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TSCA AND PUBLIC HEALTH:

FULFILLING THE PROMISE OF THE LAUTENBERG ACT

WEDNESDAY, OCTOBER 27, 2021

House of Representatives,

Subcommittee on Environment and Climate Change,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:33 a.m., in the John D. Dingell Room, 2123 Rayburn House Office Building, Hon. Paul Tonko [chairman of the subcommittee], presiding.

Present: Representatives Tonko, DeGette, Schakowsky, Sarbanes, Clarke, Ruiz, Peters, Dingell, Barragan, McEachin, Blunt Rochester, Soto, Pallone (ex-officio); McKinley, Johnson, Mullin, Hudson, Carter, Duncan, Palmer, Curtis, Crenshaw, and Rodgers (ex-officio).

Staff Present: Jacqueline Cohen, Chief Environment Counsel; Waverly Gordon, Deputy Staff Director and General

Counsel; Tiffany Guarascio, Staff Director; Anthony Gutierrez, Professional Staff Member; Perry Hamilton, Clerk; Zach Kahan, Deputy Director Outreach and Member Service; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Mackenzie Kuhl, Press Assistant; Brendan Larkin, Policy Coordinator; Kaitlyn Peel, Digital Director; Caroline Rinker, Press Assistant; Nikki Roy, Policy Coordinator; Andrew Souvall, Director of Communications, Outreach, and Member Services; Rebecca Tomilchik, Policy Analyst; Sarah Burke, Minority Deputy Staff Director; Michael Cameron, Minority Policy Analyst, CPC, Energy, Environment; Jerry Couri, Minority Deputy Chief Counsel for Environment; Nate Hodson, Minority Staff Director; Peter Kielty, Minority General Counsel; Emily King, Minority Member Services Director; Mary Martin, Minority Chief Counsel, Energy & Environment; Peter Spencer, Minority Senior Professional Staff Member, Energy; and Michael Taggart, Minority Policy Director.

*Mr. Tonko. The Subcommittee on Environment and Climate Change will now come to order.

Today the subcommittee is holding a hearing entitled, "TSCA and Public Health: Fulfilling the Promise of the Lautenberg Act.''

Due to the COVID-19 public health emergency, members can participate in today's hearing either in person or remotely, via online video conferencing.

Members, staff, and members of the press present in the hearing room must wear a mask, in accordance with the updated guidance issued by the attending physician.

For members participating remotely, your microphones will be set on mute for the purpose of eliminating inadvertent background noise.

Members participating remotely will need to unmute your microphone each time you choose to speak. Please note that, once you unmute your microphone, anything that is said in Webex will be heard over the loudspeakers in the committee room, and subject to be heard by the livestream and C-SPAN.

So, since members are participating from different locations at today's hearing, all recognition of members, such as for questions, will be in the order of subcommittee seniority.

Documents for the record can be sent to Rebecca Tomilchik at the email address we have provided to staff.

All documents will be entered into the record at the conclusion of today's hearing.

The chair now recognizes himself for five minutes for an opening statement.

Five years ago, the Frank R. Lautenberg Chemical Safety for the 21st Century Act was signed into law to reform the Toxic Substances Control Act, which regulates chemical substances in commerce. That legislation was the result of a multiyear, bipartisan effort. Members of this committee, including Chairman Pallone, then-Chairman Upton, and John Shimkus played pivotal roles in the development and the negotiations of the bill.

This is our first oversight hearing of the Lautenberg Act since its enactment, and I am happy to welcome Dr. Michal Freedhoff back to the Energy and Commerce Committee.

Welcome.

Before her confirmation, Assistant Administrator Freedhoff was a long-tenured public servant in the House and Senate, and she was integral to the enactment of TSCA reform. Dr. Freedhoff's knowledge of the law and scientific training makes her well-equipped to lead this office and, in my opinion, get the program back on track.

This is a big job. Tackling PFAS, asbestos, methylene chloride, ethylene oxide, and other dangerous chemicals that have sadly become household names must be a top environmental

and public health priority for this Administration.

Many people are aware that I had concerns with the Lautenberg Act when it was enacted. I fully acknowledge that the Toxic Substance Control Act of 1976 was broken, and the 2016 amendments would make numerous improvements over the status quo, including explicit consideration of vulnerable groups, and an expedited risk management process for certain PBT chemicals. But I was worried that states would be more limited in their ability to address chemical risks, especially if the Federal program once again failed to work as promised.

Sadly, there have been numerous examples over the past five years, during the early implementation of the law, of the program being titled -- tilted by political appointees strongly in favor of an industry at the expense of science-based protections for public health. Several of the first 10 risk evaluations have needed to be revisited, often for failing to adequately consider potential exposure pathways, conditions of use, and risks to vulnerable groups, including workers.

There have also been concerns raised about the scientific integrity of the program. This is an office that does very technical, science-based regulatory work. Ensuring scientific integrity is paramount, so that EPA's experts can do the work required by the law, free from political

interference.

And while I am worried about reports of scientific integrity violations in recent years, I am heartened by the announced steps to create new safeguards within the office, including establishing a science policy adviser position, and a new science and policy counsel. I hope these efforts will work seamlessly within the existing EPA scientific integrity infrastructure, and employees will be able to report freely to the agency's top scientific integrity official.

Finally, TSCA will play a critical role in EPA's recently-announced PFAS strategic roadmap. The TSCA office will be responsible for implementing a national PFAS testing strategy, ensuring new PFAS are properly reviewed, and re-reviewing previous PFAS decisions.

In the past I have raised concerns about the number of new PFAS entering commerce through low-volume exemptions. I support EPA's April decision to likely deny future LVE requests, and I hope EPA will take additional steps to appropriately restrict new PFAS in the future. I look forward to hearing more about the Agency's ongoing work to use its TSCA authorities to address PFAS risks.

There is no doubt of TSCA's potential to improve chemical safety and protect public health, but it requires Administration leadership that is committed to assessing, evaluating, and managing chemical risks in a manner that

respects science and the law. I believe that is the direction of the Biden Administration, and I look forward to today's hearing to provide additional clarity on EPA's efforts to get the TSCA program back on track.

Dr. Freedhoff, I want to thank you again for joining us this morning. I look forward to your testimony, and to working together to ensure that TSCA's authorities are used to the fullest, as envisioned by the many members and stakeholders that supported the historic reform effort.

[The prepared statement of Mr. Tonko follows:]

**********COMMITTEE INSERT**********

*Mr. Tonko. And that -- with that, I yield back.

The chair now recognizes Mr. McKinley, ranking member of the Subcommittee on Environment and Climate Change, for five minutes for his opening statement.

Representative McKinley?

*Mr. McKinley. Thank you, Mr. Chairman, and thank you, Ms. Freedhoff, for coming here today.

From -- ever since former chairman of this subcommittee, John Shimkus, and his staff worked tirelessly to get the Lautenberg Act passed in 2016, the first amendment -- this -- and this was the first amendment in over 40 years, as I recall, in talking to John about that. But now it is five years later, and this committee, I think, apparently now, we are looking to see how it has been implemented.

But with its passage, the Lautenberg Act provided for much-needed changes, so that the United States could unlock the potential of its chemical industry. The EPA administers the statute. But unfortunately, instead of promoting innovation and supporting the chemical industry, as the Act intended, it seems like EPA is stifling innovation and creating barriers to commerce for new and existing materials.

The chemical industry is -- clearly, we all understand, it is key to the components of our U.S. supply chain. We all can see that getting products from overseas is not working very well. The ports are backing up. Deliveries are missing

deadlines. And now, EPA wants to regulate more than just chemicals, like an imported article that may -- and that is the emphasis, that is the operative -- may contain a regulated chemical, thereby challenging and disrupting that critical supply chain.

And look at this new chemical program, known as the gateway to innovation. There is a significant backlog of new chemicals at EPA. We are hearing that from suppliers, vendors, people that have worked with the EPA. You may not think there is a backlog; they think there is a backlog, and that is what is important. So they are awaiting approval for their chemicals.

The recent changes, the policy changes at the EPA, will only slow things down. Mr. Chairman, I would like to enter into the record an article from Bloomberg about the memo that the administrator produced, if you could, please, Mr. Chairman.

This is about a memo that just -- it was last week that, apparently, you told your staff in a memo, one, take more time off, and then take an hour every day for lunch, not to be at meetings on Friday, limit public engagement, improve meetings by streamlining topics, requesting agendas, and keeping conversations crisp, and not to take their home -- their work home with them, mentally. Seriously? And at the same time, you are -- typically, you are asking for more

money, but you want to work less.

So it is no wonder the EPA's chemical backlog is expanding. How does this statement encourage a more streamlined chemical review process?

There are other issues, too. And this committee will discuss them today. But Mr. Chairman, Section 902 of the Clean Future Act places a 3-year moratorium on permits, air permits for plastic facilities, thereby preventing them from being constructed over the next 3 years. Am I missing something in all this?

The United States has been striving for robust chemical industry. And how is that possible, if we have, one, a backlog of bureaucratic delays in the chemical program; the email, or memo, telling our staff to do less; and then a ban on constructing plastic facilities, further restricting America's access to U.S.-made PPE, gloves, shields, masks, gowns? These are -- all are necessary for our strategic national stockpile.

I don't understand what is happening under this Administration. I thought John Shimkus's efforts with the TSCA was to stimulate the potential of the U.S. chemical industry. But it appears to me the policies that have been put forth in the last 10 months are doing diametrically opposite.

[The prepared statement of Mr. McKinley follows:]

**********COMMITTEE INSERT**********

*Mr. McKinley. So with that, Mr. Chairman, I yield back the balance of my time.

*Mr. Tonko. The gentleman yields back. Before I recognize the chairman of the full committee, Mr. Pallone, I would ask that the entire subcommittee join me in wishing him a very happy birthday.

[Applause.]

*Mr. Tonko. I know that this additional digit that he has added came with a lot of hard work on behalf of the people of this country, as chairman of this full committee.

And Frank, thank you for the work on behalf of Build Back Better, infrastructure, all of the Energy and Commerce agenda. And with that, we recognize you for five minutes for your opening statement.

*The Chairman. Thank you, Chairman Tonko. I am sure you are aware, having been at the caucus this morning, that I am surprised by people even mentioning my birthday, and particularly the 70. But that is okay. Thank you so much.

I wanted to start out by just saying that we are, obviously, continuing our work to ensure the legacy of my Senator and mentor, Frank Lautenberg, who was the -- you know, who the TSCA bill is named after. And I, of course, want to make sure that we live up to Senator Lautenberg's commitment to protecting Americans from chemical exposure, particularly children, but also pregnant women, workers,

environmental justice communities.

And this committee worked in a strong bipartisan fashion. I know mention was made of Congressman Shimkus, who was so much involved to finally get this landmark legislation signed into law in 2016 by then-President Obama. And it updated and modernized the Toxic Substances Control Act, otherwise known as TSCA, for the first time in 40 years.

And of course, let me mention your outstanding work, Congressman Tonko, in trying to get this over the line. You really were taking the lead on it.

Unfortunately, the Trump Administration's implementation of this law was tainted by secrecy and undue political influence. The Trump Administration's actions undermined our efforts of creating a strong Federal chemical regulatory system.

One of the key goals of the Lautenberg Act was to finally give the EPA the tools it needed to address the threats of harmful chemicals like asbestos, tools that the agency did not have under the original TSCA law. Thirty-two years ago, EPA finalized a rule banning asbestos, but the rule was struck down in court two years later. The original TSCA simply did not give EPA the tools it needed to address the risk, even though we had known the dangers of asbestos for decades.

And as a result, asbestos is still being used in

automotive parts, and chemical manufacturing, and construction materials all across the country, and the continued use of asbestos poses a continuing threat to human health and the environment.

So, while the Lautenberg Act finally gave EPA the tools it needed to address asbestos and other harmful chemicals, it quickly became clear that the Trump EPA would not take the needed actions. In fact, the Trump EPA's asbestos risk evaluation was panned by the Science Advisory Committee on Chemicals, and challenged in court.

But fortunately, with the new Biden Administration, the EPA is under new leadership. The agency recently reached a settlement to resolve the deficiencies in its asbestos work, and is now on a path to properly address legacy exposures. I am pleased to say that EPA appears to be moving to address risks from many dangerous chemicals. The strong, credible Federal regulatory regime we hoped for with the Lautenberg Act seems to be in sight.

