

June 25, 2024

The Honorable Jeff Merkley
Chairman, Subcommittee on Interior,
Environment, and Related Agencies
Senate Committee on Appropriations
131 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Simpson
Chairman, Subcommittee on Interior,
Environment, and Related Agencies
House Committee on Appropriations
2007 Rayburn House Office Building
Washington, DC 20515

The Honorable Lisa Murkowski
Ranking Member, Subcommittee on Interior,
Environment, and Related Agencies
131 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chellie Pingree
Ranking Member, Subcommittee on Interior,
Environment, and Related Agencies
2007 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Merkley, Ranking Member Murkowski, Chairman Simpson, and Ranking Member Pingree:

As you continue work on the Fiscal Year 2025 Interior, Environment and Related Agencies Act, we write requesting the bill address current, final and proposed regulations by the U.S. Environmental Protection Agency (EPA) of both existing chemicals already in commerce and the approval of new chemicals. The domestic chemical manufacturing sector provides raw materials for nearly every economic sector in the country. Sensible and sound chemical regulation should encourage innovation and U.S. competitiveness, and the right balance in regulation is vital for U.S. economic and national security.

In May, EPA finalized its *Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act (TSCA)* regulation (framework rule) 89 Fed. Reg. 37028 changing the “framework” rule which was original promulgated in June 2017 for conducting risk evaluations of existing chemicals currently used in commerce.

In its new framework rules, the EPA eliminated definitions for best available science and weight of the evidence which are requirements set by Congress in the 2016 enacted updated to TSCA in the Chemical Safety for the 21st Century Act. Risk evaluations that are not based on best available science will result in overly restrictive regulations that will push American jobs offshore and disrupt critical supply chains. Additionally, worker exposure limits being set by EPA, also known as existing chemical exposure limits (ECELS), have consistently been magnitudes lower than the rest of the world. EPA regularly assumes a lack of use of personal protective equipment (PPE) in workplaces and makes unrealistic assumptions about actual exposures to workers.

CC: The Honorable Patty Murray, The Honorable Susan Collins, The Honorable Tom Cole, The Honorable Rosa DeLauro

Congress can provide oversight and direction through the appropriations process to ensure EPA is following the intent of the 2016 TSCA law. For instance, when EPA develops an ECEL, it should be:

- above background levels occurring in the environment; above naturally occurring levels in the human body;
- based on best available science including the weight of evidence approach required by federal statute;
- evaluated by experts in industrial hygiene, toxicology, engineering, and process safety; and
- have undergone interagency consultation with the Occupational Safety and Health Administration, the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health and considered all other federal occupational health and safety programs and standards in the risk evaluation process that is well documented, transparent and open to comment from all stakeholders.

In May 2023, the EPA proposed its *New Chemicals Regulations under the Toxic Substances Control Act (TSCA)*, RIN 2070-AK65, 88 Fed. Reg. 34100. This proposed rule is currently under review at the Office of Information and Regulatory Affairs.

It is critical that the TSCA New Chemicals Program (NCP) functions effectively and efficiently to incentivize businesses to manufacture domestically and we support the administration's aim of onshoring critical supply chains. Many industries rely on the availability of innovative chemistries needed to implement new production methods and related technologies. Currently, of the 407 new chemicals under TSCA review, only 76 have been under review for less than the statutory 90 days. The remainder of new chemical applications exceed the statutory review period. This negatively impacts the future of chemical manufacturing in the U.S. because manufacturers do not have the certainty their product will be reviewed in the time period mandated by Congress.

In the final bipartisan explanatory text accompanying the Fiscal Year 2024, Interior, Environment and Related Agencies Act, Congress required EPA to report to the Appropriations Committees on the state of the NCP and plans for improvement. With this year's bill, Congress should direct EPA to expeditiously develop and implement an improvement plan for the NCP to ensure that new chemical reviews are completed and science-based determinations are made within the 90-day statutory deadline. The plan should describe how it will improve efficiency, transparency, and process flows in the program, including ensuring continuity and relevant expertise of review teams, accountability for timeliness of reviews, and resolution of every submission in the backlog. The plan should further describe how it will meet the statutory deadlines for evaluating new chemicals, based on the submitter's identification of intended conditions of use.

Finally under EPA's new chemical proposal, EPA should not categorically exclude chemicals from low volume exemption (LVE) and low release and exposure exemption (LoREX) eligibility. Nor should EPA issue blanket revocations of LVEs that have been granted previously. EPA needs to include consideration and prioritization of data and information present in the new chemical submission over conservative assumptions, and EPA needs to provide robust guidance to support the development of information to support new chemical submissions. These

are important features of the new chemicals program that have encouraged innovation while minimizing risks and the proposed categorical decision would have especially profound and unintended consequences on the semiconductor manufacturing sector and the economic sectors which rely on semiconductors.

The appropriations process is one of the few opportunities to address the current problems with the regulations EPA is using to evaluate existing chemical regulations and new chemical approvals. We ask you to consider including these directives in the appropriations bill and report language to protect domestic manufacturing and competitiveness.

We appreciate your consideration and look forward to working with you and your staff on this important issue. Thank you for your attention to this matter.

Sincerely,

Alliance for Chemical Distribution

American Chemistry Council

American Cleaning Institute

American Coatings Association

American Fuel & Petrochemical Manufacturers

American Petroleum Institute

Chemical Users Coalition

Communications Cable and Connectivity Association

Composite Panel Association

National Mining Association

Plastics Industry Association

PRINTING United Alliance

PRBA - The Rechargeable Battery Association

The Adhesive and Sealant Council

The Fertilizer Institute

Vinyl Institute

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