

Submitted via email and www.regulations.gov

March 24, 2025

Ms. Wyn Zenni
Existing Chemicals Risk Management Division
Office of Pollution Prevention and Toxics
U. S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Re: Trade Association Coalition Comments on EPA's Advance Notice of Proposed Rulemaking N-(1,3-Dimethylbutyl)-N'-phenyl-pphenylenediamine (6PPD) and its transformation product, 6PPD-quinone; Regulatory Investigation under the Toxic Substances Control Act (TSCA); Extension of the Comment Period; 90 Fed. Reg. 5,798 (Jan. 17, 2025); Docket ID No. EPA-HQ-OPPT-2024-0403.

Dear Ms. Zenni:

The undersigned trade associations appreciate the opportunity to provide comment on the U.S. Environmental Protection Agency's (EPA) Advance Notice of Proposed Rulemaking regarding N-(1,3-Dimethylbutyl)-N'-phenyl-pphenylenediamine (6PPD) and its transformation product, 6PPD-quinone; Regulatory Investigation under the Toxic Substances Control Act (TSCA); Extension of the Comment Period; 90 Fed. Reg. 5,798 (Jan. 17, 2025).

We appreciate EPA's consideration of our Dec. 24, 2024, letter¹ and the agency's decision to extend the comment period from Jan. 21, 2025, to March 24, 2025. However, given the new administration's recent executive actions and policy priorities, we urge the agency to withdraw and reconsider this ANPRM, and pause any regulatory action until the new administration has an opportunity to review this issue and discuss the practical impacts of potential regulatory actions with users of products that may contain 6PPD. The new administration may also wish to revise the ANPRM to solicit information or address topics and issues not included in the current version. Withdrawal and reconsideration would also allow our associations and member companies additional time to evaluate the potential impacts of possible future EPA action on their business operations and supply chains.

I. Statement of Interest

Our associations represent a large and diverse cross-section of America's manufacturing, mining, construction, transportation, infrastructure, and chemicals sectors. Our members are vital to building a thriving national economy and are

¹ Comments submitted by National Mining Association on behalf of coalition of trade associations, Comment ID: EPA-HQ-OPPT-2024-0403-0095, *available at* <https://www.regulations.gov/comment/EPA-HQ-OPPT-2024-0403-0095>.

essential to achieving the nation’s goals regarding critical infrastructure, manufacturing, supply chain, transportation, and energy. Many of our members regularly use tires, chemicals produced with used tires, and other tire-related products in their operations. Downstream use of chemical and other tire-related products is not clearly traceable and may vary by production batch. EPA has identified a broad range of industry sectors that may potentially be impacted and have relevant data, or both. These include sectors that produce pigments, dyes, and organic chemicals. EPA has also requested comments and information on studies regarding complex issues that require consultation at varying levels of the supply chain, to identify information and potential impacts on the supply chain. We therefore have a significant interest in any data collection, research, and future EPA action regarding these chemical compounds.

II. EPA Should Withdraw and Reconsider the ANPRM to Align with the President’s Recent Executive Actions and Policy Priorities

EPA should withdraw and reconsider the ANPRM to align with the President’s recent executive actions and policy priorities. The “Regulatory Freeze Pending Review” Presidential Memorandum instructed federal agencies to refrain from issuing “any rule in any manner...until a department or agency head appointed or designated by the President...reviews and approves the rule.”² The memorandum also directed agencies to consider postponing the effective dates of rules for 60 days “for the purpose of reviewing any questions of fact, law, and policy that the rules may raise” and “where necessary to continue to review these questions of fact, law, and policy,” to “consider further delaying, or publishing for notice and comment, proposed rules further delaying such rules beyond the 60-day period.”³ The memorandum defines “rule” broadly to include not only the definitions of “rule” in the Administrative Procedure Act and “regulatory action” in Executive Order 12898, but also “guidance documents” as defined in Executive Order 13891, and explicitly provides that the requirements of the memorandum apply to “any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.”⁴ The President’s memorandum is clearly intended to pause ongoing regulatory actions initiated by the previous administration, including this ANPRM, so that new agency leadership have an opportunity to review these actions to ensure alignment with the current administration’s priorities. EPA developed this ANPRM during the previous administration and proposed it for public comment on Nov. 19, 2024, just two months before the Inauguration. It is therefore a prime candidate for withdrawal and reconsideration.