The EPA's TSCA office also played a critical role in solving the rampant PFAS contamination problem affecting the nation. I was relieved to see the comprehensive testing and reporting requirements included in the Biden Administration's PFAS roadmap issued by the Agency earlier this month, and the roadmap includes critical pieces of the PFAS action plan that has passed the House twice on a bipartisan basis, thanks to

the tireless work of Representative Dingell, and the steadfast support of Representative Upton.

Thankfully, the Biden EPA, under the Administrator Regan, Michael Regan, has committed the Agency to scientific integrity and its critical mission to protect the public health and the environment. The Agency is conducting a second look at the flawed risk evaluations of the Trump Administration, implementing TSCA as intended, and addressing the disproportionate risk for environmental justice communities. And I am very hopeful that, under the Biden Administration, the TSCA office can operate free of political interference, and make decisions based on science that will benefit public health.

So this is an important oversight hearing, Mr. Chairman. I thank you for this TSCA program, and the bipartisan law that so many of us on this committee worked to get across the finish line. As a friend of the late Senator Lautenberg and his family, it is important to me that his environmental legacy be honored in the implementation of the critical reforms that are made in his name.

So I want to thank the assistant administrator for testifying today, and look forward to the hearing on how the EPA is working to get TSCA back on track.

[The prepared statement of The Chairman follows:]

**********COMMITTEE INSERT**********

*The Chairman. Thank you, Mr. Chairman. I yield back.

*Mr. Tonko. Chairman Pallone yields back. The chair now recognizes Mrs. Rodgers, ranking member of the full committee, for five minutes for her opening statement, please.

*Mrs. Rodgers. Thank you, Mr. Chairman. Happy birthday, Mr. Chairman. Good morning, everyone. Welcome.

This hearing is about the operations of the Office of Chemical Safety and Pollution Prevention at the Environmental Protection Agency, EPA, and especially this office's implementation of Title 1 of the Toxic Substances Control Act, or TSCA.

TSCA is unlike any other statute. It gives EPA broad authority to regulate the entire chain of commerce, if EPA finds it necessary to control an unreasonable risk presented by a chemical substance under its conditions of use. With authority this sweeping, it is fundamental that we, the lawmakers, the policy-makers, oversee this office and these programs.

This oversight today is even more critical, because of the questions raised by the new expanded and precautionary implementation direction being applied to the TSCA 2016 amendments. It is a direction that can wreak havoc on supply chains, hurt our ability to lower U.S. greenhouse gas emissions through free-market solutions and innovation, make

inflation worse, and hurt America's competitive edge against China.

Five years ago there was a consensus that parts of TSCA were not performing well enough, and that it was hurting consumer confidence. Attempts to create a mirror opposite of TSCA were rejected by Congress. Instead, the 2016 TSCA amendments were intended to reset more restrictive court interpretations of TSCA, permit EPA to obtain more easily information to support its TSCA work, enforce high-quality science standards on TSCA activity, and make EPA's decisions more transparent.

It was not the intent to replace risk-based decision-making with assessment and regulation predicated only on hazard. Precaution is not risk.

It was not intended to remove one unreasonable risk to create another, more unreasonable risk for a society.

It also was not intended to shift EPA's focus from reviewing and regulating certain types of chemicals to, instead, regulating for other Federal agencies in EPA offices and areas where Congress did not give them explicit authority.

Most importantly, Republicans on Energy and Commerce, when we were in the majority in 2016, did not intend regulation under TSCA. Okay. When we were in the majority -- I am going to cry about it now -- we did not intend

regulation to stifle innovation or interstate commerce. We did not intend for TSCA regulations to go from the least to the most burdensome.

We are in the midst of a domestic supply chain crisis. We cannot afford letting an inefficient, unreasonable TSCA implementation further devastate innovation and America's competitiveness.

These current choices hurt American leadership, and the ability for people to raise their standard of living. For example, TSCA Section 5 has long been considered the gateway for American innovation. Multiple past EPA career managers of the new chemicals program testified to this committee that new chemicals tended to be greener and safer than the chemicals they are replacing.

Yet, since 2016, EPA is only receiving one-third of the new chemical applications it gets, and two-thirds of the year are already past. EPA has only made 27 determinations on the 203 pre-manufacture notices it has received this year. Notably, these decisions are required within no more than 180 days.

In addition, delays on EPA regulations of significant new uses of existing chemicals average 1.3 years, allowing competitors to commercialize some of these substances, and defeating the purposes of issuing use conditions.

Failing to provide industry the confidence they and

downstream customers need regarding options to improve their products and compete globally in a timely matter manner is a significant shortcoming.

This is not a question of science or risk. This is a matter of management, and that falls to the Agency and its leaders, including the witness today.

Making OSHA and CPSC items also subject to TSCA jurisdiction does not increase compliance, only enforcement and penalty opportunities.

I look forward to this hearing today, and asking further questions, and with that I yield back. Thank you.

[The prepared statement of Mrs. Rodgers follows:]

**********COMMITTEE INSERT**********

*Mr. Tonko. The gentlelady yields back.

The chair reminds members that, pursuant to committee rules, all members' written opening statements shall be made part of the record.

And now we will introduce the witness for today's hearing. We welcome the Honorable Michal Freedhoff, Assistant Administrator of the Office of Chemical Safety and Pollution Prevention at the United States Environmental Protection Agency.

At this time the chair will recognize the witness for five minutes to provide her opening statement.

Before we begin, I would like to explain the lighting system. In front of our witness is a series of lights. The light will initially be green. The light will turn yellow when you have one minute remaining. Please begin to wrap up your testimony at that point. The light will turn red when your time has expired.

I recognize Assistant Administrator Freedhoff for five minutes to provide an opening statement.

And again, welcome.

STATEMENT OF THE HON. MICHAL ILANA FREEDHOFF, PH.D., ASSISTANT ADMINISTRATOR, OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP), U.S. ENVIRONMENTAL PROTECTION AGENCY

*Dr. Freedhoff. Good morning, Chairman, Ranking Members, and other members of the committee. I very much appreciate the opportunity to speak with you today.

I have spent the majority of my career here, on Capitol Hill, including time spent on this committee's staff, and it really is a pleasure to be back.

One of the most professionally rewarding and challenging opportunities I had during my time on the Hill was to work on the much-needed reforms to the Toxic Substances Control Act, or TSCA, a law that for nearly 40 years had largely failed to serve its purpose.

*Mr. Tonko. Excuse me. Yes, okay, we are just wondering if the mike is on, or perhaps you need to be a little closer.

*Dr. Freedhoff. It is on.

*Mr. Tonko. Okay.

*Dr. Freedhoff. I can move it a little closer. Is that better?

*Mr. Tonko. Yes, I think that is better.

*Dr. Freedhoff. Okay.

*Mr. Tonko. Thank you.

*Dr. Freedhoff. Okay.

*Mr. Tonko. Sorry.

*Dr. Freedhoff. No worries. There was widespread acknowledgment across the political spectrum that TSCA was broken, and that the public deserved better protections against dangerous chemicals.

Now at EPA, I am fortunate to be able to work on the implementation side. More than half a decade has passed since the reforms became law, but there is still much more work to be done in order to get TSCA implementation efforts back on track. And I would like to emphasize just a few of the critical building blocks that I believe are needed for a sustainable TSCA program.

First, I would like to talk about resources. I was actually shocked to learn that the previous Administration never asked Congress for any meaningful new funding to reflect the new responsibilities in the 2016 law. And although Congress told EPA that it could offset up to 25 percent of some of its TSCA costs through fees from chemical companies, we have only recouped about 13 percent of those costs from fees, not 25 percent.

And these shortfalls have implications that are important to all stakeholders. For example, we estimate that we have less than 50 percent of the resources that we need to

review and approve new chemicals in the way Congress intended us to do. The funding boost in the President's 2022 budget request would be a significant downpayment, and we hope to work with you to build on this in future years.

The second element of a sustainable program is strong science and scientific integrity, which are essential for earning and maintaining the public's confidence. When EPA says that a chemical found in products that are used in homes, schools, and workplaces is safe, it is in everyone's interests for the public to be able to believe us.

Third, a sustainable TSCA program must have policies and processes that will lead to legally and scientifically defensible and protective chemical safety actions. The last Administration finalized 10 existing chemical risk evaluations, and a great deal of work by EPA's fantastic career scientists went into them. So, while some of our policy changes may require some supplemental analysis for some of the first 10 risk evaluations, our goal is to do that extra work only when a failure to do so would lead to a less protective outcome, once we get to the rulemaking stage. The faster we can move into risk management, the faster we can begin to provide the chemical safety protections the law promised.

We are already implementing a number of key policy changes for many of the first 10 risk evaluations. We have

reversed the previous Administration's assumption that all workers always properly use protective person -- protective equipment. And we have reversed the previous Administration's decision to exclude exposures to chemicals from air, drinking water, and disposal from risk evaluations, because this likely left some exposures to the general population unaccounted for, including exposures to fenceline communities located near industrial facilities who may be disproportionately exposed.

But our goal is to move to rulemaking as soon as we possibly can. As so many of you know, the litigation that overturned EPA's 1989 ban on asbestos became an emblem for why TSCA needed to be reformed in the first place. And I expect that our proposed rule for asbestos would be the very first of the first 10 chemicals assessed under TSCA that we send to OMB later this year.

I also wanted to highlight some of the work we have been doing to improve implementation of the new chemicals program. Earlier this year we announced policy changes with respect to protecting workers and ensuring that the scope of new chemical reviews aligns with Congress's expectations.

In addition, we have revised the process for review and finalization of human health risk assessments, and established a new internal advisory body to review and consider scientific and science policy issues related to new

chemical submissions.

But I want to be very clear: I don't believe that ensuring new chemicals can be used safely and ensuring that the Agency does these safety reviews quickly are mutually exclusive. We can do both, and the law says we should.

Lastly, I wanted to touch on Administrator Regan's recent announcement on PFAS, and the urgent health and environmental threat they pose. I am just going to briefly describe one of my office's contributions to the PFAS road map.

One of the biggest challenges we face is that most of the thousands of PFAS that have been made or used have limited or no toxicity data, which means we can't write a drinking water standard or set a cleanup level, because we can't characterize the health effects of the substances. And if we keep working on this one PFAS at a time, we will never be able to fully solve this problem.

Last week the agency announced a national PFAS testing strategy that groups PFAS into categories for testing. The first TSCA test orders to PFAS manufacturers, for about 20 different parts in 20 different categories, will go out in a matter of months, and will provide the Agency with critical health risk information that can be extrapolated to more than 2,000 other PFAS in similar categories.

In conclusion, I am fully committed to getting our TSCA

implementation efforts back on track, and to using those authorities to ensure protections against dangerous chemicals for the American people.

Thank you very much for inviting me today, and I look forward to your questions.

[The prepared statement of Dr. Freedhoff follows:]

**********COMMITTEE INSERT**********

*Mr. Tonko. Administrator Freedhoff, thank you for your testimony.

We will now move to member questions, and I will start by recognizing myself for five minutes.

You have partners here in Congress that are ready to work with you to make certain that TSCA is protecting Americans from dangerous chemicals, as intended by the 2016 reforms that you worked hard to enact. But there is much to do to get this program back on track. And I believe it must start by ensuring greater transparency of EPA's processes, and the use of scientific data in its decision-making.

Sadly, this lack of transparency was a hallmark of the previous Administration. In 2019 Chairman Pallone and I raised concerns about EPA's decision to classify Pigment Violet 29 health and safety studies as confidential business information. Section 14(b)(2) of TSCA is explicit that health and safety studies are not prohibited from disclosure.

So, Administrator Freedhoff, do you intend to make all health and safety studies public for all chemicals under review?

*Dr. Freedhoff. Sorry. Thanks very much for that question, Mr. Chairman, and I agree that increased transparency was one of the fundamental reforms that was included in the 2016 TSCA amendments, and I -- you know, it was also, as you know, one of the more complicated sections

to negotiate.

I do agree that the law requires health and safety studies to be made public, and we are going to implement the law.

*Mr. Tonko. And what other steps, if any, are you taking to ensure greater transparency in the program?

*Dr. Freedhoff. We have taken a number of steps fairly recently. We moved the identities of almost 400 chemicals from the confidential to the public part of the TSCA inventory, as a result of a review that we did following a rule mandated by the new law. And we are going to continue to be making information like that public, as we are able to.

