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Committee on Environment
and Public Works

Washington, D.C.

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A LEGISLATIVE HEARING TO EXAMINE A DISCUSSION DRAFT, S. _____,
THE TOXIC SUBSTANCES CONTROL ACT FEE REAUTHORIZATION AND
IMPROVEMENT ACT OF 2026

Wednesday, March 4, 2026

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:09 a.m. in room 562, Dirksen Senate Office Building, the Honorable Kevin Cramer [chairman of the committee] presiding.

Present: Senators Cramer, Whitehouse, Ricketts, Boozman, Merkley, Markey, Padilla, Blunt Rochester, Alsobrooks.

STATEMENT OF THE HONORABLE KEVIN CRAMER, A UNITED STATES SENATOR
FROM THE STATE OF NORTH DAKOTA

Senator Cramer. Good morning, and thank you all for being here today.

This morning, we will receive testimony on a legislative discussion draft entitled The Toxic Substances Control Act Fee Reauthorization and Improvement Act of 2026. This discussion draft would make targeted reforms to the Toxic Substances Control Act, or TSCA, with a straightforward goal: to improve the Environmental Protection Agency's New Chemical Review process.

Congress set a clear standard and TSCA was signed into law 50 years ago. The EPA was to carry out the law in a reasonable and prudent manner, taking into account environmental, economic and social impacts. That was the right standard then, it remains the right standard today, to guide our efforts to improve and implement these processes.

When Congress last amended TSCA 10 years ago, we sought to modernize the statute to reflect current needs and technology. Unfortunately, the EPA's implementation of its New Chemicals Program has drifted from Congress' original mandate. In practice today, it is neither reasonable nor prudent, and ignores environmental, economic and social impacts from a prolonged and uncertain process.

In the case when the EPA does approve new, often innovative and safer chemistries, the agency imposes costly, burdensome or even unnecessary restrictions. In one case, a company manufacturing a new chemical wanted to pursue a zero waste initiative to recycle all of its wastewater. By any measure, that is a better environmental outcome.

The EPA rejected that approach, not because it was unsafe, but because it did not fit the agency's one-size-fits-all rules. Rather than recycle its waste, that company was forced to burn water to comply with EPA's requirements. That is neither reasonable nor prudent.

The consequences are real. And they are moving us in the wrong direction. Companies delay or abandon developing safer alternative in America, while shifting investment and production overseas to places like Europe and China. One company now labels its newest innovations as non-TSCA, meaning they are developed for every market in the world except the United States. This harms our economic competitiveness, and it eliminates American jobs.

The outcomes are the predictable result of a program that is no longer functioning in the manner Congress directed, or mindful of real-world consequences. This problem also impacts our national security. Throughout our government and across our Country, there are coordinated efforts to rebuild domestic

semiconductor manufacturing, semiconductors that are required for current and future defense systems. These facilities rely on the use of specialty chemicals, subject to the EPA's New Chemical Review process.

The semiconductor industry reports that bringing a new single new chip-making chemical to market in the United States can require up to 15 years of testing, and millions of dollars. By the time a company recoups that testing investment, the industry has already moved on to newer chemicals.

These are extremely low-volume chemistries, used in tightly controlled clean rooms, which is exactly why Europe and Asia don't require this level of testing, and grant approvals in under three months.

The EPA's onerous requirements simply mean that leading edge materials are not sent to the United States market. The most advanced manufacturing facilities in the world, facilities that are critical to protect our Country, need access to small quantities of highly specialized chemistries to operate. But an inefficient review process is a challenging obstacle to overcome.

The 2016 TSCA amendments prioritized policies that addressed existing chemicals. When a statutory program is up for reauthorization, Congress has an opportunity to review and address problems in the law and its implementation. Ten years

later, it is clear the New Chemical program needs the same attention.

This discussion draft makes targeted reforms to TSCA designed to do so. The draft recognizes that a one-size-fits-all review model does not reflect reality and instead prioritizes flexibility and predictability. It would establish review periods to match the complexity and risk profile of each submission. Separate pathways are created so novel or higher risk substances are carefully scrutinized, while familiar chemistries with established data can be approved more quickly.

It requires EPA to articulate clear expectations from the start, asks manufacturers to meet a higher standard up front, and provides predictable timelines when they do. The draft recognizes that EPA requires sufficient resources to efficiently fulfill its statutory obligations and reauthorizes a user fee for new chemical applicants to support the EPA's program.

Taken together, the policies in the discussion draft build a system that protects public health, incentivizes innovation, and benefits the environment by giving the EPA the resources, the structure, and the direction to do its job well.

This discussion draft is the starting point for our legislative process. I look forward to working with Ranking Member Whitehouse and all the members of the committee to develop strong, bipartisan and durable legislation.

Ranking Member Whitehouse, I now recognize you for your opening statement.

[The prepared statement of Senator Cramer follows:]

STATEMENT OF THE HONORABLE SHELDON WHITEHOUSE, A UNITED STATES
SENATOR FROM THE STATE OF RHODE ISLAND

Senator Whitehouse. Thank you, Chair Cramer, and thank you to our witnesses. A particular thank you to Chairman Capito and her team for convening us here today to discuss improving the Toxic Substances Control Act, and for ongoing bipartisan conversation on further improvements.

