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'Way off track': Chemical industry slams EPA

The powerful American Chemistry Council is seething over the Biden administration's stricter approach to regulating toxic substances.

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EPA headquarters in Washington. | Francis Chung/E&E News

GREENWIRE | One of the nation's most influential trade organizations is attacking the Biden administration's approach to key chemical assessments, asserting the process is lopsided and unfairly targets industry.

In a press conference this morning, representatives from the American Chemistry Council blasted EPA's implementation of the Toxic Substances Control Act, calling the agency "out of touch with economic and regulatory reality." The group accused EPA of misusing the statute and undercutting its intended application.

"Unfortunately it's not good," said ACC President and CEO Chris Jahn. "EPA is way off track, and it is failing the American people. The agency needs to course correct before it's too late."

ACC's qualms center on a number of steps taken by the agency, including "regulatory overreach" and making safety determinations for chemicals based on a "whole of chemical" approach rather than a use-by-use basis. EPA has also opted to not make assumptions about industry compliance with worker protection laws, evaluating chemical risks without factoring in protective equipment. The agency is also "overestimating risk," raising fees on industry and failing to meet its 90-day deadlines for reviewing new chemicals, ACC said, offering [several proposals](#) for addressing its concerns.

Michal Freedhoff, EPA's chemicals chief, has repeatedly said her office is overworked and understaffed, something that has contributed to missing deadlines and a slow pace for evaluations ([Greenwire](#), Jan. 19). Ross Eisenberg, ACC's vice president for federal affairs, said the trade organization was sympathetic to those issues and aware of the agency's request for a bigger budget.

"We support EPA's funding request, they need resources," he said. "But that comes with the expectation that they're going to be doing a better job."

A spokesperson for EPA emphasized that the TSCA program remains underfunded and in need of assistance. Meanwhile, the agency said, amendments to the statute gave EPA significant new authorities and responsibilities.

"Despite the dramatic increase in responsibility, the previous Administration never asked Congress for any additional resources, nor did it authorize senior career managers to undertake an analysis of how much additional funding it would take to implement the new law," the spokesperson wrote via email.

Even while acknowledging those hurdles, EPA asserted pride in the work the agency has managed to complete, in addition to pushing ahead with TSCA evaluations and strengthening public health measures.

ACC officials said they were sending a [letter](#) to Congress highlighting the issues and asking for help in their efforts to spark change at EPA.

The press conference is the latest in a series of escalatory moves as industry members have grown more alarmed about EPA's crackdown on toxic substances. ACC, the most powerful voice for the chemicals industry, enjoyed a close relationship with the Trump administration, one that often drew scrutiny.

Former ACC officials like Nancy Beck were welcomed into EPA under that administration, sparking outrage from advocates who said she was not fit to serve as principal deputy assistant administrator for the Office of Chemical Safety and Pollution Prevention ([Greenwire](#), June 16, 2020). They accused Beck of watering down chemical assessments and catering to industry.

Things have changed significantly since President Joe Biden took office. Freedhoff has overseen a far stricter crackdown, one that has left industry on edge.

Much of their concern is rooted in TSCA decisions. Congress overhauled the chemicals law in 2016 after decades of frustration from advocates and EPA's own staff, who largely felt the nation's chemicals law was toothless and ineffective. At the time, Freedhoff notably played a major role in writing the legislation in her capacity as a congressional staff member.

During the Trump administration, EPA proceeded with the first 10 chemical risk assessments as the agency scrutinized that small group of substances. But the process became bogged down in litigation and internal turmoil amid accusations of industry pressure and interference by political appointees, including Beck.

Under Biden, EPA has subsequently faced a mammoth task: Assessing the next 20 chemicals slated for review under TSCA while also reviewing and in some cases dramatically revising the initial slate of evaluations.

When Biden took office, ACC and other industry members said they looked forward to working with the administration on chemical policy decisions. But the dynamic has grown increasingly fraught as the chemicals office has ramped up its scrutiny of various substances.

Freedhoff also signaled last summer that a change of pace would be coming as her office took "steps to restore trust" with the public. Shifts included issuing single risk determinations for chemicals, rather than multiple risks that might see them allowed for certain purposes despite posing broader concerns. The chemicals office also boosted worker protections in its evaluation process, along with more exposure pathways and related environmental justice concerns ([Greenwire](#), June 30, 2021).

ACC singled out those decisions during its press conference this morning.

"The TSCA office has been veering out of its lane," said Kimberly Wise White, who leads regulatory and scientific affairs work for the group. She accused the agency of ignoring "real world workplace conditions and environments" in its assessments.

EPA vs. industry

Qualms from the chemical industry go beyond TSCA.

After decades of back and forth, EPA's gold standard Integrated Risk Information System deemed formaldehyde a carcinogen last month ([Greenwire](#), April 14). Industry had lobbied hard against that move, seeking to protect the chemical, which is common for homebuilding projects and other uses. While the IRIS findings have no regulatory power, they will be used to shape future decisions like those made under TSCA.

Some agency decisions, however, have tilted at times in industry's favor.

Advocates have repeatedly pushed for a class designation for per- and polyfluoroalkyl substances, arguing the thousands of chemicals pose too great a health risk to be slowly regulated individually. But when EPA announced its plan for testing PFAS last year, the agency said it would be assessing the

chemicals by subgroup rather than as a whole. Industry members, including ACC representatives, praised that move at the time ([Greenwire](#), Oct. 18, 2021).

Still, Biden's EPA has scrutinized PFAS far more closely than the Trump administration. Regulations are pending for the two most well-studied chemicals, PFOA and PFOS, with a handful of other compounds also likely to face strict standards.

The chemical industry is concerned by that trend and repeatedly maintained that PFAS serve an important role in the energy transition and public health. Those substances are notably used in items like solar panels and lithium-ion batteries for electric vehicles, along with face masks like the kind worn to prevent the spread of Covid-19 ([Greenwire](#), April 20).



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