And we are also working especially hard at providing more information about new chemicals, and making that information more public as quickly as we can.

Of course, we do take very seriously our obligations to protect confidential business information, and that is why sometimes our reviews seem like they are taking longer than they should, because we are really, you know, checking every box to make sure we don't inadvertently release something that we shouldn't.

*Mr. Tonko. Thank you. Regarding PV 29, the draft risk evaluation failed to consider worker exposures. This will be a theme today, ensuring proper consideration of potentially exposed or susceptible sub-populations, as required by the

law.

So what steps are you taking to ensure vulnerable populations, such as workers, are considered from the beginning of the chemical review process?

*Dr. Freedhoff. Thanks very much for that, for that question, Mr. Chairman, because you are absolutely right, the law requires us to consider exposures to potentially exposed and susceptible sub-populations. That doesn't just include workers. It also includes, you know, communities who live near industrial facilities, who might be disproportionately exposed to those chemicals.

So one thing we are doing, we -- you know, we did announce the reversal of the failure to consider all of the risks that workers might pose, as part of our risk evaluations, and we will be carrying that policy reversal forward, not just for the first 10 chemicals, but for the next 20, as well.

But what we are -- another thing that we are doing is creating a fenceline screening methodology that is intended to make sure that we haven't inadvertently left communities out of those risk evaluations. And we will be releasing that fenceline screening methodology later this fall, both for public comment and peer review, and expect to build on those efforts going forward, as well.

*Mr. Tonko. Thank you. Administrative Freedhoff, as a

scientist, I know you appreciate that concepts like best-available science are highly influenced by the methods and processes for selecting and evaluating which studies are being considered. In order to determine how to apply the best-available science, EPA uses a systematic review method to inform chemical risk evaluations.

But in 2018 EPA published a final systematic method document that was criticized by the scientific and environmental communities. The National Academies Peer Review Report, published in February of 2021, was also critical of the 2018 method.

I recognize and support EPA's decision to develop a new method, subject to public comment and peer review. But at this stage, EPA has yet to release a draft method, and it is unclear what method is being used to develop current risk evaluations underway. So when will the revised systematic review method be publicly released?

*Dr. Freedhoff. Thanks very much for that question. I just want to make clear, first of all, that EPA hasn't been using that older method in some time. And the career scientists in OCSPP have been working with their colleagues in the Office of Research and Development to make sure, even in advance of the Critical National Academy report that you referenced, that our systematic review process was made more robust.

I expect that we will be releasing the methodology, the new methodology, for both public comment and peer review later this year.

*Mr. Tonko. Okay. With that I will now recognize Representative McKinley for five minutes to ask questions, please.

*Mr. McKinley. Thank you again, Mr. Chairman, and thank you again for this hearing. This is -- speaking for John Shimkus on this, this is something that was very important to him.

So, if I could, back -- there was an overwhelming consensus in the -- in late winter and in the spring of 2020, that, one, there was a shortage of personal protective equipment needed in America, we -- and secondly, we needed to manufacture more in the United States. And those that were involved in the Strategic National Stockpile also concurred that there was an insufficient supply of PPE available, and it led to a critical shortage.

Now, Assistant Administrator, Section 902 -- just in your opinion, I know that you haven't crafted the bill, but it is out there before us -- Section 902 of the Clean Future Act restricts the building or expansion of American plastic manufacturing industries -- facilities.

So my question, how -- in your opinion, how will this policy promote the additional availability of PPP [sic] in

the United States, if we are not manufacturing more?

*Dr. Freedhoff. Thanks very much for that question, and I believe that section of the Clean Future Act relates to the Clean Air Act, and I think I need to take that specific question back to our air office.

But if you don't mind, I just wanted to note that, in the pesticides office, which is in my part of the EPA, we have actually worked really, really closely with a lot of manufacturers to make sure that those supply chain stresses are not felt.

*Mr. McKinley. If I could recover my -- that -- we are not hearing the same. They are not -- the people that I am talking to throughout West Virginia and places are not concurring with that, that there are delays in -- and they are very concerned about the potential. It is the lack of clarity, the uncertainty that is swirling because this legislation could go into effect.

Now, so if I could, we know the supply chains or -- for articles are, one, focused on material declarations; and two, they are complex and multi-layered. I would concur with you on that. So it will be virtually impossible to identify each and every chemical in each and every imported article. The Lautenberg Act was not intended to regulate items, where the likelihood of exposure to a chemical is just highly unlikely. So by trying to assess every chemical in every product, it

could take years to figure out what chemicals are in production.

So, Administrator, so if Congress bans the construction of plastic facilities, and the EPA pursues these bureaucratic delays in importing goods under TSCA because they might contain a chemical, how does the U.S. -- how do we in America avoid additional future supply chain shortages?

*Dr. Freedhoff. So first of all, I think I would say that the Agency is equally concerned about supply chain shortages. And I think, you know, I think it is important to note that the rule that regulated articles that is causing these supply chain concerns was actually finalized by the Trump Administration. And I actually believe that the Trump Administration made every effort to reach out to industry and explain what their plans were for that rule and seek feedback.

But it wasn't until I had been at the Agency for just a few days, where industry started to realize, after this rule was already finalized, what the implications would be on their supply chains. So we actually took immediate action under the Biden Administration to extend the compliance date for that rule, which, again, wasn't finalized by us. And we are still working to address and understand those concerns in a reasonable and practical way, and --

*Mr. McKinley. Thank you.

*Dr. Freedhoff. -- I commit that I will continue to do that.

*Mr. McKinley. If I could, Administrator, and as to your email, the memo, we have heard from the chemical industry in West Virginia, and they have already previously had problems accessing guidance from the EPA. It is just the bureaucratic delays that are out there. They were already seeing this.

And now, by virtue of this memo of reduced -- no meetings on Friday, you are reducing their access to you by 20 percent. And I don't understand that. I don't agree with that. I think what you are doing by your memo is you are only going to make it worse across -- in trying to consolidate and move things down the food -- the pipeline. I am concerned about that. I am afraid it is just going to make it worse.

So I hope you do revisit your constriction of time and access and availability. You have got great staff. Let's get them involved with the industry. They are crying out. They need more help. They don't need less access to you.

So with that, Mr. Chairman, I yield back the balance of my time.

*Mr. Tonko. The gentleman yields back. The chair now recognizes Representative Pallone, full committee chair, for five minutes to ask questions, please.

*The Chairman. Thank you, Chairman Tonko. In my opening statement I mentioned that giving EPA the tools to finally address this asbestos risk was an important goal of our TSCA reform work. And, of course, our witness today was a part of that work, and I think she knows the importance of addressing asbestos as well as anyone.

So let me start by asking Dr. Freedhoff, what is your office doing now to address the risk of asbestos, and what is the timeline for EPA action on it?

*Dr. Freedhoff. Thanks very much for that question, and also, happy birthday.

*The Chairman. Thank you.

*Dr. Freedhoff. You know, I don't even remember being in a room with you, talking about TSCA, where the symbolic nature of asbestos and EPA's previous failure to regulate it wasn't brought up. And I don't think that symbolism is lost on anyone at the Agency, either at the career level or the political level, as we move forward with proposing our very first rule under the -- of the first 10 risk evaluations under TSCA.

I expect that that proposed rule will go to OMB for interagency review before the end of this calendar year. And then I also expect that our scope for the next part of the asbestos risk evaluation that addresses the uses and fiber types that the previous Administration excluded will go --

also be ready, I think, roughly by the end of this year, and that we expect to finish that risk evaluation by the end of 2024.

*The Chairman. All right. Thanks so much.

Now, obviously, a lot of work done on asbestos under the previous Administration was criticized and challenged in court. So how do you work to overcome the deficiencies in the EPA's asbestos work to date? How do you overcome that?

*Dr. Freedhoff. I think getting the program on track generally is going to be a work in progress.

As I mentioned, you know, it was in -- five years since the law passed. The first time that Congress was ever asked for additional funding to reflect the additional workload was in this President's first budget request.

And, you know, the fees rule that allowed EPA to collect up to 25 percent of some of its costs and fees, that wasn't even finalized before the end of -- or until the end of 2018, I believe. And all of the costs of the first 10 risk evaluations weren't even subject to the fees.

So it is sort of a series of compounding resource errors that also prevent us from hiring the types of scientific experts we need. And everyone has been sort of working on a shoestring for a long time now, and I think that is going to take a lot of time to get back on track.

I will say that the staff are creative, smart, and

incredibly resilient, and I am very lucky to be working with them. But they are a staff under stress, not just in my part of EPA, but in -- I think across the whole Agency.

*The Chairman. Okay. And my last question is, how will the work -- I mean, obviously, since asbestos has always been an example for other chemicals, as you mentioned, under TSCA. But how will the work you are doing to course-correct on asbestos inform your work on other chemical substances?

*Dr. Freedhoff. I think, as we look at the legacy exposures of asbestos, and work with our counterparts in the office that handles RCRA and the Superfund law, I think we are going to learn a lot from that engagement.

And we are working much more closely across the Agency with, you know, the water office, the air office, and the Superfund office, as we go through both the risk evaluation stage and the risk management phase. So I think we are -- I think we will learn a lot about asbestos, and I think we will also learn a lot about how to handle impurities in chemicals that we study, as well.

*The Chairman. Well, thank you. And, I mean, obviously, ensuring the scientific credibility of risk assessment and risk management under TSCA is essential to protecting public health and earning the public's confidence. So I just wanted -- I appreciate you coming back to the committee to testify today, and the work you are doing to

implement the reforms that we worked so hard to put in place.

And hopefully, we will soon see long-overdue action from EPA on asbestos and other dangerous chemicals, and I look forward to working with you and others at the EPA to ensure that the TSCA offices is fulfilling its mission and providing the resources. So thank you again.

And thank you, Mr. Chairman, for all your work on this.

*Mr. Tonko. The gentleman yields back. The chair now recognizes Mrs. Rodgers, the full committee ranking member, for five minutes to ask questions, please.

*Mrs. Rodgers. Thank you, Mr. Chairman. As I stated in my opener, TSCA is an important law, with unique and expansive authorities. This authority should be used, but with care, prudence, and predictability. Without these features, we risk losing the enormous innovative benefits we realize from chemical manufacturing.

I am also very concerned that, if we do not get it right, we will hurt innovation in this country, and discourage investment. This could lead to fewer products that are cleaner and greener.

This Administration must be serious about making decisions within the statutory deadlines for new chemicals. These chemicals are the next generation of American innovation for products that directly improve the standard of living for our families, and contribute to our global

competitiveness to beat China.

The 90-day review period for new chemical submissions was unaltered by Congress in the Lautenberg amendments. However, EPA's new chemical division has only been able to complete its review on a small portion of the pre-manufacturing notices submitted since January 2020, within the 90-day review. According to EPA's Office of Congressional and Intergovernmental Affairs, 153 pre-manufacturing notices have been pending a decision at EPA for more than 6 months.

In addition, according to EPA's new chemical website, it appears that only 8 submissions were finalized within the 90-day review.

Assistant Administrator Freedhoff, how does EPA track the progress of new chemical reviews, and who is in charge of that progress?

And who is in charge of ensuring EPA completes its reviews within the statutory deadlines?

*Dr. Freedhoff. Thanks very much for that question, Congresswoman. And I just want to say personally to you that I don't actually think that innovation and safety are in conflict with each other. I think we can do both of those things, and I think we can do better, and I hope that we will.

I would like to talk a little bit about the backlog of

new chemical submissions. In August of 2017, the Trump Administration issued a press release that described the end of the new chemicals backlog. And what they said in that press release was that the agency had worked its way down to just having 308 cases under review in front of the Agency, and said that that represented a typical active workload.

As of a couple of weeks ago, I think October 12th, we had 319 cases pending before the Agency, and 58 of them were actually waiting for industry action, not EPA action. So I actually think we are also operating under a typical active workload, as has been historically the case for the past few years.

But I do want to go back to the -- to what I -- the point I made a little earlier, which is that we are operating with less than 50 percent of the resources that we think we need to operate the new chemicals division in the way that Congress expects us to. And I really hope to work with you to address those problems and challenges going forward.

*Mrs. Rodgers. Okay. I know that Congressman Shimkus, when he was subcommittee lead for the Republicans, also pushed the importance of the 90-day review.