There will be differing views on what it means to improve this law. Chair Capito has released her own discussion draft. While I don't much like many of its components, I do appreciate Chair Capito's willingness to engage with Democrats and listen to our perspectives during today's hearing. I am hopeful that we can find common purpose to make the law more effective while also more protective of public health.

The 2016 Lautenberg Chemical Safety Act was a historic achievement. Working together, we strengthened TSCA to better deliver on the law's fundamental purpose, to protect the public. I am proud to have played a role in those negotiations.

That law established a fee to improve program administration. It funds 25 percent of the EPA's New Chemicals Review program. But it will sunset September 30th. Loss of these fees will substantially curtail the EPA's ability to conduct independent analyses focused on protecting public health and the environment.

A simple reauthorization of the fees provision remains a path forward. But I am interested in discussing what if any room there is for agreement on further improvements to the program. When it comes to chemical safety, the biggest challenge we face is the corporate capture of the EPA since January of 2025. The EPA has long faced funding and staffing challenges that have impeded it from fully executing its statutory mission, but now things are even worse. High ranking operatives of the chemical industry run the Chemicals office.

Innovation and the global competitiveness of American business is important. However, unregulated industry has not proven to be a trustworthy steward either of public or environmental health. The fossil fuel, tobacco and pharmaceutical industries demonstrate time and again that profits matter more to them than truth or the public interest.

The chemical sector in America has yet to prove itself any better. During a Chemical Subcommittee hearing last October, we heard how PFAS manufacturers knew about the risks their product posed to human health, and yet suppressed this information for decades. If we are going to pursue a conversation about TSCA, we need to put safeguards into place so that industry perspectives are not determinative of regulatory outcomes.

Closely related to concerns about corporate capture is concern about scientific integrity. The Trump administration

has consistently demonstrated a willingness to deform the definition of best available science. The so-called Gold Standard Science Executive Order gives agency appointees beholden to Trump's industry donors, not scientists with objective expertise, authority to correct scientific information.

That is not science. That is Zeldin's political team finding the industry-friendly outcome they want, and then looking for reasons, real or fabricated, to justify that outcome.

Real science entails replicable, iterative methods for answering questions. These methods are not new. They are well-established. They have existed for centuries. Those best positioned to carry out these methods are scientists who have been properly trained and who do not have financial conflicts of interest. We have, in this committee, an obligation to protect science and the scientists from political interference.

I want to acknowledge the effort put into developing the discussion draft. It grapples with some of the concerns presented during our hearings. I appreciate the provisions addressing peer review, protecting bipartisan EPA programs, and clarifying data requirements to cut down the back and forth between the EPA and industry applicants.

But I have serious concerns with other provisions, such as

those that may remove dangerous chemicals from EPA review, circumvent proper scientific review, or reflect deference to industry without adequate protection for public health and the environment.

I look forward to continuing to explore, if there is a package of real improvements, changes that improve public health that we can report out of this committee. And if not, I am ready to report a simple fee reauthorization.

Thank you very much, Chairman.

[The prepared statement of Senator Whitehouse follows:]

Senator Cramer. Thank you, Ranking Member Whitehouse.

We will now turn to our witnesses for their opening statements. Thank you all for being here.

Our first witness is Dr. Richard Engler, the Director of Chemistry for Bergeson and Campbell. He is testifying this morning on behalf of the Coalition for Chemical Innovation. Dr. Engler has 17 years of experience at the EPA and over 25 years of experience implementing and engaging with the agency's TSCA program.

Welcome, Dr. Engler. You are recognized for five minutes for your opening statement.

STATEMENT OF RICHARD ENGLER, PH.D., DIRECTOR OF CHEMISTRY,
BERGESON AND CAMPBELL, ON BEHALF OF THE COALITION FOR CHEMICAL
INNOVATION

Mr. Engler. Thank you very much.

Good morning, Chairman Cramer, Ranking Member Whitehouse,
Chairman Curtis, Ranking Member Merkley, and members of the
committee. Thank you for inviting me to testify about TSCA and
opportunities for its improvement.

As you have heard, I have extensive experience with TSCA,
premanufacture notices and low volume exemptions, PMNs and LVEs.
I speak today on behalf of the Coalition for Chemical
Innovation, CCI, a group that advocates for improvements to the
TSCA New Chemicals program.

In the decades since Congress amended TSCA, EPA has
reviewed thousands of new chemicals, including PMNs and LVEs, a
noteworthy achievement. Much has been said about review delays.
Delays arise for various reasons, including poor submissions,
EPA resource limits, EPA errors and EPA interpretation of key
terms in TSCA.

Contrary to what we have heard in other hearings, in our
experience, delays are primarily not due to the lack of data.
More and better data on new chemicals is not the magic bullet
answer.

Part of the problem is statutory ambiguities. In

particular, the terms "may present an unreasonable risk," and "intended, known, and reasonably foreseen circumstances."

Despite our advocacy about the meaning of reasonably foreseen, EPA has been resolute in finding that the vast majority of new chemicals may present an unreasonable risk and restricting them.

Only if EPA finds that a substance has low hazard for health and the environment, so-called low-low cases, will EPA forego a restriction. Let me be clear: there is no way to test out of a restriction unless the testing shows low hazard.

