ‘toxics use reduction’ principle.

**Recommendation**

We ask that UK REACH should align with the European Chemical Agency’s Candidate List, as ECHA has access to the full hazard data and can properly evaluate the risks. This would minimise costs on the regulator and business, while retaining high chemical safety standards. Limited regulatory capacity should instead be used to focus on areas where the UK could go further and faster than the EU or in areas where there is a clear requirement for a different management approach.
We would be grateful if we could discuss our concerns with you

Yours sincerely,

Dr Michael Warhurst, Executive Director, CHEM Trust
Helen Lynn, Facilitator, Alliance for Cancer Prevention
Thalie Martini, Chief Executive, Breast Cancer UK
Jamie Page, Chief Executive, The Cancer Prevention and Education Society
Catherine Gunby, Director, Fidra
Roz Bulleid, Deputy Policy Director, Green Alliance
Janet Newsham, Hazards Campaign
Dr Chris Tuckett, Director of Programmes, Marine Conservation Society
Richard Benwell, CEO, Wildlife & Countryside Link
Kate Metcalf, Co-director, Women’s Environmental Network