*Dr. Freedhoff. Yes.

*Mrs. Rodgers. It is important to that certainty. TSCA's Section 2(b)(3) specifically states, "It is the policy of the United States that TSCA should not be exercised in

such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation, while fulfilling the primary purpose of this Act.'' It seems pretty clear that Congress does not want EPA implementation to create backlogs that impede innovation and, particularly -- and especially potentially make us less competitive, globally.

So I would also like to ask, when will the backlog of chemicals without decisions within 90 days be resolved?

And will you commit to me that your office will meet its statutory deadlines for Section 5?

*Dr. Freedhoff. I want to make clear to you that, when we go longer than 90 days, it is generally because the company has asked us to extend the deadline for review. Sometimes that is because they have new information that they are giving to us late in the process, and sometimes, especially in the past few years, it is because they disagree with the conclusions of our risk assessments, and want to convince us to change our minds.

So, in some cases, we have been waiting years to get information that we have asked for for companies.

*Mrs. Rodgers. Okay.

*Dr. Freedhoff. And that is why --

*Mrs. Rodgers. Okay.

*Dr. Freedhoff. -- we can't move forward with a

decision --

*Mrs. Rodgers. So, bottom line, we want to make sure that we are fulfilling the statutory deadline. That needs to be the goal, no matter who is in the White House.

*Dr. Freedhoff. I share the goal. I do.

*Mrs. Rodgers. And then, finally, I just would like to ask you to address if you take into consideration the impact of these assessments on national security interests, climate priorities, and infrastructure development.

*Dr. Freedhoff. TSCA requires us to consider that. And as we -- especially as we move into the existing chemical risk management phase, we are required to think about national security, critical economic needs, and costs. It is a risk-based law, and I support the risk-based approach to chemicals regulation.

*Mrs. Rodgers. Okay, thank you.

I yield back.

*Mr. Tonko. The gentlelady yields back. The chair now recognizes Representative DeGette, who also serves as chair of the Subcommittee on Oversight and Investigations.

Representative DeGette, you are recognized for five minutes.

*Ms. DeGette. Thank you so much, Mr. Chairman.

Dr. Freedhoff, it is really good to see that this critical EPA program is being led by somebody who has a deep

commitment to protecting public health. And I want to thank you.

In 2016, as has been mentioned, colleagues on both sides of the aisle, led by our former colleague, Mr. Shimkus, worked to enact the Lautenberg TSCA reform bill, and we had hopes that it would fix some of the longstanding problems with the program.

And so, obviously, I was frustrated and disappointed how the previous Administration abused its responsibilities under the law. But I was even more alarmed to hear allegations by career scientists about a disregard for science and transparency, not just from the political appointees of the previous Administration, but from some of the career managers, which alleged that these actions continued even into this Administration.

And I know you were also disturbed by this allegation, so I really appreciate you responding to the letter that I sent with -- along with Chairmen Pallone and Tonko on this matter.

And Mr. Chairman, I would ask unanimous consent to put a copy of my letter and the response into the -- or our letter and the response into the record.

*Mr. Tonko. We will do those at the end of the --

*Ms. DeGette. Thank you.

*Mr. Tonko. All right.

*Ms. DeGette. Now, Dr. Freedhoff, I want to ask you -- and I will give you the time -- what have you done to address these concerns since coming to the Agency?

*Dr. Freedhoff. Thanks very much for giving me the opportunity to talk about something that I think is vitally important to restoring the credibility of the Agency.

And for years, just like you, before I started at EPA, I was hearing about the intense pressure that the previous political leadership placed on both managers and scientists in the new chemicals division, and how they pushed them to review and approve new chemicals as quickly as they could.

So when I first arrived at the Agency -- shortly afterwards, in mid-March -- I was actually approached by a career scientist who conveyed some of their concerns about human health assessments in the new chemicals division. And I took those concerns right to the Agency scientific integrity official.

I then started to talk to people, including former employees of the new chemicals division, some of whom actually told me that they left their jobs because of the concern that they felt with the approaches that were taken.

So one of the steps we took -- and this is something that we haven't shared publicly to date -- is that we started in April, when the scientific integrity official and I found a way to initiate a review of a small number of human health

hazard assessment cases that concerns had been raised about. And I have shared relevant information about that review with the inspector general, in case our review efforts helped theirs. And this is just generally a summary of what I have learned in the past months, from all of these different efforts.

So first, there are sometimes really serious questions about just how hazardous a new chemical is found to be, in the end, even though -- even if there is general agreement that a hazard exists. And that presents some implications, or the potential for implications for our regulatory efforts.

I have also really consistently heard that there are -- that the scientific basis for changes to the assessments is not always well explained or understandable.

And I also think that there are some legitimately difficult questions about the processes and the science associated with reviewing new chemicals.

And I can't underscore enough how seriously I have taken these concerns since I started at the -- since I first heard about them at the Agency. And these are some of the steps that we have taken so far to address them.

So I have personally let the inspector general know that we will cooperate fully with their investigation.

We have launched an entire series of scientific integrity trainings for the office.

We have put into place new ways that scientists who feel like there is a disagreement can elevate those -- their concerns, and get a review.

We have hired someone to come in and talk to the division, and get -- and make recommendations for us for how to improve, and we have changed the way our recordkeeping practices are done.

And it is going to take some time, but I am committed to it.

*Ms. DeGette. Thank you so much. And I gave you the time to really answer it, because we need to understand that it is going to take some time, and it is going to take some effort.

And in the coming months, I know Chairman Tonko and Mr. Pallone and our friends on the other side of the aisle, we are all going to be watching and working with you to make sure that you put the safeguards in place, and that you get back to the scientific integrity.

Thanks, and I yield back, Mr. Chairman.

*Mr. Tonko. The gentlelady yields back. The chair now recognizes the gentleman from Ohio.

Representative Johnson, you are recognized for five minutes, please.

*Mr. Johnson. Well, thank you, Mr. Chairman. You know, some of us in this subcommittee were here -- I was one of

them -- when we passed this legislation over five years ago. It was a good example of the kind of bipartisan work this committee is capable of. It was an effort to modernize TSCA and improve chemical safety, while making sure that we can still foster American innovation in the 21st century.

And while we are conducting the necessary oversight here today, I want to be clear, Dr. Freedhoff, we want your office to be functional and effective for the American people. We all want to protect workers and consumers. But to do that, the Office of Chemical Safety and Pollution Prevention has to be running smoothly, and keep its focus on the task at hand.

Dr. Freedhoff, you have outlined some big plans for your time in the Biden Administration, but I do have some concerns that, while we are hearing about delays, lack of certain technical expertise, and other issues in your office, you want to expand into some areas where, frankly, your office has never gone before.

So Dr. Freedhoff, in 2019 the U.S. Court of Appeals for the 9th Circuit underscored TSCA's role as a gap-filling statute, and that TSCA was never meant to regulate discharges, emissions, ambient air, or consumer products. Yet, a few months ago, the EPA announced it would potentially expand the scope of the risk evaluations to address potential concerns with chemicals that are traditionally regulated under other statutes, such as the Clean Water Act or the

Clean Air Act.

The problem with TSCA in the past has been that courts have rejected the EPA's interpretation of the law. So does the EPA disagree with the 9th Circuit, and instead believe TSCA supersedes these other statutes, or that it should regulate discharges into air and water, where they are already regulated by those other laws?

That is a that is a yes-or-no question: Do you guys disagree with the 9th Circuit?

*Dr. Freedhoff. I don't disagree with the 9th --

*Mr. Johnson. You don't disagree with them? Okay, good.

Does the EPA's chemicals office coordinate with other departments and programs within the Agency to make sure you are in compliance with what the 9th court's rulings were?

*Dr. Freedhoff. Yes, regularly.

*Mr. Johnson. Okay. In some cases the EPA is undertaking multiple assessments of the same chemical. For example, a chemical can be assessed under TSCA and under IRIS.

Can you discuss how EPA ensures that there aren't duplicative efforts going on for chemical assessments, and whether TSCA's scientific quality requirement criteria are applied to assessments from these other programs?

*Dr. Freedhoff. Yes, thanks very much for that

question. TSCA requires us to use the best available science. So if there is an IRIS assessment on a chemical that we are evaluating, we would be obligated to use that science. And we have a very good and strong working relationship with the Office of Research and Development.

But because TSCA also requires us to consider exposures, conditions of use, the potential for environmental damage, you know, and industry information about what the chemicals are needed for, we wouldn't be relying exclusively on an IRIS study for our work. We really do take the best available science directive very seriously, and are prepared to look at all information as we make our decisions and do our work.

*Mr. Johnson. Okay. Well, it almost sounds like you are backtracking on the 9th Circuit position, because if IRIS and FIFRA and -- if they are already doing those things, why do you feel that your office has to do them, too?

*Dr. Freedhoff. IRIS's --

*Mr. Johnson. It sounds like duplication to me, and that is costly.

*Dr. Freedhoff. I don't think an IRIS study and a risk evaluation are the same. And IRIS is a non-regulatory document. It is just the science that we use to inform our regulations. It is not the regulations themselves.

*Mr. Johnson. Okay.

*Dr. Freedhoff. And we are committed to -- I want to do

my job, not the air office's job, or not the water office's job, either.

So I believe that Section 9 of TSCA gave the Agency clear direction for when TSCA should be the regulating law and when the Agency should refer exposures or risks that it might find to other parts of the Agency. And we will be following that part of the law.

*Mr. Johnson. Okay, all right. I have another question, but I will make that for the record.

[The question submitted by Mr. Johnson for the record follows:]

**********COMMITTEE INSERT**********

*Mr. Johnson. Mr. Chairman, I yield back.

*Mr. Tonko. The gentleman yields back. The chair now recognizes Representative Schakowsky, who also serves as chair of the Subcommittee on Consumer Protection and Commerce, and we welcome the gentlelady from Illinois.

*Ms. Schakowsky. Thank you so much. So I want to talk about phthalates. They have been banned by the U.S. Consumer Product Safety Commission because of the endocrine disruption substance that they are, and especially worrisome for pregnant women and children.

Do you know, back in 2008, when I was helping to pass the Consumer Product Safety Improvement Act, we banned phthalates for children's toys?

So right now, the EPA completed its scoping of several high-priority phthalates in September of 2020. The next step in the process in a risk evaluation follow-up. It is still happening.

I guess what I am really confused about is, if we have already made a determination that phthalates are a problem, why is it that the EPA is still considering risk evaluation on them?

*Dr. Freedhoff. I think I appreciate that question, and I remember working closely with your staff in 2008 on those provisions, so I am glad to be reminded of that, as well.

I think the CPOC, when it looked at those phthalates,

was really only looking at them as they relate to children's products. They weren't looking at them as they relate to other things that those phthalates are used for. And TSCA risk evaluations ask us to look at all the conditions of use, and propose regulations to address risk across all of the uses, not just the children's products.

So I can assure you we will be looking at what the CPOC did, and we are -- you know, we would consider that to be, you know, some of the best available science that we are required to consider, as well. But I do think that what we are looking at is potentially broader than what the CPOC did in the past.

*Ms. Schakowsky. So we are thinking that maybe phthalates aren't a problem?

*Dr. Freedhoff. No, no --

*Ms. Schakowsky. In some other ways?

*Dr. Freedhoff. Not that. I am saying that we are going to be looking at more than just children's products, and more than -- you know, which I think is what the CPOC looked at in its review, years back. I am not opining -- I am not suggesting that the CPOC did anything wrong.

*Ms. Schakowsky. Okay. I also wanted to talk about testing on animals. And I have a bill, the Safety -- Safe Cosmetics and Personal Care Products. And the bill that I had would ban all -- almost all -- animal testing.

And since the publication of the document -- let me see what document I am referring to -- so I was encouraged to see that -- the publication of the strategic plan to promote the development and implementation of alternative test methods for animal testing in the TSCA proposal. So where are we with that?

I would like to see -- as much as possible, get rid of dangerous animal testing.

*Dr. Freedhoff. Absolutely. I -- actually, some of the briefings that I have had on the science associated with developing different ways to test, other than using animals, have been among the most interesting and exciting briefings I have had since coming to the Agency. And it is an area where our scientists are collaborating really well with the Office of Research and Development.

