

8/04/22

The Honorable Michael Regan  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
William Jefferson Clinton Bldg  
Washington, DC 20004

Dear Administrator Regan:

We, the undersigned organizations representing a broad spectrum of Americans, write to affirm our support for the evidence-based, cooperative regulatory policy reform embodied in the bipartisan 2016 law updating the Toxic Substances Control Act (TSCA). We urge all public officials to recommit their support for maintaining and enhancing the elegant balance between economic, environmental, and health-related concerns that the TSCA amendments of 2016 established. This law can, and must, serve as the foundation for any sound policymaking toward the role of chemicals in our society.

The 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act strengthened TSCA in many effective, productive ways, among them:

- Embedding in statute the operational concepts of best available science and full weight of evidence when the Environmental Protection Agency (EPA) makes risk evaluations under TSCA;
- Reinforcing the standard that actual harm in real-world settings backed up by cost-benefit analysis, as opposed to a [precautionary principle based on theoretical risk](#), should guide EPA's regulatory decisions;
- Establishing a transparent new chemicals approval process with a 90-day deadline which, to the greatest extent possible, relies on expertise both inside and outside EPA;
- Providing a public-private partnership for Manufacturer Requested Risk Evaluations (MRREs) of chemicals, partially or fully funded by user fees instead of higher taxes or deficit spending.

These and other provisions of the 2016 TSCA update, which earned wide acclaim, ushered in what was hoped to be a new collaborative era in chemical regulation that promised stability, certainty, innovation, and safety. All stakeholders, including environmental advocates, businesses, consumers, and taxpayers, stood to gain.

Six years later, this promise requires additional effort and urgent clarity from EPA, with appropriate Congressional oversight, if the vision of the Lautenberg Act is to be fulfilled. The task is particularly critical now, given heightened concerns about the resilience of both domestic manufacturing and the supply chain. There are many proposals to address these concerns, but one basic strategy has obvious near-term potential: regulators can simply avoid sending mixed signals (on top of [tax worries](#)) to market actors that could further drive them from our shores.

Several evolving developments provide context to our views. EPA is well past the 90-day evaluation deadline with numerous chemicals submitted for risk evaluation, even relying on controversial reviews from the Integrated Risk Information System (IRIS) for some of its work. "Transforming EPA's Process for Assessing and Controlling Toxic Chemicals" has been on the Government Accountability Office's [High Risk List](#) for wasted tax dollars and mission failure for 13 years. IRIS came under particular criticism in GAO's report, owing to its poor coordination with stakeholders and the fact that "most of its 15 ongoing assessments have experienced delays." This not only has palpable impacts on the economy, but it also [slows the innovation](#) that could deliver more efficient and effective technologies for cleaner air and water, less carbon-intensive energy, and healthier outcomes for all Americans – particularly those in underserved communities.

There is, however, no clearer illustration of our concerns than what we have recently witnessed with Manufacturer Requested Risk Evaluations. EPA has been [raising its fees](#) charged to the private sector for these voluntary chemical assessments (as well as agency-initiated assessments).

Several of us have praised EPA's approach to MRREs as a model for collaborative regulatory policy, one that was built through Democratic and Republican presidential administrations and Congresses. We understand that EPA may be pursuing a different policy direction that could affect future and existing assessments under the MRRE concept, which until now, has embodied a non-adversarial approach between government and industry on the principles of sound science, cost-benefit analysis, and solution-focused engineering.

Through its whole chemical approach and other new protocols, inserted with little clarity about the impact on ongoing reviews, the consensus surrounding MRREs is endangered. Why would manufacturers pay heavier fees for evaluations that are inconsistent and whose rules of conduct change in mid-stream? As one example, an MRRE for the substance known as D4 was granted by the EPA in the fall of 2020 after the silicones industry formulated – in collaboration with EPA – a carefully overseen environmental monitoring program for numerous sites. The data generated from this program – at full expense of the industry – provided the basis for the MRRE and afforded EPA the information it said it needed for a sound scientific evaluation. Yet, eighteen months into what should have been a smoothly progressing MRRE, uncertainty has surrounded a process whose very success depends on the confidence of its participants have in a firmly grounded design and the agency following its own rules.

At a June 22 TSCA [oversight hearing](#) before the Senate Committee on Environment and Public Works, EPA's Assistant Director Michal Freedhoff provided perspectives that could be cause for hope. Dr. Freedhoff told the panel, "It is incumbent on the agency to do better." We would contend that doing better at EPA should be demonstrated before Congress considers major funding increases in this area of the agency's responsibility. Otherwise, taxpayer resources will be spent to no constructive purpose.

We hold many diverse views on public policy. Nonetheless, we all agree that making progress on environmental, energy, health care, and other goals in a fiscally and economically sustainable manner will require major contributions from and advances in chemical science – which EPA can facilitate by asserting the entrepreneurial management and policy framework given it by Congress through the 2016 Lautenberg Act. We stand ready to assist EPA in fulfilling this vital mission, and we thank you for your consideration.

Sincerely,



National Taxpayers  
Union



American Consumer  
Institute



Citizens Against  
Government Waste



ConservAmerica



The Rainey Center  
Freedom Project