Withdrawal is also consistent with the President’s Executive Order, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government

² Regulatory Freeze Pending Review,” 90 Fed. Reg. 8,249 (Jan. 20, 2025).

³ *Id.*

⁴ *Id.*

Efficiency' Deregulatory Initiative.”⁵ This order directs agencies to identify regulations and guidance that meet any of seven different criteria for reconsideration or rescission. The criteria for reconsideration and revision most applicable to this ANPRM include: regulations that impose significant costs upon private parties that are not outweighed by public benefits; regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship. The order also directs agencies to coordinate with DOGE Team Leads and the Office of Management and Budget to initiate this deregulatory review process, consult the Attorney General as appropriate in identifying regulations, and submit the final list to the Office of Information and Regulatory Affairs.

In the ANPRM, EPA seeks comments on a wide range of complex topics that are not readily known across the breadth of impacted industry sectors. Compliance will require our members to conduct research, potentially hire consultants, and undergo significant review and analysis of their products, business operations, and supply chains. Any future regulatory action could increase costs and create significant uncertainty for their operations, which could harm the national interest by impeding infrastructure development, disaster response, economic development, energy production, and land use. Future regulatory action that restricts the use of products that contain 6PPD could also impose undue burdens on small businesses.

III. EPA Should Pause Any Future Regulatory Activity

We strongly urge the agency to withdraw the ANPRM and pause any future regulatory activity for three additional reasons. First, the science surrounding 6PPD and 6PPD-q “continues to evolve”⁶, but there are still “significant data gap[s]”⁷ around ecological toxicity and “notable data gap[s]”⁸ around the health effects of 6PPD-q and other 6PPD transformation products. As explained in the above referenced Dec. 24, 2024, extension request, the initial comment period did not afford our members the opportunity to comprehensively review the scientific studies and other data in the docket. For example, the ANPRM solicited comment on “all of the information included in and referenced by this ANPRM” and “any other information relevant to 6PPD and/ or 6PPD-quinone.”⁹ Based on our review of the docket, this included 90 separate documents (most of which are highly technical scientific documents), totaling more than 2,000 pages of information, and including 48 documents that are

⁵ Executive Order 14219, “Ensuring Lawful Governance and Implementing the President's “Department of Government Efficiency” Regulatory Initiative,” 90 Fed. Reg. 11,001 (Feb. 25, 2025).

⁶ U.S. EPA, 6PPD-quinone Resources, Data and Tools, *available at* <https://www.epa.gov/chemical-research/6ppd-quinone> (last visited March 24, 2025).

⁷ Interstate Technology Regulatory Council, “What We Know: 6PPD and 6PPD-diquinone,” *available at* <https://6ppd.itrcweb.org/wp-content/uploads/2023/09/6PPD-Focus-Sheet-Web-Layout-9.pdf> at 2.

⁸ *Id.* at 4.

⁹ 89 Fed. Reg. 91,300.

not available for the public to review because they contain restricted content.¹⁰ Withdrawing and reconsidering the ANPRM will allow our members and the broader public more time to review the scientific information in the docket and provide meaningful comment should the agency pursue regulatory action in the future.

