

February 27, 2025

Honorable Lee Zeldin, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW, 1101A
Washington, DC 20460

**Re: Request to withdraw proposed significant new use rules (SNUR) on
18 chemical substances (Docket EPA-HQ-OPPT-2023-0245)**

Dear Administrator Zeldin,

The American Chemistry Council (ACC) respectfully requests the withdrawal of the 18 proposed significant new use rules (SNURs) published at 88 Fed. Reg. 39804 (June 20, 2023). These SNURs were issued in response to 18 Premanufacture Notices (PMNs), for the following substances:

P-21-144 (40 CFR 721.11781), P-21-145 (40 CFR 721.11782), P-21-146 (40 CFR 721.11783), P-21-147 (40 CFR 721.11784), P-21-148 (40 CFR 721.11785), P-21-149 (40 CFR 721.11786), P-21-150 (40 CFR 721.11787), P-21-152 (40 CFR 721.11788), P-21-153 (40 CFR 721.11789), P-21-154 (40 CFR 721.11790), P-21-155 (40 CFR 721.11791), P-21-156 (40 CFR 721.11792), P-21-157 (40 CFR 721.11793), P-21-158 (40 CFR 721.11794), P-21-160 (40 CFR 721.11795), P-21-161 (40 CFR 721.11796), P-21-162 (40 CFR 721.11797), and P-21-163 (40 CFR 721.11798).

The proposed SNURs designate as a significant new use the manufacture of these PMN substances using feedstocks containing any amount of heavy metals (arsenic, cadmium, chromium VI, lead, mercury), dioxins, phthalates, per- and polyfluoroalkyl substances (PFAS), polybrominated diphenyl ethers (PBDEs), alkylphenols, perchlorates, benzophenone, bisphenol A (BPA), organochlorine pesticides (OCPs), ethyl glycol, methyl glycol, or N-methyl-2-pyrrolidone (NMP). **EPA has not provided sufficient scientific basis to support such a broad restriction.**

We urge the Environmental Protection Agency (EPA) to withdraw the proposed SNURs due to fundamental concerns about their scientific basis, regulatory appropriateness, and potential negative impacts on industry and innovation. **These barriers proposed in the previous administration have hampered progress, stalling investment in communities and American jobs.**

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ACC makes this request based on the following:

- **No statutory basis:** EPA has failed to provide a reasonable explanation or evidentiary support for its decision to propose these SNURs. EPA has not adequately addressed the statutory factors identified in TSCA section 5(a)(2) or, to the extent applicable, the regulatory factors in 40 C.F.R. § 721.170(d)(1)-(4).

The cited references in the EPA docket for these proposed SNURs (EPA-HQ-OPPT-2023-0245) do not establish the analytical basis for the determination EPA is required to make. Moreover, the administrative record lacks additional substantiating information. Aside from referencing certain citations and making a conclusory assertion that all relevant statutory factors have been considered, EPA has not demonstrated that it has satisfied its statutory obligations.

Furthermore, 40 C.F.R. § 721.170(d)(1)-(4) prescribes specific factors that EPA must evaluate when proposing a SNUR that imposes requirements beyond those established in a corresponding § 5(e) order, which is the case in this rulemaking proposal. To the extent this regulatory provision applies, EPA has not provided evidence that it has meaningfully considered the required factors, nor has it articulated a rationale for its departure from established rulemaking precedent.

- **Procedural concerns:** EPA has acknowledged its intent to withdraw the TSCA Section 5(e) consent order for the 18 submitted PMNs that serve as the partial basis for the proposed SNURs. Given that the proposed SNURs are premised in part on the existence of this consent order, the withdrawal of this consent order fundamentally undermines the basis for the proposed rule. Proceeding with the SNURs despite EPA's stated intent to rescind the consent order would be procedurally flawed and unjustifiable. Accordingly, EPA should withdraw the 18 proposed SNURs in their entirety to ensure regulatory consistency and avoid unnecessary burdens on industry.

EPA's authority to issue a Significant New Use Rule (SNUR) applies to new and significant new uses of a chemical once it exists. However, the proposed SNURs



attempt to regulate feedstocks used to make the chemical, not the chemical itself. Regulating impurities in raw materials before a substance is even created goes beyond the scope of EPA's SNUR authority. If EPA has concerns about impurities in feedstocks, it should address them through regulations specific to those feedstocks, rather than improperly extending SNURs beyond their intended scope.

- **No scientific basis:** EPA has identified the presence of the listed impurities in post-use plastics, but it has not established a scientific connection between these impurities and any demonstrated risk associated with the proposed SNUR substances. Neither the preamble nor the cited literature in the administrative record acknowledge that the feedstocks used to produce these substances undergo pyrolysis, a process in which the post-use plastics are heated to high temperatures in the absence of oxygen. They are further processed and refined before end use. There is no scientific basis for restricting any amount of the identified impurities in the proposed SNUR substances. That scientific basis must meet the requirements of TSCA section 26(h), (i), and (j). The information EPA provided in the preamble and the record fails to meet those requirements.

Further policy concerns:

- **Unclear definitions:** The EPA proposal aims to regulate the use of "feedstocks" for those proposed SNUR substances. EPA has not clarified what it means by "feedstocks." Post-use plastics may be pyrolyzed to make pyrolysis oils. Those pyrolysis oils are used to manufacture the proposed SNUR substances.

EPA should provide clear definitions of what it refers to as "feedstocks" for the proposed SNUR substances and whether the post-use plastics or the pyrolysis oils are the "feedstocks." It is understood that post-use plastics may contain impurities identified by EPA, though, these impurities are not likely found in pyrolysis oil. Most or all impurities would be destroyed during the pyrolysis process and during further refining. If EPA is referring to the pyrolysis oils, feedstocks are covered by SNURs already.



- **Set a risk-based threshold:** The proposed SNURs did not include a *de minimis* threshold level above which the regulation would apply. EPA should establish risk-based *de minimis* thresholds for trace amounts of certain impurities in chemicals so that regulatory decisions under TSCA are based on identified risk rather than mere presence. Thresholds should be chemical specific and identified by chemical numbers (CAS #) in the proposed SNURs for pyrolysis products. It is impractical for the regulated community to confirm the complete absence of a listed contaminant. At trace levels below a *de minimis* threshold, the health and environmental risk is negligible.
- **Proposed SNURs have hindered U.S. manufacturing:** The proposed requirements already have, and would continue to, impede new innovations that address the needs of the U.S. economy and do not put America First. The proposed rules have hindered the development of advanced recycling projects and progress towards a more circular plastics economy. Re-manufacturing plastic through advanced recycling – instead of simply wasting it – strengthens our domestic supply chain, creates jobs, and reduces our environmental footprint. It represents an opportunity for the U.S. to lead the world in stronger, more resilient, and sustainable manufacturing.

There are few more surefire paths to stifling innovation than ambiguous regulations. **This SNUR should be withdrawn immediately to reduce regulatory burden and promote U.S. manufacturing and innovation.**

Please see our comments submitted on August 18, 2023 (attachment) for greater detail. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "CJahn".

Chris Jahn
President and Chief Executive Officer
American Chemistry Council



Attachments:

Attachment A – ACC Comments Submitted to Docket No. EPA-HQ-OPPT-2023-0245

Attachment B – EPA Proposed SNURs 23-2.5e_6-20-23

Attachment C – Section 5(e) order_08-25-2022

Attachment D – Cherokee Concerned Citizens v. EPA_ Unopposed Motion For
Voluntary Remand

