



July 10, 2026

Via Regulations.Gov (Docket EPA-HQ-OPPT-2025-2932)

Ms. Elissa Reaves
Director, Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE: *Comments on EPA's Significant New Use Rules on Certain Chemical Substances (26-2)*
[\(EPA-HQ-OPPT-2025-2932\)](#)

Dear Ms. Reaves:

The Alliance for Automotive Innovation (Auto Innovators)¹ thanks you for the opportunity to provide comments on EPA's proposed Significant New Use Rules (SNUR)² specifically as it relates to battery cathode active materials (CAM).

Auto Innovators is aligned with the Administration in seeking to incentivize the onshoring of recycling and processing of battery materials. We are committed to working with the Administration on the development and implementation of focused policies that can promote and maintain a robust and resilient supply of processed critical minerals required for U.S.-based automotive production. Unfortunately, the proposed SNUR will likely have the unintended consequence of offshoring battery recycling and CAM processing.

EPA should decouple battery manufacturing from post-use processing.

The proposed SNUR functions like a lifecycle regulation without a traditional lifecycle rulemaking. The proposed SNUR limits promoting article recyclability and instead appears to impose responsibility for the future management of individual chemical constituents throughout a downstream recycling infrastructure that is outside of the manufacturer's ownership or control. This distinction between article stewardship and constituent chemical stewardship deserves careful consideration. EPA's proposed use of a SNUR to achieve lifecycle regulation of a battery through a

¹ Auto Innovators represents the full auto industry value chain, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive auto industry that supports U.S. economic and national security. Representing over 5 percent of the country's GDP, responsible for supporting nearly 11 million jobs, and driving \$1.5 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector.

² [EPA-HQ-OPPT-2025-2932](#)

narrower, asymmetric process may be allowed if the SNUR complies with TSCA, but it was almost certainly not designed for it. Regulating an article throughout its lifecycle based on the chemicals within the article could be applied to almost anything, which, again, is not the intent of this section in TSCA.

By adding post-use requirements on vehicle and battery manufacturers, the proposed SNUR will have an adverse impact on electric vehicle (EV) battery supply chains. The SNUR would put requirements on any company that wants to manufacture, import, process, recycle, reclaim, use, distribute, or dispose of the impacted materials in the U.S. If finalized, the burden of those requirements would fall to vehicle and battery manufacturers. This regulatory burden would inadvertently incentivize manufacturers to ship their post-use batteries overseas so that they would not need to comply with the requirements in the proposed SNUR. It would also introduce an unintended consequence of providing a competitive advantage to vehicle manufacturers who source their batteries from overseas, as those would be outside of the discretion of TSCA under this exemption. Finally, this SNUR will hinder the development of a domestic battery supply chain, which is directly in conflict with the Administration's goals to onshore manufacturing.

To resolve the unintended consequence of shipping batteries overseas for recycling and processing, we urge EPA to decouple battery post-use processing. While we understand, and support, requirements that ensure worker safety in recycling facilities, putting that burden on vehicle and battery manufacturers is inappropriate. In addition, as highlighted below, EPA (and delegated states) and the Occupational Safety and Health Administration (OSHA) already have extensive safety and environmental regulations in place for recyclers and manufacturers. It would be unnecessary and overly burdensome to add additional post-use processing restrictions under TSCA.

Agency	Act/Law	Comments
EPA ³	Resource Conservation and Recovery Act (RCRA)	• Obtain EPA hazardous waste identification numbers • Comply with hazardous waste storage requirements • Meet accumulation time limits • Maintain inspection records • Develop contingency and emergency response plans • Use permitted hazardous waste treatment units where applicable

³ <https://www.epa.gov/hw/lithium-ion-battery-recycling-frequently-asked-questions?>

		• If hazardous, manage residual waste generated during recycling
	Universal Waste Standards	Regulations to streamline requirements for the collection and transport of universal waste.
	Air Permitting (Clean Air Act)	• Title V operating permits • State implementation plan permits • Controls for particulate emissions • Volatile Organic Compounds (VOC) emissions • Metal emissions • Thermal processing emissions
	Clean Water Act	• National Pollutant Discharge Elimination System (NPDES) permits • Pretreatment requirements for sewer discharges • Stormwater permits • Spill Prevention, Control, and Countermeasure (SPCC) plans where oil storage thresholds are met
	Emergency Planning and Community Right-to-Know Act (EPCRA) ⁴	• Maintain Safety Data Sheets • Submit Tier II hazardous chemical inventory reports • Report releases under CERCLA/EPCRA if thresholds are exceeded • File Toxic Release Inventory (TRI) reports where applicable
OSHA ⁵	Hazard Communication Standard	• Maintain Safety Data Sheets • Label hazardous chemicals • Train employees • Maintain written hazard communication programs
	Personal Protective Equipment (PPE)	• Chemical-resistant gloves • Face shields • Respiratory protection (where required)

⁴ <https://www.epa.gov/epcra/lithium-ion-batteries-and-epcra-311-312-reporting-requirements-1>