And in some cases, the techniques that we are developing that don't use animals are actually better and more predictive than the -- than actually testing on animals, because, you know, the way an animal breathe isn't necessarily the same as the way a person breathes. And the techniques that we are developing reflect those differences.

So I think there is an Agency-wide commitment to continue to pursue that science, and continue to incorporate those methods as soon as they are available.

*Ms. Schakowsky. Okay. Well, I have just a -- I have a

little time left. Let me just go back to phthalates for a minute.

I hope that this decision will be made soon, because I think there is so much evidence now already that phthalates are a problem. The endocrine problems, the -- for children and for pregnant women -- that I don't know what else you are looking for, exactly.

*Dr. Freedhoff. I appreciate that, and I think what TSCA was designed to do is tell the Agency to look at every single use of a chemical, and --

*Ms. Schakowsky. So what would that be?

*Dr. Freedhoff. -- all possible uses --

*Ms. Schakowsky. -- that would affect human beings that you don't already -- have seen the dangers?

*Dr. Freedhoff. I am not saying that the Agency doesn't have science available to it. I am saying that the point of TSCA was to write it all down in one place, and assess the potential for exposures across a range of uses, and then recommend risk management rule-makings to --

*Ms. Schakowsky. So let --

*Dr. Freedhoff. -- protect people against the risks.

*Ms. Schakowsky. Give me an example of a range of use that might expand the phthalate removal.

*Dr. Freedhoff. I think there is more phthalate -- I think there are phthalates in more than just children's

products, and I don't believe there are regulations that address phthalates in products that aren't children's products.

So doing the TSCA risk evaluation, if we find risks that people might be getting exposed from different things, would also allow us to write regulations to address those risks that don't currently exist.

So I think we could end up with a more protective outcome, not a not a less protective or duplicative one.

*Ms. Schakowsky. Okay, thank you, and I yield back.

*Mr. Tonko. The gentlelady yields back. The chair will now recognize, virtually, I believe -- logged in is the representative from North Carolina. I recognize Representative Hudson for five minutes, please.

*Mr. Hudson. Thank you, Mr. Chairman. And thank you to Dr. Freedhoff for being here with us today. It is great to see you back in Rayburn. Congratulations on your new position. I can think of no one who is more qualified.

I would like to start first by applauding the Administrator Regan for releasing the PFAS Action Plan last week. We fought hard to address PFAS pollution in our community since the Chemical GenX has impacted the Cape Fear River Region. I had the opportunity to speak with the administrator ahead of the announcement, and was encouraged by the seriousness with which he is addressing this issue,

and the ambitious goals set forth in the plan.

Specifically, the action plan states, "The EPA expects to exercise its TSCA authority to require PFAS manufacturers to conduct and fund the studies,'' and plans to "issue the first round of test orders on selected PFAS by the end of the year.''

Dr. Freedhoff, can you clarify? Is the goal to issue an order on these testing requirements within the year, or that the testing on selected PFAS will be completed, and at EPA within one year?

*Dr. Freedhoff. Thanks very much, and I apologize, it was a little bit difficult to hear you. And I think what you were asking is when we will be issuing test orders for PFAS under our national testing strategy.

*Mr. Hudson. Well, according to what the EPA said, you are going to require PFAS manufacturers to conduct and fund these studies, and issue the first round of test orders by the end of the year. So --

*Dr. Freedhoff. Yes, yes. So we will be issuing the first round of test orders by the end of this year, and we expect the data that we get from that to be extrapolated to fill health information gaps associated with about 2,000 different PFAS. But those are just the first test orders in the PFAS testing strategy. We do expect to continue to fill those information gaps using our authority in the months and

years to come.

*Mr. Hudson. How quickly do you think we can -- will see results from that first round of test orders?

*Dr. Freedhoff. I think we are in the process right now of writing up those test orders, and TSCA allows us to tell the industries that we are asking for information from what experiments they need to conduct, and what data they need to provide us with. And we are not done writing that up yet.

When we do issue the orders, it will be public. And I think the timeline for industry getting the information back to us will depend a little bit on what we ask them to do.

*Mr. Hudson. Do you think, average, a year, six months, multiple years?

*Dr. Freedhoff. I would say months to a year or two would be my guess, but it, honestly, is just a guess at this point.

The staff is hard at work writing, you know, writing the test orders, and figuring out what reasonable deadlines are for getting the information back to us, because we also want to make sure it is the right data, and it is robust enough, and that industry has had time to develop it.

*Mr. Hudson. I think that is going to be kind of a -- the delicate balance, as -- where our communities are desperate for this information. But we do want to be reasonable, and give them a reasonable amount of time. But -

- so I guess that is going to be one of the issues we really need to work through.

One of my questions, though, is do you believe there is enough domestic laboratory capacity for companies to conduct this testing to a level that meets TSCA science quality requirements?

*Dr. Freedhoff. I don't have a reason to believe that there isn't. But that is something we would consider if, you know, if we were provided with evidence that there was a lab capacity issue.

I think that one of the advantages of the PFAS testing strategy is that, instead of testing one chemical at a time until we have gone through, you know, the thousands that have historically been made or used in this country, we are instead just targeting our testing to focus on one PFAS from each of the categories, so that we can be the -- as efficient and smart about getting this information to the Agency as quickly as possible.

I do know that the Agency doesn't have the resources to study every single PFAS and fill all of those information gaps on its own.

*Mr. Hudson. I think that is right, and that is another real challenge. And one of my concerns throughout this whole process, you know, I worked very closely with my colleagues across the aisle on this committee to push for this

information. I was thrilled that the administrator -- once he took office.

But if we are not smart about how we target, you know, it is sort of the old adage, you know, if everything is dangerous, nothing is dangerous. And, you know, we know that there are certain of these chemicals that are dangerous. I think we need to focus on those, because we don't have the capacity to test -- right away within a timely manner.

So I think it is wise that you are -- I would just encourage you, let's target the PFAS that we know are dangerous, that we know are impacting our communities now, like GenX. I think that will be important.

Then finally --

[Audio malfunction.]

*Mr. Hudson. -- GenX was released on Monday -- substantially on animal studies. This assessment we have been waiting for for a long time. We think it will really help policymakers and local communities to take action -- public health.

[Audio malfunction.]

*Mr. Hudson. -- is going to be communicated to constituents and citizens living in the Cape Fear Region who have been impacted by -- I am sure -- as I am sure you know, the final -- reference doses are substantially lower than previous assessments.

Can you tell us how the EPA intends to communicate this risk to North Carolina citizens?

*Dr. Freedhoff. I am very sorry, I couldn't -- I think the technology was freezing up a little bit. I -- and I didn't understand what you were asking. I am wondering if any of the members --

*Mr. Hudson. I will try it again. So I was very happy with the final toxicology assessments finally released -- a long time waiting for them. But they were substantially lower than what had been previously assessed.

And I guess the crux of my question is, how is the EPA going to communicate the toxicology level, the threat as we now understand, to people in North Carolina?

*Dr. Freedhoff. I agree completely with you, that communicating risk to the people who have been affected by exposure to PFAS and other chemicals is extremely important and extremely challenging, and I have personally met with a number of community organizations from North Carolina more than once, and I hear the frustration and the anger and the fear every time I talk to them.

And I know there is communities like that all across the country, and I -- it is very important for me, I know for the administrator, as well, who comes from North Carolina, and everyone else in the Agency that we really do a better job at talking to people, and hearing what they have to say, and

explaining the risks that they might have faced in the past.

*Mr. Hudson. Thank you --

*Mr. Tonko. Thank you. The --

*Mr. Hudson. -- Mr. Chairman, for your indulgence.

*Mr. Tonko. Okay, you are welcome. The gentleman yields back. The chair now addresses our next colleague, who is logged in virtually, and that would be the gentlelady from Michigan.

Representative Dingell, you are recognized for five minutes, please.

*Mrs. Dingell. Thank you, Mr. Chairman, and thank you for holding this important oversight hearing on TSCA.

As we are examining these issues, I am going to follow my Republican colleague and focus on how we address -- and thank him for his efforts and his concern on these issues -- on how we address the harm -- contaminants, PFAS chemicals, under this law.

The American people need an EPA that takes the health risk of PFAS seriously, and acts accordingly. And for years, quite frankly, the Agency has dragged its feet. That is why the House passed H.R. 2467, the PFAS Action Act, bipartisan legislation that I co-authored with Mr. Upton -- and Mr. Hudson has been a great colleague on this, as well as many of my other colleagues -- which needs to take that comprehensive approach to protecting public health.

You have -- the Biden Administration has committed to acting on the PFAS crisis, including releasing a supportive statement of Administration policy for the PFAS Action Act, and I still believe that this legislation is critically necessary to enact. I also support and want to -- EPA for not waiting for the Senate, which is always a mistake these days --

[Audio malfunction.]

*Mrs. Dingell. -- your PFAS strategic roadmap, which includes concrete actions with timelines across EPA offices to regulate PFAS. The PFAS Action Act, much like EPA's strategic roadmap, is based on robust testing regime to build scientific evidence and define categories of PFAS.

So Administrator Freedhoff, in Michigan we have had an aggressive testing regime in place for several years now. What is your plan to implement a national PFAS testing strategy, and how do you intend to use TSCA's test order authorities?

I know you just said it was going to take a little time, but you know what? It has been years. So -- and how many test orders -- I hope we will see -- can we expect to see before the end of the year?

*Dr. Freedhoff. Thanks very much for that question, Congresswoman, and I just want to say that we very much appreciate the bipartisan leadership that you and others have

engaged in on putting together your vision of a comprehensive solution to the PFAS problem. And we really do welcome the opportunity to work with you, going forward.

We expect to issue the first 20 test orders to companies who make 20 different PFAS that are in 20 different categories before the end of this year, as part of our first step in our PFAS testing strategy. Those test orders are going to focus on categories about -- of PFAS about which we have missing health risk information, because we think the health risks are the most important gaps to fill first.

But we want to continue to fill those gaps, and I -- and refine the strategy as we move forward, and as we get more experience and a deeper understanding of the diversity of health effects that the classes of chemicals pose.

*Mrs. Dingell. Thank you. While the PFAS strategy lays out a comprehensive approach, this wasn't the first step your office has taken on PFAS this year. In April EPA announced it would expect to deny low-volume exemptions under TSCA for PFAS, moving forward.

Section 5(h)(4) of TSCA allows EPA to exempt chemicals from pre-manufacture notice review, only if substances will not present an unreasonable risk of injury to health or the environment. But given that the best science available demonstrates that PFAS is very likely, or does present very likely serious health risks, I don't believe any exemption

should be available to any new PFAS.

Administrator, while I applaud EPA's decision on low-volume exemptions, does EPA plan to continue allowing PFAS to receive other types of pre-manufacture notice exemptions?

*Dr. Freedhoff. So we -- as you said, Congresswoman, we announced in April that we generally expected to deny low-volume exemption requests for new PFAS because low-volume exemption requests don't provide for the same robust safety review that the 2016 Lautenberg amendments required us to undertake for other new chemical submissions. I believe there are other exemptions in Section 5 for -- that exist, but I don't believe those have ever been used for new PFAS. And that was why our announcement focused very much on the low-volume exemptions.

I think it is important to note that hundreds of PFAS were allowed into commerce, in some cases decades ago, before the Agency really understood what it understands today about PFAS, and also before the 2016 Lautenberg amendments required EPA to undertake a robust safety review and impose regulations before something can enter commerce safely.

And the other thing we are using our TSCA authority for that we have talked about in the roadmap is we are taking a backwards look at some of those older decisions that might not have been as protective as they ought to have been, and doing everything we can to shore those up for the future.

*Mrs. Dingell. Thank you.

I know, Mr. Chairman, I am out of time. I am going to submit some questions for the record.

[The questions submitted for the record by Mrs. Dingell follow:]

**********COMMITTEE INSERT**********

*Mrs. Dingell. But I would like to ask if we could commit to working with this -- if she, the administrator, would commit to working with us on the Committee on refining the PFAS Action Act so ensure it accounts for and aligns with steps being taken by EPA as part of the PFAS strategic roadmap.

I hope she will say yes to that, and then I will yield back.

*Mr. Tonko. Okay, the gentlelady yields back. The chair now recognizes Representative Carter. The gentleman from Georgia is recognized for five minutes, please.

*Mr. Carter. Thank you, Mr. Chairman, and thank you, Dr. Freedhoff, for being here. We appreciate your participation here.

