

### Toxic Substances

#### Views Diverge on Adequacy of Chemicals Law During First Oversight Hearing in 10 Years

Different perspectives on whether the Toxic Substances Control Act gives the Environmental Protection Agency sufficient authority to protect human health and the environment from risks industrial chemicals may pose were voiced Aug. 2 at the first oversight hearing the Senate Environment and Public Works Committee has held on that law in more than 10 years.

"I believe that TSCA provides EPA with the statutory tools necessary to achieve these goals [protecting human health and the environment]," James Gulliford, assistant administrator for EPA's Office of Prevention, Pesticides, and Toxic Substances (OPPTS), told the committee.

"I do not believe revisions to the statute are necessary," William K. Rawson, a partner in the law office of Latham & Watkins, concurred.

"TSCA provides a dynamic framework for anticipating [emerging scientific] issues and developing the scientific information to apply [the law's] many risk management tools as appropriate," Michael P. Walls, senior counsel for the American Chemistry Council, which represents major U.S. chemical manufacturers, said.

But John B. Stephenson, director of natural resources and the environment at the Government Accountability Office; former OPPTS Administrator Lynn Goldman; and Michael P. Wilson, a professor at the University of California, Berkeley, said TSCA reform was needed. Wilson lead the development of a report on chemical policy options that the California Legislature is discussing (50 DEN A-14, 3/15/06 .

Stephenson said TSCA sets such a high legal standard for EPA to meet before it can restrict or ban a chemical that the agency has taken such action against only five chemicals since the act became law in 1976.

Similarly, the authority TSCA gives the agency to order chemical companies to test the toxicity of their products is so difficult to use that the agency has required testing for fewer than 200 of the 62,000

chemicals that were in commerce when EPA began reviewing chemicals under TSCA in 1979, he said.

"The people in the toxics program at EPA do an excellent job with the tools that they have, but they have neither the legislative tools nor the resources that are needed" to understand and address chemical risks, Goldman said.

### **State Bills Symptom 'All Is Not Well With TSCA.'**

The increasing number of bills that would control or ban chemicals in states is "a very bad symptom that all is not well with TSCA," Goldman said.

"California, like other U.S. states, is facing an array of problems with chemicals," Wilson said, adding the Legislature introduced some 35 bills addressing chemicals in 2005.

These problems can be traced to "long-standing deficiencies in TSCA which have created a flawed chemical market in which hazardous chemicals stay on the market, dampening the interest in new chemicals," he said.

"Markets cannot function without good information, and the chemicals market is no different," Wilson said, adding that the most fundamental problem of TSCA is its "data gap," or the law's lack of a requirement that chemical manufacturers generate and disseminate toxicity and other information about their products.

"Even large firms, such as those in California's electronics industry, are finding it very difficult and expensive to identify and replace hazardous chemicals in their supply chains," Wilson said in written testimony. "These firms simply do not have the right kind of information to identify safer chemical alternatives," he wrote.

Because EPA has been unable to assess the hazards of many chemicals in commerce, hazardous chemicals are on the market, making some 23,000 California workers sick every year, Wilson said, describing that as a safety gap created by TSCA.

### **Technology Gap Debated**

Further, a technology gap results because hazardous chemicals can stay on the market, lessening the incentive to create new, safer alternatives, he said in written testimony.

"An overhaul of TSCA is needed to get information out to the states so we can act appropriately," Wilson said.

Creating chemical policies that spur the manufacture of "green" chemicals--ones that are less toxic or whose manufacturing process is more environmentally beneficial than the compounds they replace--"will

solve a host of costly chemical problems that are affecting public health, business, and government; and it will support our industry leaders in becoming globally competitive in green chemistry and other cleaner technologies," Wilson's written testimony continued.

Walls took exception with Wilson's alleged technology gap and comments about green chemistry.

One-quarter of all U.S. patents relate to chemicals, Walls said. "That's not evidence," he said, "of a technology gap. That's evidence of innovation and progress."

Several members of the American Chemistry Council have won the Presidential Green Chemistry awards, he added.

The chemical industry has been providing extensive information about its products through a wide variety of voluntary data-collection programs EPA has developed in consultation with industry and other interested parties, Walls also said.

In addition, TSCA is only one of many laws that address chemical risks, both Walls and Rawson said. 📄

*By Pat Phibbs-Rizzuto*