⁵ *Id.*

		• Arc-flash protection • Electrical PPE
	Respiratory Protection	Required if workers are exposed to: • Cobalt • Nickel • Manganese • Graphite dust • Solvent vapors • Acid mists
	Hazardous Waste Operations and Emergency Response (HAZWOPER)	• Worker training • Site safety plans • Medical surveillance • Emergency response procedures
	Electrical Safety	• Lockout/tagout (LOTO) • Controls of hazardous energy • Electrical work practices • Arc flash hazard controls
	Fire and Explosion Protection	• Control ignition sources • Maintain fire protection systems • Develop emergency action plans • Train employees on battery fire hazards

Decoupling post-use processing would keep the playing field level between domestic and foreign post-use processing and continue to encourage investments in the onshoring of battery recycling that returns valuable critical minerals to the domestic economy. In addition to putting post-use requirements on original equipment manufacturers (OEMs) being unreasonable, OEMs do not have line of sight of their products at the end-of-life. After the original sale of a vehicle, OEMs do not know when the original battery has been removed from the vehicle. Post use vehicles and batteries are shipped without manufacturers' awareness, making the proposed post-use requirements in the SNUR infeasible. Finally, the labeling requirement adds undue complexity into the manufacturing process and conflicts with other global labeling requirements for batteries. The proposed labeling requirement would add unnecessary burden *only* on domestic manufacturers, further incentivizing offshore manufacturing and recycling.

The proposed SNUR will also result in bottlenecks in recycling capacity, especially if required controls (e.g., dust containment, monitoring, and zero discharge to water) are costly or operationally challenging for recyclers to implement. This additional burden runs the risk of dissuading future investments in a domestic battery recycling industry that has already been constrained by lower end-of-life battery recycling feedstocks and shifts to lower value battery chemistries such as Lithium Iron Phosphate (LFP). OEMs may therefore encounter higher costs, contract complexity, and liability exposure to guarantee compliant post-use recycling pathways. In extreme cases, batteries could become functionally stranded waste if no recycler is willing or able to process them under TSCA constraints. The risk shifts lifecycle responsibility upstream, which, if finalized, TSCA would be turning battery manufacturing into a closed-loop compliance problem, where failure to align chemistry, processing, and recycling can disrupt both supply chains and post-use management.

EPA TSCA Section 5 should not be used to regulate a battery article's future recycling ecosystem.

Once a regulated substance becomes incorporated into an engineered article whose useful life spans 15 to 20 years, responsibility for future recovery of that substance becomes qualitatively different from responsibility for manufacture of the substance. This new use of TSCA Section 5 would be unique in as much that it explicitly identifies a downstream lifecycle stage (recycling) as the dominant risk driver and then use that stage to shape conditions across the entire value chain of what could be greater than 20 years. Indeed, if the battery is used in bulk storage, the whole life cycle of the battery could be greater than 30 years.

EPA should consider reclassifying mixed metal oxides (MMOs) as *existing substances* for purposes of TSCA.

There are two potential pathways for EPA to consider reclassifying MMOs as existing substances for purposes of TSCA.

The first avenue would be to consider MMOs as mixtures of the individual metal oxides which comprise them consistent with EPA's original 1978 statutory mixtures guidance and later reaffirmed by the Agency in 1986 and 1995. EPA announced in 2010 that it may have issued inconsistent guidance on this issue to industry and only in 2022 did the Agency issue its first public policy statement on MMO CAM nomenclature indicating that these commercial products were not mixtures but rather individual substances under TSCA. Notably, all of the Agency's actions on MMOs have been in the form of general policy guidance rather than through a definitive rulemaking process.

The second avenue for reclassification would be for the TSCA Inventory listing of *Cobalt lithium manganese nickel oxide* [CAS RN 182442-95-1] to apply regardless of whether low-level dopants are

used during manufacture of the MMOs in producing what EPA calls “modified CAMs.” EPA’s relatively recent 1% rule for dopants is a hyper-technical and artificial nomenclature policy that has little to no effect on characterizing the hazard profile of a given MMO because the hazard of such substances is nearly always defined by the base metals (e.g., cobalt and nickel). This dopants policy has enabled EPA to expand its regulatory control and dominion over an increasing number of MMOs with virtually no benefit to human health or the environment since low-level dopants typically have no material effect on the toxicity profiles of MMOs. In addition, the presence of dopants in MMOs impart only minor physical properties to the product as whole when compared to the primary properties associated with the base metals consistent with 40 CFR 720.30(h)(7). Specifically, it is the base metals, rather than the dopants, which give the MMOs their primary performance and properties, determine their use in commerce, and are the products intended for distribution in commerce.

Conclusion

Lastly, recognizing that some manufacturers may have already entered, or are in the process of entering into, Consent Orders with EPA, the action of this proposed SNUR should not impact those manufacturers. EPA should consider the following:

- How this SNUR may disadvantage (or advantage) previous SNURs or previous Consent Order holders.
- How this new policy may affect existing Consent Order holders.
- How the new policy may affect draft consent orders currently being negotiated.
- If SNURs derived from older Consent Orders could be modified.
- If prior pre-manufacture notice (PMN) submitters will face a competitive disadvantage compared to future submitters.
- If EPA is changing the regulatory baseline after negotiations already occurred.

Thank you again for the opportunity to provide comments on the proposed SNUR. We stand ready to work with EPA and the Administration to ensure that the proposed rule does not result in stranded waste and/or loss of jobs in the U.S.

Respectfully,



Dan Bowerson

Vice President, Energy & Environment Policy