It is my understanding that the 2016 changes to the Toxic Substances Control Act state that EPA must make a determination whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use.

It is also my understanding that the law was not intended to be hazard-based or zero-risk, and that chemicals would be evaluated using both hazard and exposure. And that has been mentioned in former Representative John Shimkus's law that he was the House sponsor of.

But we have heard that there have been these long delays

in evaluating these chemicals, and that it is detrimental to industry. And it brings about potentially beneficial new chemicals to commerce -- it stops them, and prohibits them from getting -- and certainly, we want to make sure everyone is safe. But at the same time, we want to remove as many obstacles as we possibly can. And certainly, with these long delays that we are hearing about, we are very concerned about that.

How is it that your office is ensuring that chemicals are evaluated using risk-based criteria, and not going back to a precautionary hazard-based approach?

*Dr. Freedhoff. Thanks very much for that question. I entirely agree with you, that the law requires a risk-based approach, and that is -- that includes a consideration of both the hazard and the exposure associated with the conditions of use. And I do believe that that is what our office undertakes.

*Mr. Carter. Well, unreasonable risk, when you say unreasonable risk, does that mean no risk whatsoever, or very little risk?

*Dr. Freedhoff. It means the -- we do a risk assessment, we describe what we found, and we take steps to address that risk.

I don't think -- I think "unreasonable'' is an adjective, but it is not synonymous with "no,'' and it is not

synonymous with "any.'' It is really -- it is what the Agency judges to be a reasonable --

*Mr. Carter. You are sounding like a politician now.

*Dr. Freedhoff. I did spend 25 years up here.

*Mr. Carter. But -- well, let me ask you this, then. Will EPA allow the use of chemicals given an "unreasonable'' risk determination in limited conditions of use?

In other words, if there is just a limited condition where they could use it, and there is a -- there is very little risk, would EPA consider allowing that?

*Dr. Freedhoff. I think we would expect to tailor our risk management decisions to address the uses that showed the risk. So if some uses didn't show risks, we would generally expect that those uses wouldn't be the ones that we would impose the restrictions on.

*Mr. Carter. Well, how do you balance the fact that -- so many of these chemicals -- and previously you were asked, just before, with Representative Dingell, about PFAS, and those, and we have had a lot of discussion on this committee, on this subcommittee, in particular, about that class of chemicals. And as you know, it is over 9,000 it includes.

How do you risk -- how do you balance that? Does the risk outweigh the benefit? Because a lot of them have a tremendous benefit in our society.

*Dr. Freedhoff. I honestly don't believe that we have

to choose between safety and industry. I don't think -- I think it is the same -- you know, I think we can do both things.

I think it is possible to use chemicals in a way that doesn't result in their release to our drinking water or to the air. And that is the approach that we would be likely to take, is recognizing the benefits that many chemicals present to all sectors of society, while also protecting the people from exposures to those chemicals if they are improperly released.

*Mr. Carter. But if there is a total ban, and you can't use them, then we are not going to get any benefit.

*Dr. Freedhoff. I don't think anyone is suggesting that we are going to ban every single chemical that we evaluate. I think there will be some that we might propose bans on, there will be others that we propose fairly minimal occupational safety measures.

*Mr. Carter. Well, you were here for 25 years on this committee, and in Congress, and you know what -- the prevailing winds, if you will, right now are leading toward a total ban on PFAS, at least from Congress -- from some Members of Congress, I should say. And that is very concerning, because we have pointed out during this debate that there are some very important beneficial uses of these chemicals. Any --

*Dr. Freedhoff. I think we are committed to evaluating PFAS, and addressing the risks that we identify, and that is our responsibility under the law. It is what the law requires of us. And we would certainly welcome the opportunity to work with Congress, as your legislative efforts move through the legislative process.

*Mr. Carter. Okay, well, I certainly hope so, because I think a total ban on a class of chemicals that includes over 9,000 chemicals that have some very beneficial uses -- in fact, essential uses -- in our society is somewhat shortsighted.

So thank you, and I yield back.

*Mr. Tonko. The gentleman yields back. The chair now recognizes our colleague, virtually, who is the gentlelady from New York -- or should I say Brooklyn?

Representative Clarke, you are recognized for five minutes, please.

*Ms. Clarke. Thank you very much, Mr. Chairman. Chairman Tonko, Ranking Member McKinley, thank you for convening this important hearing on the steps EPA is taking to protect consumers, workers from toxic chemicals.

And let me also thank our witness, Dr. Freedhoff, for your testimony.

One dangerous chemical that I would like to focus on today is methylene chloride, which is a volatile chemical

solvent that can be found in a wide range of commercial and consumer products, such as paint and coating removal, metal cleaning, chemical processing, and more. Health impacts from limited exposure can include confusion, headaches, chest pain, whereas chronic exposure causes significant damage to the central nervous system. Acute exposure at high concentrations can even lead to respiratory failure and death.

From the years 2000 to 2011, a total of 13 Americans died from acute exposure to methylene chloride while refinishing bathtubs. The Toxic Substances Control Act requires that EPA take action to effectively mitigate these risks.

So, Dr. Freedhoff, what is EPA doing to protect Americans from methylene chloride exposure?

*Dr. Freedhoff. Thanks very much for that question, Congresswoman.

And you know, in my past job I remember meeting with the families of people whose sons had died from exposure to methylene chloride, even though they were wearing all the proper protective equipment, and were fully trained. And you know, that -- the memory of meeting with those families has really stayed with me.

EPA in the last Administration completed the risk evaluation for methylene chloride, and finalized a ban only

on the retail uses of that substance. We are now considering the rest of the uses of methylene chloride, and are working to ensure that the rule we are considering won't leave communities and -- or fenceline communities with additional exposures that we might need to address.

And once we have completed our check on that, I would expect that we will send the proposed rule for the rest of the uses of methylene chloride for interagency review some time next year.

*Ms. Clarke. Well, I am so glad to hear that you are on the case, and that EPA continues to regulate this very dangerous chemical.

In 2017 the Trump EPA proposed banning the use of methylene chloride as a paint stripper, yet ended up only banning its consumer uses. This left workers who come into frequent contact with this chemical exposed, despite the known risk to their health.

Dr. Freedhoff, is methylene chloride any less harmful in commercial applications as it is in consumer uses?

*Dr. Freedhoff. Yes, our proposed rule that will also address the commercial uses is the effort that I was referring to earlier, and we do expect to send that proposed rule for interagency review some time next year.

*Ms. Clarke. And how is EPA going to ensure that workers are just as protected from methylene chloride

exposure as non-commercial consumers are?

*Dr. Freedhoff. We have actually reversed the previous Administration's policy decision to assume that workers are always properly protected and have protective gear. And as I mentioned, with methylene chloride, the workers who had the protective gear still were poisoned, and died from exposure to those chemicals.

So I think the worker -- the occupational risks associated with methylene chloride exposure are very much front of mind for us, and we will be ensuring that those risks are understood and addressed in the rule that we propose.

*Ms. Clarke. Well, it is critical that the chemical regulatory process does not exclude vulnerable populations, including workers who frequently handle this very dangerous chemical.

Let me thank you for your time and attention to this matter.

And Mr. Chairman, I yield back the balance of my time.

[Pause.]

*Ms. Clarke. Mr. Chairman?

[No response.]

*Ms. Clarke. I yield back, Mr. Chairman.

*Mr. Soto. [Presiding] Thank you so much. The chair now recognizes Representative Palmer for five minutes.

*Mr. Palmer. I thank the chairman. I thank the witnesses for being here. I want to follow up on an issue raised by Representative Schakowsky about animal testing.

In 2018 EPA published its strategic plan to promote development and implementation of alternative test methods within the TSCA program, including an initial list of alternative test methods and strategies for new approach methodologies. And I think all of us have heard a good bit lately about the testing being done involving the beagle puppies. We have this picture that, I think, has gone around nationally.

[Slide]

*Mr. Palmer. While I understand that there is different agency protocols here, whether it is National Institute for Health or others, EPA -- can we be assured that the EPA would not allow barbaric experiments on animals, such as we see with these beagle puppies, where they were literally eaten alive by sandflies?

*Dr. Freedhoff. I hadn't previously seen those images. I am thinking of my own dog and cat right now, and -- you know, I think --

*Mr. Palmer. It is shocking, isn't it?

*Dr. Freedhoff. It really is.

*Mr. Palmer. It is heartbreaking. Well, that is -- this is all in the news right now, what is going on there. I

just want to be sure that the EPA, in these new approach methodologies, will ensure that we don't impose that type of suffering. Apparently, they slit the beagles' vocal cords, so they couldn't hear them barking.

I do have some other questions more relevant to the EPA. In the lead-up to the hearing, I heard from many manufacturers and groups that feel that, once they submit a new chemical for review, it just disappears into a black hole. And what they want to know is do you currently have plans to make this process more transparent, and improve the communication between the Agency and industry?

*Dr. Freedhoff. Thanks very much for that question. I was actually surprised, when I first started at the Agency, at the frustration from all stakeholders, not just environmental organizations, but also from industry stakeholders that I have worked with for years, at the level of engagement on -- as TSCA was implemented over the past few years. And I have tried really hard to improve that. I have met with industry frequently, I have met with environmental organizations frequently. I think that our work is only better when we get input from stakeholders and consider it.

*Mr. Palmer. If you have some plans for improving this process, would you submit them to the committee? I would like to see that.

*Dr. Freedhoff. Absolutely.

*Mr. Palmer. I think it would help us in communication -- communicating with outside groups.

During the pandemic, the FDA released industry guidance that clearly -- about types of testing data that they would want to see from any group trying to develop vaccines and therapeutics. This helped speed up the review process, as industry didn't waste time and effort collecting data that was not relevant.

I am -- we are also hearing that a lot of the folks in the industry feel like they are wasting time and effort collecting data that the EPA doesn't end up using in its new chemical reviews. And what, again, we are hearing is -- do you have plans to publish a single document, so that manufacturers that you ask to get data from -- give them clearly what you expect, in terms of the exact data you need, without wasting everybody's time and their money collecting data that doesn't get used?

And I think you can understand the frustration that folks from the industry side feel in this regard, that there is a lack of transparency, and then a lack of seriousness about the use of the data that you have asked them to collect.

*Dr. Freedhoff. I agree that we could do a better job both at conveying our expectations to industry before they send us a new chemical submittal, so they know what we

expect, and that will speed their approval process along. And so it is in their interests and our interests to get that information earlier.

And I also think that we could be smarter about our data collection. So one rule that we are considering proposing is a way to add information requests when we need it, and take the information requests away when we don't need it. And that is something that we had a public meeting about, got industry and other stakeholder input to our ideas, and are now busy translating those ideas into a proposed rule.

*Mr. Palmer. Well, again, going back to what I asked you to provide the committee, I would appreciate it if you would do that.

And also, I think, again, looking at this photo, it would be good if we got some assurances from the EPA in regard to animal testing, that we wouldn't allow anything like that.

Mr. Chairman, I yield back.

*Mr. Soto. The gentleman's time has expired. The chair now recognizes Representative Sarbanes for five minutes.

*Mr. Sarbanes. Thanks very much, Mr. Chairman. I appreciate the hearing.

I want to thank you, Dr. Freedhoff, for joining us today. You have got a really critical task in administering TSCA, and guarding the health and safety of our citizens

around the country.

I am certainly a long supporter of upgrading and modernizing our chemical safety laws to provide these needed protections to Americans. And the Lautenberg Act, the upgraded version of TSCA, contained very positive reforms.

I myself had some anxiety around the issue of pause preemption, which allows the Federal Government, frankly, to block states from regulating these harmful chemicals by simply proposing to study them. And the danger is that could lead to years in which a state is, essentially, stopped from regulating dangerous chemicals, if the EPA hasn't yet acted. There was some grandfathering. I wanted to talk to you a little bit about this issue.

So the pause preemption did not apply for the first 10 chemicals that EPA evaluated under the Lautenberg Act. Is that correct?

*Dr. Freedhoff. Yes, that is correct.

*Mr. Sarbanes. And then, nevertheless, for its subsequent chemicals, including those that were designated as, "high priority,'' the pause preemption would apply. Is that right?

*Dr. Freedhoff. Yes, it is.

