Written Testimony of
Chris Jahn, President and Chief Executive Officer
American Chemistry Council

House Energy and Commerce Committee
Subcommittee on Environment, Manufacturing, and Critical Materials

Hearing on:
"Exposing EPA Efforts to Limit Chemicals Needed for Life-Saving Medical Devices and Other Essential Products"

October 18, 2023

Chairman Johnson, Ranking Member Tonko, Chair McMorris Rodgers, Ranking Member Pallone and Members of the Subcommittee, thank you for holding this important hearing examining the impact of regulations on the chemical sector and for the opportunity to discuss the vital role chemistry plays in improving our quality of life.

The American Chemistry Council (ACC) represents more than 190 companies engaged in the business of chemistry—an innovative, economic growth engine that is helping to solve the biggest challenges facing our country and the world. Our members are the leading companies engaged in all aspects of the business of chemistry, from the largest corporations to the smallest, and everything in between. They are the people and companies creating groundbreaking products that are improving the world all around us by making it healthier, safer, more sustainable and more productive.

We believe that if America is to remain a country that innovates and competes globally, it must do so with a thriving American chemical industry.

Today's hearing is being held during a time of unprecedented regulatory activity, so Congress must be actively involved in making sure regulations are built on a solid foundation and deliver demonstrable benefits.

Equally important is helping the Biden Administration to see the big picture so regulations are not working against national priorities and the manufacturing economy.

You can see the products we enable by simply looking around this room -- everything that is manufactured starts with chemistry – your clothes, your phone, the chair you are sitting in, everything.

The products of American chemistry support 25% of U.S. GDP, we provide good-paying jobs to over half a million Americans, and four million more Americans rely on our industry to support their own jobs.

Today our industry is innovating to manufacture crucial ingredients in producing semiconductors, automotive parts, lifesaving healthcare devices, building and construction materials – all critical components of modern life.

The world is counting on us to create solutions for a safer, healthier future for generations to come.

American Success Relies on American Chemistry

So, if there's anything you take away from my comments today, it's that American success relies on American chemistry.

But we need the right policy environment for that to happen. Unfortunately, recent regulatory actions by the Biden Administration stand in the way of success.

And to be clear, this is about far more than chemical regulations under the Toxic Substances Control Act (TSCA) -- it's across the board -- water, climate, plastics and more.

In fact, we've identified more than a dozen proposals specifically targeting the chemical industry that impose a collective cost to the U.S. economy of close to $7 billion/year using the federal government's own numbers.

Proposal	***Agency***	***Annual Cost***
Climate disclosure reporting	SEC	$2,400,000,000
Feedstock production of Class II ODS	EPA	$386,667
Emission guidelines for oil and natural gas sector (methane)	EPA	$963,462
NAAQS PM	EPA	$390,000,000
Restrictions of certain uses of HFCs	EPA	$150,000,000

Chrysotile asbestos TSCA Section 6	EPA	$78,000,000
CERCLA PFOA/PFOS*	EPA	$2,528,000,000
Risk Management Plan regulations	EPA	$76,700,000
Ethylene oxide sterilizers	EPA	$32,000,000
NESHAP HON rule	EPA	$70,133,333
MCL PFOA/PFOS	EPA	$1,204,600,000
Methylene chloride TSCA Section 6**	EPA	$13,600,000
TSCA new chemical review procedural changes**	EPA	$TBD
TOTAL		$6,944,383,462

Note: Unless noted, all rules are economically significant (subject to OMB review), and all cost estimates are from the issuing agency and discounted at 7%.
**ACC developed this cost estimate to account for the indirect cost of CERCLA cleanup.*
***Not designated as an economically significant rule by OMB.*

In many of the regulations above, ACC's concern is not that the chemistry is being regulated; rather, that the proposed regulations are not science based and as a result several of the regulations either ban chemistries outright or regulate them at trace levels, which is a *de facto* ban on manufacturing. ACC anticipates several more proposed regulations that will even further increase the scope and cost of federal regulations for critical downstream sectors.

ACC is concerned that some of these regulations will restrict or entirely prohibit critical chemistries that make up the supply chain for important technologies, including many that are policy priorities under the Inflation Reduction Act (IRA), Infrastructure Investment and Jobs Act (IIJA) and CHIPS and Science Act.

For instance:

- The CHIPS and Science Act appropriates tens of billions of dollars toward U.S. fabrication of the most advanced computer chips. Here are some of the chemistries facing regulations that would impact their manufacturing:
    - **Ethylene Oxide** is used widely in semiconductor manufacturing processes like wafer cutting, chemical mechanical planarization, photoresist, and photoresist residue cleaner.
    - **Methylene chloride** is used to make polycarbonate, which is used for multiple applications in semiconductors like valves, tubing and filtration elements.
    - **D4**, a type of silicone, is used in the manufacture of silicon wafers.
    - **Trichloroethylene** is a solvent used to improve semiconductor performance.
    - **PFA**, a fluorinated chemistry, is used for fittings, fluid management, liquids transport, high-purity manifolds, valves and many other purposes.

