U.S. Chamber of Commerce

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Via Regulations.gov

Mr. William Wysong
New Chemicals Division (7405M)
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: U.S. Environmental Protection Agency Proposed Rule: Significant New Use Rules on Certain Chemical Substances (23-2.5e) (EPA-HQ-OPPT-2023-0245)

Dear Mr. Wysong:

The U.S. Chamber of Commerce (Chamber) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA's or Agency's) proposed significant new use rules (SNURs) for "Certain Chemical Substances (23-2.5e)" under the Toxic Substances Control Act (TSCA).[1]

The Chamber's members include companies across all sectors that are impacted by TSCA—chemicals, coatings, refining, petrochemicals, petroleum, forestry, wood products, batteries, electronics, energy, and electricity, among many others. These companies, which manufacture and use chemicals subject to regulation under TSCA, deliver products and innovation that are integral not only to the health and well-being of the American people, but also to the domestic economy and supply chain. Chemical technologies improve our quality of life in numerous ways by providing new solutions to problems in health, materials, transportation, agriculture, and energy usage. Protecting the health of workers and surrounding communities is a priority for our members.

The Chamber also has members who are on the cutting edge of advanced recycling to address the growing concerns with increasing plastic wastes. These efforts to create a circular economy where plastics are remade into new, improved plastics and kept out of landfills is a priority for our members' sustainability goals. Advanced recycling uses pyrolysis technologies to heat used plastics in a low or no oxygen environment, which break down the material into liquid or gas raw materials that can be condensed and used to remake products. In the past few years, nearly $7 billion in advanced recycling investments have been announced.[2] And this investment could potentially divert 16 billion pounds of waste from landfills every year.[3]

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[1] 88 Fed. Reg. 39804 (June 20, 2023).
[2] See American Chemistry Council publication "Advanced Recycling: Remaking Plastics to Meet Sustainability Goals": https://www.americanchemistry.com/content/download/7279/file/An-Introduction-to-Advanced-Recycling-and-the-Circular-Economy.pdf.
[3] *Id.*

The Chamber is greatly concerned that the proposed SNURs, which cover pyrolysis-derived oils made from plastic waste-derived feedstocks that contain *any amount* of certain existing chemical "contaminants," will effectively prohibit advanced recycling activities, unless companies submit significant new use notices (SNUNs) for EPA review and approval at least 90 days in advance. EPA has not given any guidance on how future SNUNs would be considered. EPA should not discourage industry's efforts to reduce plastic waste by creating unnecessary hurdles to innovation. EPA has proposed that the fee for submission of a SNUN be $45,000 per SNUN,[4] which does not include the significant costs of developing the information for a SNUN.[5] EPA's SNURs, if finalized, may deter use of pyrolysis-derived oils based on feedstocks that may contain low levels of certain contaminants that do not present any unreasonable risk. Our concern's are magnified due to EPA's ability to review new chemical submissions in a timely manner, consistent with the statutory requirement.

EPA has not justified why such additional EPA review and prior approval is warranted. In fact, EPA's only reason for designating these uses as "significant new uses" is that it has become aware that the "precursor chemicals" for the substances subject to the SNURs "may contain contaminants not previously identified, whose presence might indicate a risk that needs to be addressed."[6] EPA does not provide any explanation of what risks need to be addressed or what risks exist in the downstream substances subject to the SNURs. This is an unacceptable reason to potentially shut down critical advanced recycling activities.

Additionally, EPA is using SNURs to address concerns with the upstream feedstocks from which the SNURed substances are derived. This approach is inconsistent with prior EPA practice and also unlawful under Section 5 of TSCA. Under TSCA, EPA cannot 1) issue SNURs without satisfying the statutory factors under Section 5 of TSCA for determinations of significant new uses; 2) issue SNURs for substances that are aimed at addressing risks coming from *different* substances; 3) regulate ongoing (not new) uses of substances with SNURs; or 4) implement SNURs that so vaguely define what feedstocks are even subject to regulation that companies cannot identify if they are in compliance. The SNURs would create the impractical expectation for companies to test all of their feedstocks to identify potential contaminants, some of which may not be possible to detect. Given that violations of SNURs under TSCA can result in millions of dollars in liability,[7] having a clear final rule so entities understand what is in scope is essential for fairness and due process.