In 2016, Congress considered and rejected an even more protective standard for TSCA, reasonable likelihood of no harm. Yet that is essentially what EPA has done across four administrations now. While it may seem intuitive to want all hazards addressed by a restriction, that is neither desirable nor good Federal policy. Not all hazards present actual risk, and as a society, we do not insist on or benefit from this level of risk mitigation.

In my testimony before the House in 2025, I used a shark and swimmer analogy to explain the difference between hazard and risk. A shark in the ocean is a hazard to swimmers. But it is not a risk if the shark is not near the swimmer.

Staying with that analogy, EPA's approach to new chemicals assumes that because sharks and swimmers are both in the ocean, swimming in the ocean may present an unreasonable risk. EPA

then imposes a requirement that every beach owner provide shark cages for all swimmers, require each swimmer to use a cage, and keep records documenting that fact. If the owner does not have records, the owner faces fines and reputational harm, even if they did provide cages, and whether or not there was a shark nearby.

You can also imagine that a swimmer might be reluctant to go to that beach that requires the shark cages. Why deal with the hassle of using a cage and the implication of higher risk when you can just swim in a lake or a pool?

EPA is saying that eventually swimmers will get over it. After all, EPA is letting you swim in the ocean. What is the problem? Regulations have cost and add economic friction. Sometimes shark cages are justified, but many times they are not.

We are not talking about PFAS, with shorter chains that may still pose an unreasonable risk, the equivalent of replacing a megalodon with a great white shark. Without certainty of no risk, EPA is requiring shark cages for nearly every PMN, even for bio-based, biodegradable products among the lowest in its class, low enough to be included on EPA's Safer Choice list of safer ingredients, but still not low-low. Only when EPA finds that a shark cannot bite a person, those rare low-low cases, is EPA foregoing the cages.

Consider another example. If chemical burns are an unreasonable risk, as EPA states that they are, one could argue that thermal burns are as well. Nothing in TSCA differentiates the two. That means that EPA must issue a restriction for substances that can get hot and cause burns. Nothing in the statute precludes EPA from doing so, and given EPA's view on chemical burns, to be consistent EPA must issue a restriction protecting against thermal burns. After all, a burn is a burn.

If EPA were to review steel under TSCA, EPA would have to conclude that the substance presents an unreasonable risk when hot because someone might get burned and would prohibit use in ovens, forcing the use of more expensive, non-heat conducting material. Is it not reasonable to think that a person will protect themselves from a hot oven?

It makes sense for EPA to use TSCA to protect against an invisible hazard, such as systemic, developmental, and reproductive toxicity. I do not think TSCA authority is needed to protect against common, everyday hazards, including irritation, corrosion, flammability, and inert dust. It is not that these hazards do not require protection, it is that they are everyday hazards common across thousands of chemicals that reasonable people can and do routinely manage and are managed by other authorities.

Congress must act to clarify key statutory terms, including

what is an unreasonable risk, and the boundaries of what is reasonably foreseen. Otherwise, EPA will continue to keep excellent sustainable products from adoption in the U.S. Our health, our environment and our economy will be poorer for it.

Thank you again for this opportunity.

[The prepared statement of Mr. Engler follows:]

Senator Cramer. Thank you, Dr. Engler.

Next we will hear from David Isaacs, the Vice President of Intergovernmental Affairs for the Semiconductor Industry Association. Mr. Isaacs represents one of the most critical industries for American innovation and national security, and will discuss how TSCA implementation can prevent the U.S. semiconductor industry from competing globally.

Mr. Isaacs, welcome, and we look forward to your testimony.

STATEMENT OF DAVID ISAACS, VICE PRESIDENT, GOVERNMENT AFFAIRS,
SEMICONDUCTOR INDUSTRY ASSOCIATION

Mr. Isaacs. Thank you, Chairman Cramer, Ranking Member Whitehouse, and members of the committee. My name is David Isaacs, testifying on behalf of the Semiconductor Industry Association.

I think the committee members know the importance of the U.S. semiconductor industry to our economy, our technology leadership and our national security. That is because chips are the fundamental enabling technology behind the artificial intelligence revolution and innovation in sectors across the economy, from telecom to healthcare and energy and transportation and manufacturing and others.

Fortunately, our industry is experiencing significant growth here in the U.S., with \$640 billion announced in recent years in new investments in all parts of the supply chain in projects around the Country.

Semiconductor manufacturing is a highly complex process involving very much advanced machinery and capital equipment and extensive infrastructure and controls. Equipment fab can cost tens of millions of dollars each, and there may be dozens or hundreds of these pieces of equipment in each facility.

So a leading edge facility can cost from \$20 billion to \$25 billion for a single facility. This high level of investment

and controls allow us to produce, at the molecular level, at the nanoscale, devices of ever-increasing performance and functionality.

Our ability to operate and to innovate and manufacturer these devices and make these huge capital investments depends on advancements in engineering, material science, computer science, physics and chemistry.

One part of the innovation framework entails the use of specialized chemicals that possess specific properties and characteristics and enable precision manufacturing. These chemicals work in conjunction with the advanced machinery in a highly controlled process.

As a result, it is important for the U.S. semiconductor industry to have a well-functioning process for reviewing the chemicals that both protects the environment and allows our operations and innovation to go forward.