- IIJA directs billions of dollars to development of a domestic electric vehicle (EV) industry**,** and the IRA incentivizes the purchase of those vehicles. Here are the chemistries under active regulation that, if done wrong, threaten the success of those IRA/IIJA programs:
    - **Formaldehyde-based technologies** are used to make interior molded and under-the-hood components that allow for higher fuel efficiency by reducing vehicle weight. It is also used in the production of highly durable exterior primers, clear coat paints, tire-cord adhesives, brake pads and fuel system components.

- **Ethylene oxide** is used to produce ethylene carbonate, which is used in lithium-ion batteries to allow the electricity generated to travel more easily through the battery.
- **PFAS** are essential to lithium-ion batteries (anode and cathode coatings), fuel cells (electrode membranes), power electronics (diaphragms, seals, and case coatings), and textile materials and membranes (gas filter membranes in air-conditioning systems, engine compartment covers).
- **NMP** is an essential processing aid and in most cases, there is no replacement. NMP is necessary for lithium batteries that are key to energy storage and electrification that will help the US move away from fossil fuels.
- **1, 3-butadiene** is used primarily as a chemical intermediate and as a monomer in the manufacture of polymers such as synthetic rubbers, latex or elastomers. Butadiene is necessary for tires for automobiles.

- Both IIJA and IRA provided billions in funding for infrastructure improvements. The chemistries below have critical applications in infrastructure:
    - **Butadiene** rubber emulsion provides construction projects with superior tensile strength and durability. Butadiene is also used to create adhesives and sealants, asphalt and polymer modification and compounds. Its water-based formulation also resists moisture weathering, abrasion, and UV radiation damage.
    - **Formaldehyde** is used in building and construction materials and formaldehyde-based resins are used to manufacture composite and engineered wood products used in cabinetry, countertops, moldings, furniture, shelving, stair systems, flooring, wall sheathing, support beams and trusses.

- **Asbestos** diaphragms are used to produce chlorine, and EPA has proposed an accelerated ban on this technology that manufacturers may not be able to meet without impacting the supply chain, particularly for water treatment.

The mounting regulatory challenges we face jeopardize America's economy and our ability to compete with countries like China. The heavy-handed approach the Administration is taking will disrupt the supply chain for critical technologies and everyday products.

"Chemistry Creates, America Competes"

Recently, ACC launched an initiative aimed at making sure the Biden Administration and Congress understand how vital our industry is to the manufacturing supply chain and achieving a range of national priorities.

"Chemistry Creates, America Competes." 1) Chemistry creates jobs. 2) Chemistry creates innovations. 3) Chemistry creates the products and solutions America needs.

If we allow Chemistry to create, then America competes. And America will win.

Now, let me be clear: the chemical industry supports responsible regulation that is:

1) driven by science,

2) promotes innovation, and

3) supports supply chain resiliency.

However, a growing number of proposed federal regulations do not meet these criteria.

The Administration, and specifically EPA, must put science first and develop regulations that protect health and the environment without killing innovation, weakening supply chain resiliency, and sending jobs to countries like China.

For instance, the New Chemicals program at EPA is hampering innovation. There are 392 chemicals under review – 94% of which are beyond the statutory deadline. As a result, more than 70% of our members are looking at bringing new chemistries to market outside the U.S. This is a direct example of regulations undercutting innovation and American competitiveness.

Congress also has an active role to play here.

Congressional oversight is needed to examine how proposed EPA regulations on the chemical sector will cut off access to products and technologies needed to support American manufacturing. Today's hearing is a good first step in this direction.

We also urge Congress to consider legislation to improve the regulatory process, streamline permits, and replace overly conservative regulations with flexible, smart, science-based policy approaches.

We must work together to find a more thoughtful way to regulate our industry that does not sacrifice America's competitive advantage.

A Cautionary Tale

I will close with a cautionary tale. I recently spent time in Europe meeting with my counterparts. I saw firsthand the ultimate impact of poor policy choices.

Once a manufacturing powerhouse, Europe's share of worldwide chemical production is half of what it was only two decades ago. We are witnessing the deindustrialization of Europe across most manufacturing sectors. This is the direct result of ill-conceived regulations and energy policies. The consequences are fewer jobs, less innovation, higher prices.

Do not let America fall into the same trap.

Remember, American success relies on American chemistry.

Thank you. I look forward to your questions.