The Chamber urges EPA to withdraw the proposed additional significant new uses for the manufacture/import of the substances from feedstocks containing any amount of the listed contaminants.

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[4] 87 Fed. Reg. 68647 (Nov. 16, 2022).

[5] 15 U.S.C. § 2604(d); 40 C.F.R. § 721.25. These information requirements are just as rigorous as preparation of a PMN. ("The [SNUN]…must comply with the requirements of part 720 of this chapter, except to the extent that they are inconsistent with this part 721.)

[6] 88 Fed. Reg. at 39806.

[7] Under EPA's own enforcement response policy for Section 5 violations, penalties are assessed for SNUR violations on a per manufacture, import, or processing basis. For violations of SNURs where the chemicals are *not* distributed to consumers, the potential gravity-based penalty (before adjustments) can be as high as $34,888 per day of manufacture, import, or processing: https://www.epa.gov/enforcement/amended-tsca-section-5-enforcement-response-policy. The statutory maximum is $46,989 per day of manufacture, import, or processing.

I. EPA's Proposed SNUR, if Finalized, Would Violate TSCA Section 5 and Would Be Arbitrary, Capricious and Not in Accordance with the Law

EPA proposes SNURs for the following 18 new chemical substances:

> Naphtha, heavy catalytic cracked (generic) (P–21–144), Naphtha, heavy alkylate (generic) (P–21–145), Naphtha, full range alkylate, butane–contg. (generic) (P–21–146), Naphtha, hydrotreated heavy (generic) (P–21–147), Naphtha, light catalytic cracked (generic) (P–21–148), Naphtha, light alkylate (generic) (P–21–149), Naphtha, hydrotreated light (generic) (P–21–150), Clarified oils, catalytic cracked (generic) (P–21–152), Distillates, hydrotreated heavy (generic) (P–21–153), Gas Oils hydrotreated vacuum (generic) (P–21–154), Distillates, light catalytic cracked (generic) (P–21–155), Distillates, clay-treated middle (P–21–156), Distillates, hydrotreated middle (generic) (P–21–157), Distillates, hydrotreated light (generic) (P–21–158), Gases, C4-rich (generic) (P–21–160), Gases, catalytic cracking (generic) (P–21–161), Residues, butane splitter bottoms (generic) (P–21–162), and Tail gas, saturate gas plant mixed stream, C4-rich (generic) (P–21–163).[8]

Pre-manufacture notices (PMNs) were submitted to EPA for these substances ("the PMN substances"), and EPA has reviewed and issued consent orders under Section 5(e) of TSCA[9] for each of the substances. The consent orders require protective measures, including worker protection requirements, hazard communication, and limitations on use,[10] in order to mitigate the potential unreasonable risks of the PMN substances identified by EPA in its risk assessment process.[11] The consent orders, and their supporting documentation, contain no mention of any analysis or concerns regarding the presence of potential existing chemicals in feedstocks.

Following EPA's issuance of the Section 5(e) consent orders for the PMN substances, it is now proposing these "follow on" SNURs. The proposed SNURs would designate any manufacturing, processing, use, distribution in commerce, or disposal of the PMN substances that does not conform to the restrictions imposed by the underlying consent orders to be "significant new uses."[12] This is typically done by EPA following a Section 5(e) order. The proposed SNURs are intended to impose the same requirements in the consent orders (which bind only the PMN submitter) on all manufacturers, importers, and processors of the substances.[13]

The focus of the Chamber's comments is on EPA's proposed *additional* significant new uses that were not part of EPA's review of the PMN substances or included in the associated Section 5(e)

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[8] *Id*. at 39808.
[9] 15 U.S.C. § 2604(e).
[10] EPA proposes that it is a significant new use to manufacture, import, process, or use the substances "other than for processing and use as a fuel, fuel additive, fuel blending stock, or refinery feedstock (including, but not limited to cracking, coking, hydroprocessing, distillation, or deasphalting) subject to 40 C.F.R. part 79 or 1090." *Id.* at 39808.
[11] *Id*. at 39805.
[12] *Id*.
[13] "As a general matter, EPA believes it is necessary to follow the TSCA Orders with a SNUR that identifies the absence of those protective measures as significant new uses to ensure that all manufacturers and processors—not just the original submitter—are held to the same standard." *Id*. at 39806.

consent orders.[14] EPA is proposing that the manufacture of any of the PMN substances using feedstocks containing any amount of following contaminants constitutes a "significant new use":

- 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
- N-methyl-2-pyrrolidone (NMP).[15]

Therefore, manufacturers, importers, and processors who intend to engage in these significant new uses will have to submit SNUNs to EPA at least 90 days prior to commencing manufacture, importing, or processing the substance for a significant new use.[16] As explained below, these proposed significant new uses violate Section 5 of TSCA and should not be included in the final SNURs.