*Mr. Sarbanes. So that is a concern to me, particularly for chemicals like PFAS, which has gotten a lot of discussion today, because states have been active there, in trying to

implement policies to protect public health when the Federal action has been lacking, and the pause preemption provision could leave communities unprotected, which could continue to expose Americans, obviously, including our most vulnerable.

In your view, does the pause preemption provision help, hinder?

How does it affect the goal of consistent and effective regulation to keep the public and our environment safe from these chemicals that pose a risk?

*Dr. Freedhoff. Thanks very much for that question. As you probably know, the preemption provisions of TSCA were among the very last provisions to be resolved in the negotiations.

I guess I would, first of all, say that I think this Administration views its relationship with its state regulators differently than the previous Administration. We think of states who lead, not just on chemical safety, but also on things like vehicle emissions, as our partners and not our adversaries. So I do think that we want to be constructive partners with state regulators, rather than looking to block their efforts.

I am not currently aware of a state whose efforts will be paused as part of our next 20 risk -- chemicals that are undergoing risk evaluations, but that doesn't mean that those efforts don't exist. I am just not personally aware of them.

And I do think the law provides some opportunity for states to ask EPA for waivers from preemption in cases where the actions that they have taken precede the Agency's designation of the substance as a high priority one for evaluation, and will certainly be considering any requests we get like that very seriously.

*Mr. Sarbanes. I appreciate that answer, it was very diplomatic. I certainly appreciate that it is on Congress to fix this problem of the pause preemption, and I certainly also appreciate that the Biden Administration is likely to be more aligned and in sync with states that are trying to be on the leading edge when it comes to regulating these toxic chemicals.

So it may be that, in this instance, the potential for there to be dissonance there is less. However, my own view is that we need to make a change with respect to that pause preemption, and make sure that whoever is going to be on the leading edge of addressing these toxic chemicals has the flexibility to do that, to exercise that leadership that is coming from the state. The mere study of a chemical by the Federal Government should not operate to frustrate those state level efforts.

So we will continue to focus on that. I very much appreciate your testimony, and thank you for your good work at the Agency.

And with that I yield back.

*Mr. Soto. The gentleman's time has expired. Representative Curtis is recognized for five minutes.

*Mr. Curtis. Thank you very much, Mr. Chairman. I find myself smiling because we may actually be -- I might be following a Democrat arguing for preemption when I would be supporting the preemption. Excuse me, him arguing against, and me arguing for it. Kind of an unusual position for Republicans and Democrats.

But I am -- I put on a former mayor's hat, and generally don't like to see the Federal Government intervene in what we are doing in states and in cities. But I personally feel that one state, especially when using non-widely-accepted science, shouldn't use their market power and their legal system to force regulations on other governments, or place companies in a position of complying with that choice of complying or just leaving the state.

I also put on a hat, Madam Administrator, as a former business owner, and would say I think what business owners fear worse than regulation is uncertainty, or slow decision-making. So my first question for you is, how do you plan to execute your decisions in a way that permits industry time to respond, in a way that meets the needs of their consumers, and, you could say, actually, their investors and shareholders, as well?

*Dr. Freedhoff. Thanks very much for that question, and I agree that predictable, transparent, and regular order is what TSCA implementation needs. And we are working to improve our communications, we are working to improve our engagement with stakeholders, we are working to answer industry questions when they have them, and improve our processes whenever we can. And I very much welcome suggestions for, you know, things you think we could be doing better if we miss the mark.

*Mr. Curtis. Yes, and I don't have specific suggestions, other than predictability, right?

And I think businesses learn to adapt to almost any government regulation. But what is really hard on them is the unpredictable nature, sometimes, of government regulations.

Coming back to this preemption issue, the perfect answer is to make states feel like they don't need their own regulations. Can you talk about your approach to making states comfortable, so they don't feel like they need to do any regulation on --

*Dr. Freedhoff. Thanks, Congressman. You have actually hit on the exact reason why Congress was able to land on a preemption compromise when we negotiated the reforms to TSCA. And the idea was, if you had a credible and strong Federal regulation, states wouldn't need or feel like they wanted to

spend their own precious resources addressing something that the Federal Government had already addressed.

And that is why it is so important that, when the Agency says that a chemical can be used safely, that everyone believes that we have made that judgment using the best available science, and written a rule that is as protective as it needs to be.

*Mr. Curtis. Thank you. Are you aware of any states currently considering action against a chemical that you would currently be evaluating in your office?

*Dr. Freedhoff. I am sorry, I didn't catch that question.

*Mr. Curtis. Yes, are you aware of any states out there that might be considering state action against a chemical that is currently under evaluation by your office?

*Dr. Freedhoff. I am not aware of pending state actions on the next 20 substances that we are doing risk evaluations on. But that doesn't mean there aren't any that are being planned; I just might not be aware of them.

*Mr. Curtis. And kind of the opposite question: is the EPA considering acting on any chemicals that would create national standards, and cause preemption from state -- current state regulations?

*Dr. Freedhoff. I think that EPA would be -- we would -- we are moving forward to set Federal chemical safety

regulations, and would certainly implement any authorities we have related to the preemption that flows from those decisions.

*Mr. Curtis. Yes, I -- and that is good. Are there any specifics that come to mind right now that you would think would evoke preemption?

*Dr. Freedhoff. No, and that is because the first pause preemption didn't apply to the first 10 chemicals that underwent risk evaluation, and we haven't yet written rules about those chemicals, which triggers different preemption provisions. So it is a -- at this point, it is largely a hypothetical question about, you know, about what would happen, once a Federal regulation was in place for a substance.

*Mr. Curtis. Excellent. Thank you very much for your answers.

Mr. Chairman, I am out of time, and I yield back.

*Mr. Soto. The gentleman yields back. The chair now recognizes Representative Peters for five minutes.

*Mr. Peters. Thank you, Mr. Chairman. I actually wanted to greet the administrator with the notation that I am a former EPA Office of Toxic Substances employee. I worked there in the 1980s, when this was a difficult Act to administer, and was often frustrating, so I am happy for the Lautenberg Act and the clarifications.

That bill included a direct path to risk management regulation for a small subset of chemical substances that have been identified as persistent, bio-accumulative, and toxic, PBT, and that was a significant step forward in the reform of TSCA.

The previous Administration issued final rules that went into effect in February of this year. But in light of executive orders and guidance, EPA announced in March it was re-reviewing these rules, and considering revising all of the final rules completed out of the last Administration.

So Dr. Freedhoff, what did the Agency find during the public comment period that led to reevaluating the final rules?

*Dr. Freedhoff. We are still in the process of looking at all of the comments that we received during that public comment period that -- you know, there was one portion of one of those five rules that a large number of industry sectors came to us with serious supply chain disruption concerns about, very early in the Biden Administration. Of course, these rules were finalized in the previous Administration, and the industries had somehow failed to recognize or understand what EPA was proposing, and didn't communicate with the previous Administration at that time.

We think, as part of our re-examination of a lot of the different policies that were put into place by the last

Administration, that there may well be ways to strengthen each of those five rules. And we are looking at opportunities like that at the same time as we are looking at addressing the supply chain disruption challenges that industry stakeholders raised about one of those five chemicals.

*Mr. Peters. Great.

*Dr. Freedhoff. And I would expect that we will propose some changes for all -- you know, for as many as all five of the chemicals some time in the coming one to two years.

*Mr. Peters. And maybe this gets to that, because your office moved to extend the compliance date for one of the PBT chemicals, PIP (3:1), until October 31st of 2024. But I know you have supply chain concerns, and there is downstream impacts.

I do have concerns that giving extensions to processors and distributors who fail to engage on public rulemakings may not be consistent with the intent of the TSCA reform. Can you explain why PIP (3:1) was given an extension?

*Dr. Freedhoff. So I think what happened when the Trump Administration proposed that phase-out of PIP (3:1) is that, despite their efforts to reach out to companies, hold webinars, issue press releases, have -- you know, have meetings with industry stakeholders, none of those industries came to the Agency with their concerns until after the rule

was finalized. And by the time that happened, they were concerned that everything, from phone chargers to tractors to cars to all kinds of other electronic equipment, might have that substance in the supply chain. And then they -- and they had not made the efforts that they should have made earlier to find out what those chemicals were being used for, and make specific arguments to the Agency about why an extension was necessary.

Nevertheless, it seemed like such a wide portion of the economy might be impacted if we didn't take some interim measures to extend the compliance date for just that one part of the rule, that --

*Mr. Peters. Do you anticipate other extensions for PBTs in the TSCA --

*Dr. Freedhoff. I am sorry, I didn't hear that.

*Mr. Peters. Do you anticipate any other extensions for PBTs in the TSCA work plan?

*Dr. Freedhoff. I am sorry, you are -- it is hard to understand --

*Mr. Peters. I am sorry.

*Dr. Freedhoff. -- over -- with this connection. Could you try one more time?

*Mr. Peters. Do you anticipate any other extensions for PBTs --

*Dr. Freedhoff. Oh, I see, I am sorry.

We did just propose an additional extension. And what we have said to industry stakeholders -- and I would welcome your help in conveying this message, as well -- is that if we are going to propose any additional extensions, we need specific, scientifically and legally defensible reasons why they might need that.

So an example of a need for --

*Mr. Peters. Well, I am about to run out of time, so I just want to say that I just -- we don't want to set a precedent for extending compliance for industries that don't chime in at the right time, and fail to identify their chemicals, and notify the EPA during the comment period. So I hope you will do outreach that helps companies make sure that they are participating, so we don't get short-circuited again like this.

And I appreciate -- I yield back, Mr. Chair.

*Mr. Soto. The gentleman yields back. Representative Crenshaw is now recognized for five minutes.

*Mr. Crenshaw. Thank you, Mr. Chairman and thank you, Ms. Freedhoff, for being here today.

So I want to get back to a question I think you have been asked before, which is defining unreasonable risk. You alluded to this with Representative Carter. You mentioned that "unreasonable'' is an adjective. But "unreasonable risk'' is a term that has been described by the courts in

case law.

So I am wondering if you can tell us again, for clarification, what -- how you would define that at your Agency, because that is important, going forward.

*Dr. Freedhoff. I am not sure that there is any single definition of "unreasonable risk,'' Congressman. And I think, speaking as someone who tried to come up with a definition when we negotiated the law, it was clear that others didn't believe that there was a precise definition, either.

And what the law -- what the reform law asked us to do was evaluate the chemical across all of the conditions of use that are reasonably foreseeable and known to the Administration, and come up with a risk evaluation that addresses that -- that describes that risk.

Then, when we think about what regulations we might need to put into place, we are required by law to consider things like costs to industry, and whether the chemical is used for a critical economic or military need. And we are certainly expecting to take that -- to take those considerations into account when we move into the rulemaking phase.

*Mr. Crenshaw. And maybe that was a bad way to write the law, then. And -- but I think we owe it to industry, I think we owe it to ourselves to have a much more clear definition of what "unreasonable risk'' might be, if we are

going to do risk evaluations that have to be compared against some kind of standard.

You mentioned innovation, and it brings me to my next question. How do you plan on meeting statutory deadlines under TSCA, without deterring or slowing innovation? How can your office do that?

*Dr. Freedhoff. As I said earlier in my testimony, the Agency is currently operating with less than 50 percent of the resources that it thinks it needs to operate the new chemicals program in the way that Congress intended. And Congress intended for us to assess the chemicals, and to decide what to do about them in a quick time frame.

I personally don't believe that innovation and safety are mutually exclusive, and I really want to work with Congress, and work with the excellent career staff at the Agency to improve in all areas of our implementation plans.

*Mr. Crenshaw. My next question is regarding greenhouse gases. The EPA has been giving -- been given quite a few resources to explore standards for greenhouse gases across a half-dozen programs under the Clean Air Act. Do you think EPA can regulate greenhouse gases as a chemical substance under TSCA?

*Dr. Freedhoff. It is not a question that I have thought about. I think I would like to answer for the record, if that is okay with you. I would like to provide a

more --

*Mr. Crenshaw. Sure. Well, Section 9 of TSCA prohibits TSCA from regulating that. The reason I ask is because groups are trying to get you to regulate that. And we would like your assurances that you will follow the law under Section 9 of TSCA that says that has to be regulated under the Clean Air Act.

*Dr. Freedhoff. We will definitely be following the law, and looking to Section 9 to guide our decision-making.

*Mr. Crenshaw. Okay, I appreciate that, and I yield back.