The new chemicals we use are highly specialized to meet exacting performance requirements. Our use of these chemicals is characterized typically by very low volumes, by operations in closed systems and automated processes, and subject to extensive controls and engineering controls and other controls.

As a result, fabs are among the most tightly controlled industrial environments on the planet. These conditions result in minimal risks to workers and the environment. We believe

these factors should inform EPA's review of our use of new chemicals.

The discussion draft under discussion is a positive step in the right direction, and we believe contains several elements that should inform future discussions, so that we can achieve bipartisan agreement on improvements to TSCA. The elements that we believe are most important, I think, are targeted reforms.

First, we think it is important to assess the risks associated with the conditions of use and the unique conditions in the semiconductor industry that take into account the extensive levels of controls and the low volumes that we use.

Second, we believe a narrow pathway to the use of low volume chemicals in tightly controlled environments and under specific conditions, such as those employed in the semiconductor industry, is appropriate.

We also support the inclusion of defined timelines to ensure more predictability and certainty in the process. Then finally, we support ensuring that EPA has appropriate resources to implement its important mission and statutory requirements.

So we look forward to working with this committee and other stakeholders to achieve a bipartisan solution that both protects the environment and improves the review process, so that the U.S. semiconductor industry can continue to grow and innovate in the United States.

Thank you.

[The prepared statement of Mr. Isaacs follows:]

Senator Ricketts. [Presiding.] And I will take over as Chair while Senator Cramer is out. And I will now welcome Dr. Michal Freedhoff. Welcome back to the committee. Thank you for being here.

Dr. Freedhoff is a senior policy advisor at Holland and Knight. She previously served as the Assistant Administrator of the EPA Office of Chemical Safety and Pollution Prevention under the Biden administration, and played a key role in drafting and implementing the bipartisan 2016 Lautenberg amendments to TSCA, the last time Congress amended the program.

Dr. Freedhoff, please proceed with your opening statement.

STATEMENT OF MICHAL FREEDHOFF, PH.D., SENIOR POLICY ADVISOR,
HOLLAND AND KNIGHT, LLP

Ms. Freedhoff. Chairman Ricketts, Senator Whitehouse, other members of the committee, thanks so much for the invitation to be here today.

My name is Michal Freedhoff, and I am here in a personal capacity based on my prior work for Senator Markey and with other members of this committee on the 2016 TSCA amendments, and working as the Assistant Administrator of the EPA office that implements TSCA for the entirety of the Biden administration.

I also want to make clear that while Holland and Knight represents clients related to TSCA fees authorization, I do not. My views today are my own, informed by my experience as the only person who both played a significant role in negotiating the 2016 law and lead its implementation at EPA.

This committee played a central role in shaping the law that was almost unanimously enacted almost 10 years ago. We knew we were making foundational changes to the inadequate 1976 law. We also knew that when the fees expired, Congress would need to reauthorize them. I am glad the committee has begun this important work.

My written testimony describes four principles. First, safety and speed. That is what Congress wanted for new chemicals in 2016. I don't think Congress appreciated what it

would take for EPA to review every new chemical in 2016. And I also don't think that Congress knew that in between 1976 and 2016, 80 percent of new chemicals went into commerce without a formal safety review. Sometimes that was because EPA was reasonably confident about the new chemical safety, but other times it was because the 90-day clock ran out before EPA could act.

So when I reflect on the decades of policy that led to Superfund sites, contaminated drinking water, cancer clusters caused by improper disposal of toxic chemicals, problems that came at an enormous cost, not just in dollars, but to people's lives, I can't help but reflect that if the 2016 new chemicals provisions had been there all along, we might have been able to ensure that the chemicals we rely on for our daily lives were safe before they got into our air, water, land and bodies.

I don't believe that Congress should remove the requirement that EPA formally review new chemicals before they go into commerce. There are some provisions in the draft that result in that outcome. For example, there is language deeming some new chemicals to be equivalent to other chemicals that are already on the TSCA inventory, thus allowing EPA's review to be skipped altogether, even though most of the chemicals in the inventory have never been reviewed under TSCA.

There are also provisions that could be read to mean that

EPA might not be able to get information it needs to complete its review, if EPA wasn't already sure that the chemical was more likely than not to present an unreasonable risk.

There are also things in the draft that could help, like reinvigorating the Sustainable Futures program, and the provisions that called for streamlined ways to review substantially similar chemicals would build on successful efforts that the first Trump and Biden administrations began.

Second, TSCA fees were modeled after a similar periodically reauthorized pesticide fees program. Every single successful pesticide fees reauthorization has had the same unanimous support that the 2016 TSCA had. These fees provisions are not intended to force rewrites of the entire law, but rather to include only the things that everyone can agree to.

Unfortunately, even with these, in almost 10 years, EPA has never had what it needed to meet deadlines for either existing or new chemicals.

And my third principle, ensuring EPA has the resources it needs to do the job, dovetails with the fourth, which is making sure any changes to the law are implementable.

About 25 percent of EPA staff have left in the last year, including many of its most experienced leaders and a third of the lawyers who supported EPA's chemical safety efforts. The party of EPA that administers TSCA has about 40 fewer staff than

the roughly 360 people it had at the end of the Biden administration.