A. EPA's proposed approach upends the science-based process contemplated in Sections 5 and 26 of TSCA

The process for EPA to designate a significant new use with a SNUR and the requirements for manufacturers, importers, and processors to submit a SNUN for EPA's review and approval is intended to be a scientific, risk-based process. EPA's decision to impose a SNUR on a substance must clearly demonstrate consideration of the relevant statutory factors as they relate to the substance. For EPA to determine that a use of a substance is a "significant new use," it must make this determination after consideration of "all relevant factors," including:

> (A) the projected volume of manufacturing and processing of a chemical substance,
> (B) the extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance,
> (C) the extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance, and
> (D) the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.[17]

[14] *Id*. at 39808.
[15] *Id*.
[16] 15 U.S.C. § 2604(a)(1)(B); 40 C.F.R. § 721.25.
[17] 15 U.S.C. § 2604(a)(2).

EPA considers relevant information about the toxicity of the substance and potential human exposures and environmental releases that may be associated with the substance.[18] EPA also has authority under Section 26(c) of TSCA to issue SNURs not only for individual substances but also categories of substances.[19] EPA has proposed and issued SNURs for categories of substances in the past.[20]

Once EPA issues a SNUR for a substance or category of substances, manufacturers, importers, or processors must submit a SNUN at least 90 days before manufacturing, importing, or processing the substance for the significant new use. EPA must then review the SNUN and make a determination about the substance under Section 5(a)(3) of TSCA. EPA will either allow the manufacture, import, or processing of the substance for the significant new use with no restrictions or impose restrictions or other requirements to manage the unreasonable risks of the substance.[21] Substances subject to SNURs are also subject to additional requirements such as export notification under Section 12(b) of TSCA and reduced thresholds for chemical data reporting under Section 8 of TSCA.

TSCA establishes this rigorous designation, regulation, notification, and review process for significant new uses of substances. EPA's proposed SNUR attempts to short-circuit the statutory process and designate "significant new uses" without demonstrating that the uses meet the statutory factors for such a designation, or explain why, based on the best available science, EPA review and approval of the new uses are necessary under TSCA.

[18] 86 Fed. Reg. 22924, 22925 (Apr. 30, 2021).

[19] 15 U.S.C. § 2625(c)(1)-(2): "Any action authorized or required to be taken by the Administrator under any provision of this chapter with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures." A category of substances means "a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this chapter…."

[20] See, for example, EPA's SNUR for long-chain perfluoroalkyl carboxylate substances (LCPFACs), 85 Fed. Reg. 45109 (July 27, 2020): "TSCA section 26(c) expressly recognizes that an action may be taken with respect to a category of chemical substances or mixtures based on chemical structure, and EPA believes the most precise way to identify the chemicals subject to this SNUR is through the chemical structure definition."

[21] EPA's three possible determinations are provided in TSCA Section 5(a)(3): 1) The significant new use presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA under the conditions of use. In this case, EPA will take actions under Section 5(f) of TSCA; 2) The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the relevant chemical substance or significant new use; or, in the absence of sufficient information, the manufacture, processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk; or the substance is or will be produced in substantial quantities, and the substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance. In these cases, EPA must take the actions required under TSCA Section 5(e); or 3) The significant new use is not likely to present an unreasonable risk of injury, in which case the submitter can commence manufacture or processing for a significant new use. 15 U.S.C. § 2604(a)(3).

