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Senate Panel Weighs Toxic Chemicals Law

Manufacturers and the EPA think the 1976 rules are effective, but many others call for revisions.

By Marla Cone, Times Staff Writer
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At the first Senate hearing in more than a decade to review the nation's toxic chemicals law, the Bush administration on Wednesday agreed with chemical industry representatives that the 30-year-old statute was strong enough to protect public health.

James B. Gulliford, an assistant administrator at the Environmental Protection Agency, told the Senate Committee on Environment and Public Works that the toxics law was "a very effective statute" that gave the agency "broad authorities" to ensure the public was safeguarded from industrial chemicals.

Sen. James M. Inhofe (R-Okla.), committee chair, convened the hearing to consider revamping the Toxic Substances Control Act. Essentially unchanged since it was enacted in 1976, the law guides the EPA's regulation of 82,000 chemicals, including plastic ingredients in toys, flame retardants in computers, and compounds in cosmetics, cookware and plastic baby bottles.

Many political, legal, scientific and economic experts say the law needs to be overhauled because the U.S. trails the European Union and other developed countries in reviewing and restricting toxic substances.

"The EPA has slipped in its leadership in the international arena," said Dr. Lynn R. Goldman, a Johns Hopkins University scientist and pediatrician who headed the EPA's toxics program for the Clinton administration.

Several hundred industrial chemicals in use today are known to accumulate in human tissues and breast milk, and persist in the environment without breaking down. The health effects of many of them are largely unknown, though scientific studies have linked some to cancer, altered hormones, reproductive effects and neurological damage, particularly for fetuses exposed in the womb.

Under the toxics law, the EPA has had broad authority to ban or restrict chemical compounds developed after 1976. But the agency can regulate an older chemical only if proof is found that it poses an "unreasonable risk" to human health or the environment, which can require years, even decades, of costly and detailed risk assessments. The EPA must then compare costs and benefits and choose "the least burdensome" rules.

The U.S. government has not attempted to restrict an industrial chemical in use before the law was passed since 1989, when an EPA rule banning asbestos was struck down by a federal court, in part because the agency had not proven to a judge that the lung-damaging chemical posed an unreasonable risk.

Instead of imposing rules on older chemicals, the EPA has relied upon voluntary agreements with companies for nearly 20 years.

John B. Stephenson, environmental director of the Government Accountability Office, told the Senate committee that the law set "such a high legal standard" that the EPA was "severely

inhibited by its cumbersome authorities." Last year, a GAO report concluded that the toxics law had many weaknesses.

Michael Wilson, a researcher at the Center for Occupational and Environmental Health at UC Berkeley, urged Congress to enact a "modern chemicals policy." He said the EPA had insufficient data on the safety of chemicals and was not able to properly gauge the dangers to people and the environment.

Because of this, he said, the U.S. is "falling behind" in technology innovations that lead to safer chemicals. Wilson earlier this year coauthored a report for the California Legislature that encouraged the state to adopt its own chemicals law because the federal one was weak.

At Wednesday's hearing, which was webcast, Gulliford, the EPA assistant administrator who regulates toxic substances, made it clear he did not think the law should be changed.

"I believe that TSCA has been used effectively for the past three decades to protect the American people and the environment," Gulliford said.

When asked by Sen. Frank R. Lautenberg (D-New Jersey) if all 82,000 chemicals on the market were safe, Gulliford said, "Their risks to human health and the environment are acceptable."

However, many environmental scientists say the EPA can't know whether the risks are acceptable because the chemical industry is not required by the law to provide enough data, particularly on the potential effects of many chemicals on children and fetuses.

Michael Walls, a manager of the American Chemistry Council, which represents chemical manufacturers, told the committee that the toxics law provided "a strong, robust framework for chemical regulation in the United States."

Over the last few years, the U.S. chemical industry has voluntarily submitted safety data on 2,800 chemicals used in high volumes. Yet the voluntary program provides only basic data on the chemicals and "does not negate the need" for a stronger law, said the GAO's Stephenson.

Holding up a set of children's blocks, Sen. Barbara Boxer (D-Calif.) pointed out that the European Union had banned chemicals called phthalates in such plastic toys because of reproductive risks while the U.S. had not.

"I don't want my grandchildren or anyone's grandchildren or great-grandchildren or children to put this stuff in their mouths," she said.

Boxer criticized the EPA's position on the law, saying the public did not know which chemicals were used in which products and what dangers they posed because of the law's confidentiality requirements. "We are left in the dark, to our peril," Boxer said.

Inhofe called chemicals "the essential building blocks" of products and services that were essential to people, and said they should not be "stifled by government regulation" without clear evidence of risks.

"There are many people who come to this hearing with a preconceived notion that the U.S. chemicals management program is broken and that Congress needs to completely rewrite" the law, Inhofe said in an opening statement. "I do not come into this hearing with that assumption."

Last year, Lautenberg and Sen. James M. Jeffords (I-Vt.) introduced a bill, called the Kid Safe Chemicals Act, that would require chemical companies to provide more safety data and more protections for children. The bill remains in committee with no action scheduled.

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