This draft mandates that EPA stand up new programs, functions, processes, rules, guidance documents, and other requirements generally in one year or less. Quite simply, this isn't implementable and would likely slow things down, rather than speed them up.

I believe it will benefit everyone for Congress to be as surgical as possible to ensure that any changes it makes not only preserve the protected policies in the 2016 law, but also don't unintentionally add to EPA's challenges of protecting people while meeting its deadlines.

Thanks again for the invitation.

[The prepared statement of Ms. Freedhoff follows:]

Senator Curtis. [Presiding.] Thank you, Doctor.

I would like to yield some time to myself for a few remarks and questions.

Senator Whitehouse. Without objection.

Senator Curtis. Okay.

Senator Whitehouse. I just wanted to note that Senator Padilla will be taking my opening question spot. So after you are concluded, Senator Curtis, Senator Padilla will be recognized.

Senator Curtis. Okay. All right, thank you. I am grateful to our Chairperson, who is not here today, not feeling well, for this hearing. I am grateful to the Ranking Member. I have really been looking forward to this hearing to examine the regulatory environment for new and existing chemicals and its impact on innovation, safety, and American competitiveness.

American companies invest billions of dollars each year to research and development to create materials that reduce emissions, improve safety, and strengthen our industrial base. But when reviews under TSCA are delayed, unpredictable, or disconnected with real-world applications, innovation slows, research moves overseas, promising replacements are shelved, and American workers lose opportunities.

There are few industries impacted more than semiconductors, which are critical to American and allied competitiveness.

Advanced chips are developed on highly specialized chemicals that are essential to nearly every aspect of modern life. Interestingly, my wife and I lived in Taiwan in the 1980s. I saw first hand how strategic investment in semiconductors transformed its economy from producing Christmas lights to highly productive semiconductors. They have become a powerhouse because of that investment.

One anecdote that stayed with me from our subcommittee hearing in October is that in some cases, aircraft are required to use an environmentally inferior chemical in the cargo hold even though a safer alternative has been approved for use in the passenger cabin of the same aircraft. That restriction stems from aviation safety, not from safety regulations, but from EPA's TSCA program. Even small formulation changes can trigger new reviews, delay safety, or more substantially alternate and disrupt supply chains.

As we consider reauthorization, we should ensure the law allows manufacturers to build world-class products that meet the highest safety standards, while also providing certainty to companies that they can access the chemicals necessary to meet specifications or requirements.

The question is not whether to regulate chemicals. Most recognize the value and importance of TSCA. The question is how we make these domestic chemicals manufacturing both predictable

and safe.

So, Dr. Engler, let me start with you. When EPA evaluates premanufacture notices, is it necessary to issue a significant new use rule for every new chemical? It seems we are effectively permitting an innovation and immediately regulating it in a way Congress did not intend.

Also, when EPA does determine when a SNUR is appropriate, is there a more effective way to issue it so companies can bring their products to market without unnecessary delays?

Mr. Engler. Senator, that is an excellent question. EPA has been issuing SNURs, orders and SNURs, some restriction on 85 to 90 percent of new chemicals. It is not every new chemicals, again. If EPA finds it is low-low, EPA will let it go forward without a restriction.

But many of the products that we have assisted clients bringing through the New Chemicals program, our view, and we have demonstrated to EPA mathematically, that it is extraordinarily unlikely that any release or exposure would exceed EPA's concern threshold, and yet EPA proceeds with the restriction.

So I think no, it is not necessary for EPA to take that level of restriction. But that is what we have been seeing now across four different administrations.

Senator Curtis. Thank you.

Dr. Freedhoff, under the current framework, once a chemical is listed on the TSCA inventory, EPA's ability to ensure it is used only under the conditions described in the original submission is limited. As a result, EPA assesses, evaluates risk across a broad range of potential uses, making reviews more time consuming and resource intensive.

The stewardship pathway takes a different approach. The chemical is authorized only for the specific conditions of use described in the submission. It is not added to the inventory and every entity in the supply chain is bound by an enforceable stewardship plan. Does this structure provide EPA assessors with a stronger basis to evaluate a chemical based on its intended use, knowing that use is legally constrained and enforceable? Would that improve predictability and the review process?

Ms. Freedhoff. I appreciate the creativity of this idea, and I agree that by not listing the stewardship chemicals on the inventory, it ensures that EPA would have to review them later if someone else wanted to use the chemical for a different purpose.

But I still think that this pathway would be quite difficult for EPA to implement and would probably divert staff away from reviewing new chemicals while they figured out how to implement the program.

Senator Curtis. Could we agree that it is a good conversation to have and that the creativity is --

Ms. Freedhoff. I think that it is great to think of ways that EPA could protect people while meeting its deadlines.

Senator Curtis. Thank you. I would love to further that conversation with you.

Mr. Isaacs, have regulatory transitions affected your members' ability to develop and deploy new technologies and keep pace with semiconductor demand, especially as China continues to expand its capabilities?

Mr. Isaacs. Yes, this is one factor that is very much a consideration in driving new investment. Our industry is very competitive and the United States is in a global race for attracting investments in our industry.

Having more certainty and predictability with regard to being able to introduce new substances into the processes, particularly at the leading edge, the most advanced processes, is very important. That is why we think there should be targeted reforms to streamline the process and improve the process. We are not looking for open-ended exemptions, but rather reviews based on conditions of use that address the specific operating conditions in our industry.