B. EPA fails to justify the proposed SNUR based on the statutory factors provided in TSCA Section 5

EPA does not explain why the manufacture of the PMN substances using feedstocks containing any amount of the listed contaminants warrants EPA review as a "significant new use." EPA provides no discussion of the statutory factors, which are the projected manufacture, import, or processing volumes, the extent the uses change the exposures to humans or the environment, the extent the uses increase the magnitude and duration of exposure, or the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance. Instead of analyzing the statutory factors, EPA simply states that precursor chemicals for the PMN substances "might indicate a risk that needs to be addressed" with a list of articles which are presumably the basis for EPA's statement.[22] This approach is insufficient to satisfy the requirements of TSCA Section 5 and fails to show that EPA relied on any information consistent with the best available science.[23] EPA must describe why, based on the statutory factors, it believes *each* of the PMN substances, when manufactured using feedstocks containing any amount of listed contaminants, presents any exposures of concern to humans or the environment. EPA must support its determination with scientific data about the proposed significant new use consistent with Section 26(h)'s robust science requirements.

C. EPA attempts to address risks from impurities in existing feedstocks, which are not the new chemical substances proposed to be subject to the SNUR

EPA's proposes SNURs for the 18 PMN substances (the pyrolysis-derived oil products). EPA proposes that it is a significant new use "to manufacture the [PMN] substance[s] using feedstocks containing any amount" of the listed contaminants. Therefore, the SNURs are effectively restricting (absent submission of SNUNs) the use of the feedstocks from which the PMN substances are derived. EPA also targets the contaminants in the feedstocks because, as EPA states with no context, their "presence might indicate a risk that needs to be addressed." However, the feedstocks are separate from the PMN substances in composition and associated potential risks and exposures. In other words, just because EPA believes the contaminants in the feedstocks carry potential risks does not mean these risks exist in the final PMN substances that are subject to the SNUR. It is unlawful for EPA to propose a SNUR for one substance in order to address potential risks coming from another substance. If EPA wants to regulate the contaminants from the feedstocks derived from plastic waste, it must propose a SNUR for those feedstocks and evaluate the four SNUR criteria for each of the substances.

Further, EPA states that any use that it determines was "ongoing" as of the date of publication of the proposal and did not cease prior to issuance of the final rule will not be designated as a significant new use in the final rule.[24] EPA concludes that it has no information to suggest that any of the significant new uses identified in this proposed rule are ongoing. This may be true for the PMN substances; however, this is not necessarily the case for the upstream feedstocks which contain the listed contaminants or the listed contaminants themselves. Under TSCA Section 5, a SNUR is only permitted for uses of a substance that are no longer ongoing—hence, a significant

[22] *Id*. at 39806.
[23] 15 U.S.C. § 2625(h).
[24] 88 Fed. Reg. at 39807.

new use. If the use is still ongoing, EPA has the option of taking action under Section 6 of TSCA with the prioritization, risk evaluation, and risk management process.

II. EPA's Proposed SNUR Is Vague as to What Substances Are Regulated

EPA refers to the "significant new uses" as the manufacture of the 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 provides no CAS numbers for each of the categories of contaminants, nor does it explain what "feedstocks" are regulated. This is problematic for PFAS, where EPA's proposed definition[25] differs from the agency's working definition of PFAS[26] and its proposed definition for PFAS in its TSCA Section 8(a)(7) reporting rule, which is expected to be released in the coming months.[27] This is also problematic for other substances including dioxins, phthalates, organochlorine pesticides, and heavy metals. These are broad categories that contain metals and chemistries that are widely diverse in structure and toxicity. For EPA to treat each member of these categories as being of similar concern, without identifying the specific chemicals or forms of those chemicals (or metals) that are a concern is not consistent with the statutory requirements.

Equally concerning, EPA provides no justification for the list of contaminants the agency is concerned about. At some point, likely after the consent order was signed (since none of these contaminants are mentioned as a concern in the consent order), EPA notes that the agency "became aware that the precursor chemicals for the PMN substances may contain contaminants of concern that were not previously identified."[28] EPA justifies this by providing a list of seven references but includes no explanation of why these references are relevant or how they informed EPA's determination to list these contaminants. EPA presents no analysis to suggest there is a risk or even a concern for a potential risk.

Additionally, SNURs typically provide the name and CAS number for the regulated substance, or the generic name and PMN number in the case of a substance where the chemical identity is confidential. EPA cannot vaguely describe feedstocks and the contaminants contained in the

[25] For purposes of this SNUR, PFAS or per- and poly-fluoroalkyl substance means "a chemical substance that contains at least one of these three structures: (A) R-(CF2)-CF(R′)R″, where both the CF2 and CF moieties are saturated carbons; (B) R-CF2OCF2-R′, where R and R' can either be F, O, or saturated carbons; or (C) CF3C(CF3)R′R″, where R′ and R" can either be F or saturated carbons." *Id*. at 39815.

