October 18, 2023

The Honorable Bill Johnson, Chair
The Honorable Tom Joyce, Vice Chair
The Honorable Paul Tonko, Ranking Member

Subcommittee on Environment, Manufacturing, and Critical Materials
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chair Johnson, Vice Chair Joyce, Ranking Member Tonko, and Members of the Subcommittee:

We, the undersigned free market and taxpayer advocacy organizations, write to offer our support as well as recommendations for holding today's hearing, "Exposing EPA Efforts to Limit Chemicals Needed for Life-Saving Medical Devices and Other Essential Products," As with numerous other federal agencies that have a major impact on the economy, it is vital for Congress to ask thoughtful questions on how the Environmental Protection Agency (EPA) wields its regulatory powers and whether policy adjustments are necessary. We urge you to focus on the formulation of practical reforms that could benefit consumers as well as taxpayers.

Policymakers must carefully consider how unbalanced tax or regulatory policies on goods and services providers affect hundreds of millions of Americans. The 2017 Tax Cuts and Jobs Act's R&D provisions expired in 2022, a problem which could contribute to slowdowns for investments in innovation across the economy, including medical products that help hold down consumers' health care costs. Tariffs on certain imported materials could impede deployment of affordable alternative energy solutions that consumers seek. The massive Superfund Excise Tax increase contained in the 2021 Infrastructure Investment and Jobs Act produces downstream cost hikes or other economic distortions involving thousands of products.

More directly under the Subcommittee's jurisdiction are EPA's regulatory programs, such as developing toxicity assessments and health evaluations for chemical substances that could be brought to market. EPA's recently released Integrated Risk Information System (IRIS) assessment of formaldehyde is but one of many instances where the agency has been mired in controversy around sidestepping established scientific procedures and causing needless, costly delays for determining safety and marketability of important substances. Formaldehyde, which occurs naturally, is also a key ingredient for compounds found in everything from building materials to medical supplies.

Taxpayers, meanwhile, have a direct and major interest in an efficient, effective, and focused EPA – starting with how its existing $9 billion-plus budget is managed. The Government Accountability Office (GAO) has featured "Transforming EPA's Process for Assessing and Controlling Toxic Chemicals" on its High Risk List for waste, fraud, and abuse for 13 straight years. IRIS has come under particular criticism because it "has not produced timely chemical assessments, and most of its 15 ongoing assessments have experienced delays." A bipartisan 2016 law updating the Toxic Substances Control Act (TSCA) was intended to streamline the chemical approval process to 90 days, reflect more robust cost-benefit analysis in regulatory decisions, and strengthen public-private partnerships for manufacturer-requested risk evaluations of chemicals.

Unfortunately, EPA has yet to make sufficient progress in these areas of transformation, in turn imperiling taxpayers in a variety of ways. Plastics used in health care equipment purchased by Medicaid, or for military trucks, or for flooring materials used in government offices are just a few of hundreds of examples where regulators could mistakenly ban or boost the price government pays for

substances that might actually be safe (and economical) to use. Delays or prohibitions on ingredients for pharmaceuticals or medical devices could impact all taxpayer-funded health care programs that depend upon alternatives to costlier interventions such as surgeries or long hospital stays. Bans or tight rules for chemicals in alternative energy products make subsidy programs for beleaguered taxpayers even more problematic.

We hope that the Subcommittee will concentrate its hearing on several areas of EPA policy that are critical to the well-being of taxpayers and consumers:

- How will EPA develop a detailed strategic and tactical plan for ensuring its fiscally challenged programs leave GAO's High Risk List? Furthermore, how will EPA address several of GAO's open recommendations that are of specific concern to taxpayers, ranging from chemical review timeliness to management of software licenses?

- In August, EPA's rescission of the 2020 rule, "Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act (CAA) Rulemaking Process," became effective, already affecting how the agency's "Clean Power 2.0" rule will be promulgated. Yet, the 2016 update to the TSCA law still calls for more widespread use of cost-benefit analysis in the chemical regulation area, which could have an impact on other functions in EPA such as Clean Power 2.0. Broadly, how is EPA ensuring that cost-benefit analysis remains a vital tenet in its decision-making principles?

- How is EPA ensuring that the promising approach of public private partnerships in regulation – among them Manufacturer-Requested Risk Evaluations (MRREs) – continues to evolve as the intent of the 2016 law provided?

- How, specifically, is EPA implementing the National Environmental Policy Act permitting reforms contained in the bipartisan Fiscal Responsibility Act that became law in July?

Many other questions of interest to consumers and taxpayers will remain well after today's hearing has concluded. Please regard us as a resource to the Subcommittee as it moves forward with further deliberations. Thank you for your consideration of our comments.

Sincerely,

National Taxpayers Union

American Consumer Institute

ConservAmerica

Consumer Choice Center

Rainey Center Freedom Project

Taxpayers Protection Alliance