Senator Curtis. I would like to highlight two of the words you used there, consistency and predictability. It is not

shortcuts, it is just like, what is the drill, and let's not change it. Let's be predictable and consistent.

With that, I will come back to some more questions a little later. I will yield to the Senator from California.

Senator Padilla. Thank you, Mr. Acting Chair. I think we both share the chair's interest in making TSCA work more efficiently.

Mr. Isaacs, I am particularly interested in learning more about the semiconductor industry's perspective on TSCA. However, I must let it be known for the record that I cannot support the current draft of this legislation.

I want to emphasize how much is at stake here. TSCA is critical to protecting the health of all Americans, including especially the more vulnerable populations, including the elderly, residents of frontline communities and others. Careful reviews of new chemicals by impartial EPA staff are essential in this effort.

As a result, I don't see how we can undertake any TSCA reform effort unless we simultaneously restore EPA's staffing and expertise to levels that existed prior to 2024. It is just common sense. You can try to strike that right balance, Senator Curtis, but if you don't have the staff to do the work, then of course it is not going to get done on a timely basis.

There are also other specific provisions of the bill that

concern me. Unreviewed new chemicals should not be approved for use simply a critically understaffed EPA couldn't complete its analysis by a certain deadline. If you are fully staffed, then maybe the deadline can be more of a serious conversation and consideration.

But that is not the case. And an artificial deadline, combined with understaffing, is allowed in several circumstances under this bill.

I am also seriously concerned that the draft bill would prevent EPA from regulating a new chemical unless it is "more likely than not to create an unreasonable risk of injury to public health or the environment." Now, that may sound innocuous to some, it may sound a little too vague for some.

So let's drill down here. We are considering new chemicals that have no existing track record. Assembling enough evidence and data necessary to show that injury is more likely than not to occur could be very difficult as a result.

So this standard could also block EPA from regulating chemicals with significant risks. "More likely than not" is regularly understood to be a 51 percent chance or greater of something happening, right? A majority, more than 50 percent.

So this means that if EPA concludes that a new chemical has, say, only a 45 percent chance of causing significant cancer, let's say, to pregnant women, as an example, that the

standard is not met and the EPA cannot regulate that chemical to try to reduce the potential cancer risk. That seems absurd to me.

I know we want the certainty, we want the specifics. We always want the hard and fast number. But the proper balance is going to include a little bit of flexibility, a little bit more context to make this important and critical determinations.

That being said, let me pose a question to all of you. Do any of you believe EPA's hands should be tied in imposing restrictions on a new chemical? And we can use that 45 percent example, just for conversation purposes, when a significant cancer risk for pregnant women or other vulnerable populations has been determined? We will start with Dr. Engler.

Mr. Engler. The difference between not likely and more likely than not, this is a critical question that we do need to answer, I think, as a TSCA stakeholder community. Right now, the standard for EPA to proceed without a restriction is "not likely." By your math, that would be 49 percent, or 51 percent, it is that same line, it is below that line.

But that is not how EPA implements it. EPA, to not conclude that it may present, is looking for like 99 percent confidence that it is not going to happen and not likely is only like 1 percent.

So I am not sure where that line is. I suggested more

likely than not to help give EPA some direction about the uncertainty or the level of certainty that it needs to make that decision. But I think that is one of the most important things that we need to discuss with this committee.

Senator Padilla. Mr. Isaacs?

Mr. Isaacs. Our main priority that whatever standard is used, and we support EPA undertaking a thorough and appropriate review of chemicals, that they do so looking at the conditions of use in our industry, the volumes, level of controls and such. We believe that their evaluation of risks under those circumstances will result in an appropriate determination.

So that is our highest concern with regard to the draft.

Ms. Freedhoff. I think EPA should continue to be required to review the safety of new chemicals and to continue to have the authority to get the information it needs and impose the requirements if things are necessary.

Senator Padilla. Thank you. And not to put words in your mouth, but ensuring that there is staffing capacity necessary to conduct those studies and reviews.

Ms. Freedhoff. Their hands should not be tied.

Senator Padilla. Yes. Thank you, Mr. Chair, and thank you, Ranking Member Whitehouse, for allowing me to ask questions

Senator Curtis. Senator Ricketts?

Senator Ricketts. Thank you to all the witnesses for being

here today and sharing your perspectives on the improvements as the committee works to reauthorize this important legislation. We all know that chemicals are essential for modern life. In agriculture, this includes chemicals used in crop protection tools, livestock production, and irrigation systems. These sectors are the economic backbone of my home State of Nebraska.

As a matter of fact, Nebraska is a global leader in the production of irrigation systems. Vinyl chloride is a necessary chemistry for the irrigation tubing hoses and drip lines.

In addition, chemicals and manufacturing inputs, like formaldehyde, also play a critical role in other key sectors. We just discussed the semiconductor industry.

Over 500 chemicals go into making a single chip. Even though these chemistries are known to be safe, the TSCA review process has created more bottlenecks in the actual progress to compete across the world. Without reform, innovative chemistries that are safe for the environment are left in R&D pipelines instead of being used by industry and consumers. Frankly, this is kind of contrary to what we want. We want newer, safer chemicals rather than using the older ones that are not safe.