[26] See EPA website "Per-and-Polyfluoroalkyl Substances (PFAS) in Pesticide and Other Packaging": https://www.epa.gov/pesticides/pfas-packaging. EPA's OPPT applies the following "working definition" when identifying PFAS on the TSCA Inventory: "a structure that contains the unit R-CF2-CF(R')(R"), where R, R', and R" do not equal "H" and the carbon-carbon bond is saturated (note: branching, heteroatoms, and cyclic structures are included)."

[27] "Per- and polyfluoroalkyl substances or PFAS, for the purpose of this part, means any chemical substance or mixture that structurally contains the unit R-(CF2)-C(F)(R′)R″. Both the CF2 and CF moieties are saturated carbons. None of the R groups (R, R′ or R″) can be hydrogen." 86 Fed. Reg. 33926 (June 28, 2021).

[28] 88 Fed. Reg. at 39807.

feedstocks because this deprives stakeholders the ability to understand and comply with the SNUR requirements.

III. EPA Fails to Adhere to TSCA SNUR Requirements for Regulation of Impurities

If EPA seeks to regulate the listed impurities in feedstock, it must first explain why it is making inapplicable the exemption for impurities from the SNUN requirements[29] and demonstrate why the impurities warrant EPA review. EPA's regulations require that, when imposing SNUN requirements (through a SNUR) for PMN substances, EPA must determine "that activities other than those described in the [PMN] may result in significant changes in human exposure or environmental release levels and/or that concern exists about the substance's health or environmental effects." EPA must demonstrate that a concern exists about their health or environmental effects. In order for there to be a concern about the health or environmental effects of the impurities, EPA must show that 1) the impurities meet one or more of the criteria in 40 C.F.R. § 721.170 (potential significant adverse health or environmental effects under reasonably anticipated conditions of use such as toxic effects and carcinogenic effects), and 2) the reasonably anticipated manufacture, processing or use activities involving the PMN substance may result in significantly increased human exposure to or environmental releases of the impurities from the significant new use.[30] In the proposed rule, EPA does not explain why the potential presence of these impurities present any adverse effects from their anticipated exposures.

IV. EPA Should Provide *De Minimis* Levels for the Contaminants of Concern in the Feedstocks

EPA has not provided any explanation or data regarding how much and at what level the listed contaminants may be present in plastic-waste derived feedstocks. It is possible that these contaminants are only present in trace amounts in the feedstocks, if they are present at all. Even if the listed contaminants are present in the feedstocks used to make the PMN substances, EPA does not explain why it believes the PMN substances themselves would also have the listed contaminants at any level of concern (or any detectable level).

At a minimum, if EPA seeks to regulate impurities in the feedstocks used to make the PMN substances, EPA should provide a *de minimis* level for contaminants listed in the proposed SNUR. Without setting a threshold concentration level for contaminants, companies cannot know with certainty that the feedstocks from which they manufacture the PMN substances contain any level of the listed contaminants. They will be effectively forced to test all of their feedstocks for trace levels of these contaminants. It is challenging to test for these substances in feedstock using currently available test methods. Indeed for some substances test methods are not capable of testing down to a level of zero. EPA is also well aware of the limited validated test methods for PFAS.[31] EPA has also made no effort to provide information on how broad categories of substances, some of which are naturally occurring in the environment (e.g., metals), should be measured and assessed. Without a *de minimis* level for these categories of substances,

[29] 40 C.F.R. § 721.45(d).
[30] 40 C.F.R. § 721.170(b)(5).
[31] See EPA's limited test methods available here: https://www.epa.gov/water-research/pfas-analytical-methods-development-and-sampling-research.

it will be impossible to implement this proposed rule. If EPA continues with this proposal, it should provide thresholds and quantification limits for all contaminants of concern.