*Mr. Soto. The gentleman yields back. The chair now recognizes Representative Barragan for five minutes.

*Ms. Barragan. Thank you, Mr. Chairman.

Dr. Freedhoff, when Congress updated the Toxic Substances Control Act in 2016, one new provision requires EPA to account for potentially exposed and susceptible sub-populations in its assessment of whether the use of a chemical substance presents an unreasonable risk to health or the environment.

How will your office use this provision to protect environmental justice communities close to facilities that release toxic chemicals into the environment?

*Dr. Freedhoff. Thanks very much for that question, Congresswoman. You know, the previous Administration decided

to exclude air, water, and disposal exposures from even being considered under the risk evaluations. And what that essentially meant is that they said that, for purposes of TSCA, it doesn't count if you drink it, and it doesn't count if you breathe it. And we don't think that was the right approach, and we do plan -- and we have reversed that policy decision.

One thing that we are doing in order to better understand whether those risk evaluations that were finished by the previous Administration exclude exposures like the ones you are talking about, is develop a fenceline screening methodology. And that methodology is intended to do a quick look at fenceline communities who might be disproportionately exposed to these chemicals, to be sure that the risk management actions that we are thinking about actually address the risks that these communities pose.

And I expect that we will be releasing that methodology for both peer review and public comment later this year.

*Ms. Barragan. Great, thank you. The PFAS roadmap that EPA recently released includes a commitment to re-examine previous decisions to allow new PFAS into commerce. In July the New York Times reported that, in 2011, the EPA approved 3 chemicals for fracking, despite concerns by Agency scientists the chemicals have the potential to break down to PFAS, which threatens workers, human health, and our environment.

Will the EPA revisit the chemicals it has approved for fracking as part of its review of previous decisions on past approvals?

*Dr. Freedhoff. Thanks very much for that question. And we actually have been taking a backwards look at all of our previous PFAS decisions, because it is -- you know, there were a number that were approved in the 1980s, before the Agency really understands what it currently does about those chemicals. And we think all of them need to be looked at again.

We are in the process of doing that, and I imagine that we will have some results to share in the coming months.

*Ms. Barragan. Well, thank you for that, because, you know, 10 years ago the Agency scientists identified serious health risks to these chemicals, and yet they approved them, anyhow. I believe we must do better, and now is an opportunity to correct that mistake.

Next, for many years we have recognized the need to address cumulative impacts of pollution on communities exposed to unsafe levels of air and water pollution from multiple sources. It is also critical EPA consider cumulative impacts when assessing cumulative chemical exposures, where a community could be impacted by more than one chemical or a mixture of chemicals. This can worsen the effects of exposure to the chemical being evaluated.

Will your office use the Toxic Substances Control Act to advance the cumulative risk assessment of chemicals?

*Dr. Freedhoff. Thanks very much for that. It is, actually, a very, very difficult problem, scientifically. And the entire Agency is working together on ways that we can better understand the cumulative effects, and ultimately on ways that we might be able to include cumulative effect considerations in our risk management rules.

I think the fenceline community methodology that I was describing to you earlier is just a first step of what we are looking at to try to understand and address the disproportionate exposures to pollution that some communities have faced, in some cases, for decades. And I look forward to keeping the committee informed of these efforts, as we move forward.

*Ms. Barragan. Well, thank you, Doctor, for your testimony. And I just want to continue to encourage you to look at these cumulative impacts, and I know it can be challenging, but when we are looking in a vacuum at approvals for one chemical in a vacuum, it doesn't really tell you in whole what it is doing to communities. And I do think that is important in the long term.

So thank you for your service and your testimony today.

With that, Mr. Chairman, I yield back.

*Mr. Soto. The gentlelady yields back. The chair now

recognizes Representative Blunt Rochester for five minutes.

*Ms. Blunt Rochester. Thank you, Mr. Chairman and Ranking Member McKinley, for calling this important hearing, and welcome back, Dr. Freedhoff, and thank you for being here to discuss the EPA's efforts to fully implement the 2016 amendments to the Toxic Substance Control Act.

These bipartisan amendments were an important step toward reforming the Federal Government's approach to chemical safety to better protect human health and the environment from the impacts of chemical pollution. It has been five years since the Lautenberg Act passed, and we need to ensure that what was passed is executed.

As a Delawarean, I know the importance of chemical safety, from the health and safety of the workers at the chemical plants in my state and their neighboring communities, to the families that use everyday household items with chemicals. We need to work together to ensure that all Americans are safe from chemical harm, and that science, transparency, and equity are at the center of EPA's decisions.

Dr. Freedhoff, as you know, Delaware is home to some of America's leading chemical companies. How will implementation of these TSCA amendments ultimately benefit them, as well as the general public?

*Dr. Freedhoff. I actually think that one of the

reasons why many of those companies supported TSCA reform -- didn't just support it, but encouraged it -- was because they fundamentally knew that, if the public believed that when EPA said that a chemical was -- can be safely used, it can be safely used. And I think the more credible a presence the Agency has in understanding and addressing the risks from chemicals, the more the public will also accept and trust the products that industry makes.

*Ms. Blunt Rochester. Thank you for that. I think you use the word "confidence'' earlier in your testimony, that it gives people confidence.

As a follow-up to Representative Barragan's question, I am particularly concerned with the impacts of chemical exposure on environmental justice communities, who are already disproportionately impacted by legacy pollution.

As you stated, under the last Administration the first 10 chemical risk evaluations under TSCA neglected to address the impacts of exposure from air, water, or disposal to the general population, because it was falsely assumed that other statutes would address those exposures. This approach failed to protect our most vulnerable populations from dangerous chemicals, and I was encouraged to hear of your office's plan to re-examine some of these chemicals to assess whether the exclusion of exposures from air, water, and disposal disproportionately harm environmental justice communities.

Dr. Freedhoff, why is it important for EPA to supplement its risk evaluations with an environmental justice lens?

*Dr. Freedhoff. I think what we all have realized, I mean, not just in the past few months, but over many years, is that there are some communities who have been disproportionately exposed to multiple chemicals for generations. And that is evidenced by the health of those communities. It is evidenced in so many ways, whether it is lead in paint, or exposures to ethylene oxide releases, or PFAS, or being located near landfills that were built decades ago, without appropriate protections. We are talking about generations of exposure.

And I do think it is vitally important that TSCA do what Congress told -- said the law should do, which is to protect potentially exposed and susceptible sub-populations from unreasonable risks and exposures to chemicals.

*Ms. Blunt Rochester. Thank you. And earlier this year EPA invited EJ stakeholders to participate in environmental justice consultation for the development of risk management plans for evaluated chemicals. How is EPA utilizing the information that these stakeholders are sharing?

And how will you continue to incorporate environmental justice communities and other stakeholders into risk management plans?

*Dr. Freedhoff. Thanks very much for that. I have met

with some environmental justice community organizations, and will continue to. And we do these consultations for all of our risk -- our rulemakings under TSCA, and really do value the input that we get.

We would also really welcome ideas from you or others about ways we can reach more communities, and talk directly with communities that are impacted, because I feel like, a lot of the time, we hear from -- we hear more from national organizations, and I think it is really important that the Agency understand how their proposed rules might be impacting the actual people in these communities. So any suggestions you have for us would be very welcome.

*Ms. Blunt Rochester. Thank you, Doctor. We look forward to working with you, and it is good to see you in this position. Good luck in all the work that you are embarking on.

And I yield back.

*Mr. Soto. The gentlelady yields back. The chair now recognizes himself for five minutes.

First, Dr. Freedhoff, thank you for what you do to help regulate chemicals that can, literally, kill our fellow Americans, if not kept in check. So we want you to take the time, as you are doing, to get these protections right, whatever time that takes that is supported by the science.

In Florida, several years ago, we witnessed a cancer

cluster affecting firefighters at the Florida State Fire College. Our heroes' lives were put in jeopardy because of unregulated PFAS fire extinguishing chemicals. As many as 27 of Florida's firefighter training facilities may have been affected by these toxic chemicals.

As you know, legislation was passed by the House already to set a national drinking water standard for PFAS, and direct the EPA on developing discharge limits. We appreciate Representative Dingell's leadership, and hope the Senate will follow suit.

And we also applaud you all at EPA for announcing a comprehensive strategic roadmap to confront PFAS contamination nationwide under your existing statutory authority, including the three guiding strategies of increasing investment research, leveraging authorities to take action to restrict PFAS chemicals from being released into the environment, and, of course, accelerating cleanup of PFAS contamination. This is important for Florida, for my constituents, and for others.

Dr. Freedhoff, how do you see your office's work on testing and review for PFAS informing the efforts of your colleagues in other areas of the EPA?

*Dr. Freedhoff. Thanks very much for that question, because, of course, you know, we are proposing regulations on just a handful of the thousands of PFAS that have

historically been made or used.

And one of the reasons for that is because, if we can't understand the health effects that the chemicals might pose, we also can't know what the safe drinking water level would be, or how much of it you need to clean up.

And so one of the things that we are really excited about for our testing strategy is that, instead of continuing this one-by-one-by-one approach, which would take the Agency decades to finish, we are instead working a little smarter, and sorting PFAS that have similar properties into subcategories, and testing representative PFAS from each of those categories.

So our first 20 test orders that will go to 20 different PFAS manufacturers will actually give us information that we can extrapolate to 2,000 of those many thousands of chemicals that have historically been made. And I think that will give us a real jumpstart on a more comprehensive research, monitoring, and regulatory plan to address the rest of the substances.

*Mr. Soto. So you are categorizing these forever PFAS chemicals, and building a foundation for other parts of the EPA Agency, so we appreciate that.

Dr. Freedhoff, how will you, your office, use the expanded TRI reporting data to further regulatory efforts?

*Dr. Freedhoff. So we have implemented the language

that Congress wrote in the 2020 National Defense Authorization Act, and that language required the immediate addition of almost 200 PFAS to toxic release inventory reporting requirements. And we are continuing to add PFAS to that list, in accordance with the direction that Congress provided us.

We also are looking at ways to expand our -- the data that we get from those releases, because we noticed in this first year of reporting that we got much less from -- by way of data than we expected. And we are trying to understand and address the reasons for that.

*Mr. Soto. Of course. And can you talk a little bit more about the resources you estimate you will need to implement your responsibilities under the reformed TSCA?

*Dr. Freedhoff. Well, thanks very much for that question. I -- it really does continue to shock me, that the previous Administration never asked for any additional funds, even though Congress clearly expected the Agency to have much more work to do.

And so I think our -- the President's fiscal year 2022 budget gives us the authority to hire about 90 additional full-time employees. I think that is an excellent downpayment on what it is that we need to do. But I think, in order to fully realize the promise of TSCA, which includes robust safety measures, but also rapid and predictable

decision-making, and meeting statutory deadlines the industry expects us to meet, I think we will continue to need to work with Congress to build on those efforts.

*Mr. Soto. And so how is your office quantifying costs of implementing TSCA and envisioning service fees to address shortcomings?

*Dr. Freedhoff. I am sorry, I missed that.

*Mr. Soto. How is your office quantifying costs of implementing the new TSCA?

And how do you envision your office amending the service fees to address any shortcomings?

*Dr. Freedhoff. I actually think we have a report due to Congress at the end of this year that asks us that very question. And, you know, part of what we have been doing since I arrived at the Agency is, first of all, understanding the costs, but also then recognizing that some of these policy reversals change the cost considerations, as well, as do the complexities associated with some of the work that we didn't previously anticipate.

So I actually really look forward to giving Congress a very fulsome answer to that question later this year.

*Mr. Soto. Thank you. And my time has expired.

I request unanimous consent to enter the following documents into the record: a letter from Chairman Pallone, Chair DeGette, Chair Tonko to EPA Administrator Regan; a

response letter from Assistant Administrator Freedhoff to Chairman Pallone and Chair DeGette and Chairman Tonko, including six enclosures; a letter from the Household and Commercial Products Association; and an article from Bloomberg Law entitled, "EPA's Chemicals Head Tells Staff to Consider Work-Life Balance.''

Without objection, so ordered.

I would like to thank our witness, Dr. Freedhoff, for your patience and candor, and joining us for today's hearing.

I remind members that, pursuant to committee rules, they have 10 business days to submit additional questions for the record to be answered by our witness.

I ask that our witness respond promptly to such questions that you may receive.

At this time, the subcommittee is adjourned.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned.]