This dynamic undermines, not advances, environmental progress, it dampens investment into the industry. Streamlining the approval process for chemistries that have already been

verified represents meaningful process improvement reflected in the discussion draft. By creating a more efficient pathway for previously reviewed substances, the EPA can prioritize resources toward evaluating truly new chemistries.

Getting the regulatory environment right is critical for food security, energy security and national security. We need to make sure that we are verifying these alternatives and move forward without unnecessary delay.

Dr. Engler, Mr. Isaacs, how can we continue to strengthen and ensure industry continues to onshore chemical development in the U.S. rather than industry looking at countries overseas? Dr. Engler, we will start with you.

Mr. Engler. Critical is predictable timelines. The CCI has not taken a formal position on 90-day review time. Maybe EPA needs more time. CCI has always felt that we don't want bad decisions faster.

So EPA absolutely needs the resources, they need the expertise, they need the independence. And they need time to do the review. But these reviews have been very unpredictable, both in terms of the timeline and in terms of the outcome. That has led to significant economic disruption for our members. They have, many of them have abandoned the U.S. TSCA market and they register elsewhere in the world, Europe, Canada, Asia Pacific, with much more predictability. We are poorer for it,

because those products are not available to our companies and to our consumers.

Senator Ricketts. Mr. Isaacs, Dr. Engler talked about timelines. Do you have other things you think would help us onshore some of these industries?

Mr. Engler. Yes. I think we need to take a holistic approach to a range of issues in terms of onshoring the semiconductor supply chain. I would add, chips are an increasingly important input into agricultural machinery used by farmers in your State and others. So, that includes everything from tax policy to workforce policy and others.

But with regard to chemicals, I think having an appropriate level of review based on the controls employed and the real-life conditions and risks at play, and certainty and predictability will result in a favorable outcome in terms of attracting new investment.

Senator Ricketts. Ensuring the best available science serves as the foundation for TSCA reviews, the discussion draft includes a provision that would establish a robust peer review of risk evaluations. A true risk-based approach to reviewing and regulating chemicals is vital.

Yet in the past, we have seen EPA ignore these how these chemicals are used in real-world industrial settings, such as, Mr. Isaacs, you were talking about, such as assuming non-

compliance with OSHA requirements. For example, EPA does not assume that workers are using PPE, even when mandated by OSHA. Additionally, EPA is establishing occupational exposure limits using methodologies that are inconsistent with current best practices. In some cases, this results in standards that are hundreds of times lower than the rest of the world.

The discussion draft includes language on peer review, which is a good step toward increasing scientific rigor. Dr. Engler, would directing EPA to evaluate robust risk-based chemical reviews and adhere to clear scientific standards strengthen and clarify the existing TSCA framework?

Mr. Engler. Yes, I think so. I think it would make it more predictable and more consistent. We would get less variability between and among assessors. So again, we would get more predictability in terms of outcome. It would be clearer to submitters what testing they need to do to inform EPA's risk assessment.

Senator Ricketts. Great. Thank you very much. Thank you, Mr. Chairman.

Senator Curtis. Thank you. I yield to the Ranking Member.

Senator Whitehouse. Thank you very much, Chairman.

Dr. Freedhoff, does it make sense to allow chemicals to avoid EPA review where there is equivalency to a chemical that has never been reviewed by EPA?

Ms. Freedhoff. No.

Senator Whitehouse. And if you look at the change in the draft from the standard that the chemical may present unreasonable risk to a standard that it is more likely than not to present unreasonable risk, is there a danger that at that stage in the review proceeding there simply isn't enough data yet to make that determination, and that therefore a chemical that may very well be more likely than not to present unreasonable risk won't meet that standard, simply because it is a sequencing problem, the question is being asked too early in the data-gathering process?

Ms. Freedhoff. I think that is a possibility, and I think it would be important to ask EPA, the career scientists, how they would implement that provision, should it be enacted.

Senator Whitehouse. It would make sense to get rid of that potential anomaly, would it not?

Ms. Freedhoff. Yes.

Senator Whitehouse. Also, the discussion draft sets in review periods, they are placeholders at this stage, but whatever that number is for how long the review period lasts, would it be wise to make sure that the chemical industry is not in a position whereby simply delaying and prevaricating, it can run out the clock on EPA review and get an automatic approval because of its own non-compliance with requests for information

or other participation in the review process?

Ms. Freedhoff. I think any provision that lets chemicals go into commerce before EPA finishes its review takes us back to the 1976 TSCA and doesn't retain the provisions that are supposed to make sure the chemicals are safely made and used before they go into commerce.

Senator Whitehouse. And if we set up a process where the proponent of a chemical had the incentive to not comply with process, and run out the clock to an approval that was automated, basically, by the clock, that would be an unfortunate outcome and create potentially, it would incentivize some very bad behavior.

Ms. Freedhoff. It could.

Senator Whitehouse. You mentioned in your testimony that the scope and implementation requirements included in the draft would need to be simplified and narrowed in order to best set EPA up for success, a problem that is made worse by the subject of Senator Padilla's comments, that there simply isn't adequate staff, that it has been cut back at EPA. So when you burden a shrunk staff, you end up diminishing the authority and the scope and ability of EPA to move forward.