V. EPA Deviates from the Consent Order Terms for the PMN Substances

By adding the additional significant new use of "manufacture the substance using feedstocks containing any amount of" the listed contaminants, EPA is significantly expanding the scope of the SNUR as compared to the terms of the TSCA Section 5(e) consent orders for the PMN substances. EPA states that it is rendering the exemption at 40 C.F.R. Section 721.45(i) void for entities bound by and abiding by a Section 5(e) order "to ensure that persons subject to the Order would also be subject to the significant new use notification requirements in this proposed rule, including those that are not based on Order requirements."[32] However, the supporting information for the consent order, including the risk summary and characterization, does not support the requirements of the SNUR. In fact, the risk evaluation for the consent order includes EPA's evaluation of these PMNs and does not find that concerns with risks that are "realistically ever expected to occur."

VI. EPA Has Not Considered the Unintended Consequences and Costs of the Proposed SNUR

The benefits of plastics are vital for a net zero future. It has been reported that replacing plastic consumer goods with alternative materials such as aluminum, cardboard, or glass would have nearly four times the environmental cost.[33] In addition, due to their high strength and light weight, plastics provide a wide range of benefits across industries including in the automotive and medical industries. Consistent with the Save our Seas Act 2.0, EPA must take actions consistent with the goal of improving "post-consumer materials management and infrastructure for the purpose of reducing plastic waste and other post-consumer materials in waterways and oceans."

Advanced recycling, which creates value from plastic wastes, is a critical tool to help manage plastic wastes. Through advanced recycling, which includes pyrolysis, plastics are broken down into liquid and gaseous materials that can be used to remake plastics or other products for a multitude of industries and purposes. Materials that would have otherwise been sent to landfills,[34] or sent for incineration, can now be converted back into hydrocarbons and other precursors that are used to make valuable products. Quality control of plastic feedstocks is important to our member companies. This includes companies that produce the feedstocks and those that purchase them. Materials are tested to ensure they are of sufficient quality, and purity, for the purposes for which they are being developed and used. Developing high quality feedstocks, that are free from contaminants, is important throughout the value chain because

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[32] *Id*. at 39806.

[33] Trucost Plc, *Plastics and Sustainability: A Valuation of Environmental Benefits, Costs and Opportunities for Continuous Improvement*, Jul. 2016, at 40, available at: https://www.americanchemistry.com/content/download/6921/file/Plastics-and-Sustainability-A-Valuationof-Environmental-Benefits-Costs-and-Opportunities-for-Continuous-Improvement.pdf.

[34] As noted earlier in these comments, these tools can potentially divert 16 billon pounds of waste from landfills each year.

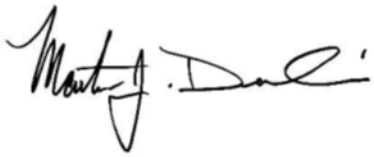
without quality assurances the development of valuable intermediates and raw materials could be compromised.

EPA's proposed rule, based upon unsupported "concerns" about potential contaminants in feedstocks used to make pyrolysis oils, has the potential to upend decades of advancement in plastics recycling by assuming there are widespread contamination concerns in pyrolysis oils. Yet, EPA's proposed rule, including in the economic analysis, does not consider the costs of these assumptions and the costs of effectively prohibiting advanced technologies which use these pyrolysis oils. EPA must consider the full costs not just on the manufacturers but to society as a whole. Advanced recycling technologies are critical to ensuring a truly circular economy which helps to end the production of plastic wastes.

Other important costs should also be considered by EPA. EPA's inability to meet the statutory requirements for reviewing new chemical actions, including SNUNs, in a timely manner comes with costs for companies and downstream users who are waiting for EPA's approval. Instead of reviewing new chemical notices in 90 days, as required, EPA instead averaged 404 days in 2021 and 197 days per review in 2022. [35] These delays have monetary consequences throughout the value chain. In addition, if the SNUN requires testing of contaminants at lower levels, costs are incurred to revise analytical and sampling methodologies. These costs could include costly upgrades to instrumentation. EPA's economic analysis must include consideration of these costs.

Thank you for the opportunity to provide these comments. The Chamber welcomes further discussion with EPA on this important proposal. Please contact Preston Beard, Director of Policy, at pbeard@uschamber.com with any questions regarding these comments.

Sincerely,



Martin J. Durbin
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President, Global Energy Institute
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[35] See statistics available at page 21: https://www.lawbc.com/uploads/docs/lawbc.forecast.2023.PDF.