Second, EPA should withdraw the ANPRM and pause future regulatory activity so that the agency can work with the regulated community to fully evaluate the economic and supply chain impacts that potential regulatory action could have on the users of materials that may contain 6PPD. EPA's ANPRM seeks comment on complex topics, such as the economic impact and feasibility of companies potentially phasing out their use of 6PPD in rubber products throughout their supply chains and operations. We appreciate the agency's interest in learning more about the economic and supply chain impacts that potential regulatory actions could have on users of tires and other products that may contain 6PPD. However, this inquiry is incredibly complex and could not be completed during the ANPRM's limited comment period. Providing information on the economic and supply chain impacts will require our member companies to conduct significant research and analysis throughout their supply chains and potentially require them to hire consultants. Anecdotally, we understand from some of our members that a single large tire used in typical heavy machinery on an industrial site can cost approximately \$100,000 or more. Replacing tires on an entire fleet of haul trucks on a large industrial site could cost a company millions of dollars. These costs would be especially problematic for small businesses. Withdrawing the ANPRM would allow more time for the agency and industry sectors to consider the economic and supply chain implications of future regulatory action.

Finally, we understand that the TSCA ANPRM is just the first step in a very long risk evaluation process to determine whether certain conditions of use contribute to unreasonable risks that may lead to a potential restriction, limitation, or ban of 6PPD use, which is vital for many industries. This process is separate from other actions that EPA is already taking on these chemicals. For example, EPA's Office of Water is seeking comment on 6PPD and 6PPD-q in its Draft 2026 Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity under the Clean Water Act (CWA).¹¹ Specifically, the agency seeks comment on "the possible discharge of 6PPD-q in stormwater discharges from the regulated portion of industrial facilities," including information or feedback regarding "the types of industrial facilities...that have the potential to discharge 6PPD-quinone in stormwater and why," "any data that can be shared with EPA regarding the levels of 6PPD-quinone in stormwater discharges from these industrial facilities," and information on stormwater control measures and monitoring requirements that could be appropriate for facilities with the "potential to discharge 6PPD-quinone in stormwater."¹² From a holistic standpoint, EPA should not be making any regulatory decisions before it has a thorough understanding of any risks. Without that foundation, moving forward with

¹⁰ See <https://www.regulations.gov/docket/EPA-HQ-OPPT-2024-0403>.

¹¹ 89 Fed. Reg. 101,000 (Dec. 13, 2024); 90 Fed. Reg. 8,798 (Feb. 3, 2025).

¹² U.S. EPA, Draft 2026 MSGP Permit Parts 1-7 at 35 *available at* <https://www.epa.gov/system/files/documents/2024-12/proposed-2026-msgp-permit-parts-1-7.pdf>.

TSCA restrictions or CWA permitting requirements or guidance is premature.¹³

IV. Conclusion

As discussed above, we urge EPA to withdraw and reconsider the ANPRM to ensure that the information the agency seeks aligns with the President's executive actions and policy priorities. Withdrawal and reconsideration would also allow potentially affected industry sectors more time to gather the resources and information needed to inform a thoughtful approach to this issue, which could have significant impacts on a broad swath of the U.S. economy.

We appreciate your consideration of these comments and look forward to engaging with EPA further on this matter. In the meantime, please contact Caitlin McHale at cmchale@nma.org or (202) 463-2646 if you have any questions.

Respectfully submitted,

American Coatings Association
American Coke and Coal Chemicals Institute
American Exploration & Mining Association
American Road and Transportation Builders Association
Associated General Contractors of America
Color Pigments Manufacturers Association
National Asphalt Pavement Association
National Mining Association
National Stone, Sand & Gravel Association
The Fertilizer Institute
U.S. Chamber of Commerce

CC: Nancy Beck, EPA OCSP, Principal Deputy Assistant Administrator
Peggy Browne, EPA Office of Water, Acting Assistant Administrator

¹³ Numerous trade associations, including several signatories to this letter, have filed requests urging EPA's Office of Water to withdraw and reconsider the draft 2026 MSGP to align with the new administration's policy priorities before the April 4, 2025, comment deadline. See comments filed in the docket at <https://www.regulations.gov/docket/EPA-HQ-OW-2024-0481/comments>.