You then go on to say that, "we adopted policies and approaches," when you were at EPA, "that greatly sped up the review of some types of new chemicals without sacrificing

safety." And you recommend that there is more along these lines that could be done.

In my remaining minute, could you make some recommendations as to what more along these line could be done, and could you take the remainder of that question as a question for the record, so you can at appropriate length respond in writing to what more at length could be done.

Ms. Freedhoff. Sure. During the Biden administration, we really prioritized getting the chemicals that the semiconductor sector needed into commerce more quickly. So first we prioritized those chemistries for review, we had limited resources, we had to prioritize some things. So we ended up reviewing semiconductor chemistries in about a third of the time as compared to the other length of reviews.

We also really focused the agency's scientific energy on creating standardized and streamlined reviews for semiconductor chemistries. So there are some types of semiconductor chemicals that are reviewed in under 90 days, still.

I think there is more the agency can do that way. They could find science policies that let them not reinvent the wheel every single time a new chemical comes into the system, but draws on lessons learned from past reviews to help speed things up.

Senator Whitehouse. Similarity, if not equivalency.

Ms. Freedhoff. Yes.

Senator Curtis. Yes. I yield to Senator Merkley.

Senator Merkley. Thank you very much, Mr. Chairman, and thank you all. This is a very important topic.

I would like to submit for the record an article entitled "She Fought for a Carcinogen, Now She's at the EPA Approving New Chemicals."

Senator Curtis. Without objection, so ordered.

[The referenced information follows:]

Senator Merkley. Thank you.

And this article notes that not only is the individual approving new chemicals a person who led an aggressive effort by industry to block regulations on formaldehyde, but another individual who was a former Chemistry Council leader is in charge of regulating existing chemicals.

So start with concern that if the Chemistry Council has been put in charge of the process both for existing and new chemicals, I don't have a lot of confidence that true science is going to be honored. So that is a concern.

I want to start by noting that the existing draft says that third parties can be hired to do the approval process. Dr. Freedhoff, my concern is that those third parties might also not be entirely objective. Is that any concern that you might have?

Ms. Freedhoff. I think what I would say is that EPA should be in charge of reviewing new chemicals. EPA should be in charge of reviewing existing chemicals. I think industry regularly gives the agency a lot of really valuable data and other information. But it should be EPA that makes the decision about whether a chemical is safe.

Senator Merkley. Thank you. That makes a lot of sense to me. Part of the reason I would argue for that position is that there is more oversight by Congress of what is going on inside

EPA.

Second, there is a low volume exemption. My team has filled me in that 600 PFAS chemicals were approved under low volume exemptions. That is a whole lot of PFAS with different chemistries being basically bypassed in the approval process completely. Given the known impacts of PFAS and how expensive it is to clean it up, does it make sense to have a low volume exemption for tons of different varieties of PFAS?

Ms. Freedhoff. During the Biden administration, we wrote a rule that made PFAS ineligible for low volume exemption, not because we didn't think the semiconductor sector could safely use PFAS, but because we thought the complexity of the science associated with PFAS required a more robust review.

So I think when you have a chemistry that is complicated and chemicals that are persistent and bioaccumulative, those chemicals really don't lend themselves to a shorter review process, and really, those chemicals should go through the full review.

Senator Merkley. My concern here is that with PFAS, we already knew a lot about its damage in the environment. So therefore, a rule like that made sense.

But the other new chemicals that are coming through the low volume exemption, we don't yet know what damage they are going to do. So isn't it an open door to another kind of PFAS-style

disaster?

Ms. Freedhoff. I think it is safe to say the EPA should only proceed with low volume exemptions for chemistries that it confidently knows enough about to do that for. And that isn't every single chemistry.

Senator Merkley. All right, thank you.

And my colleague noted the equivalency concern, that if equivalency is given a bypass because it is equivalent to a chemical that was never in the first place reviewed, you basically have an open door to unreviewed chemicals. Do I understand that correctly?

Ms. Freedhoff. Yes, you do.

Senator Merkley. So one of the things that I am concerned about are the pyrolysis oils. Essentially, industry says, well, let's just melt down plastics. We know that a lot of fumes are generated that affect the health of surrounding communities, but that is a discussion for a different day.

My concern here is that the argument put forward is that well, these melted down plastics resemble naphtha, and therefore we will just say, they don't have to be reviewed. Yet these melted down plastics contain an enormous number of additional ingredients, things that affect their stiffness, things that affect their clarity, their color, all sorts of different characteristics and different plastics.

Does it make sense to have essentially melted down plastics bypassing the chemical review under an argument that they, well, look a little bit like naphtha?

Ms. Freedhoff. Senator, I think I share your concerns completely. Not only has EPA known for years that there are some kinds of plastic feedstocks that release dioxins and other harmful chemicals. But additionally, I bet naphtha has never been reviewed under TSCA in the first place, like the tens of thousands of other chemicals that are on the TSCA inventory.

So I don't think the equivalency provisions ensure safety at all.

Senator Merkley. Thank you very much. My time is expired, but those are some of the concerns that I feel are important as we look to revisions of TSCA before this committee.

Senator Curtis. Thank you, Senator.

I will now yield myself some time. It looks like I don't have a lot of competition for my additional questions.

Senator Merkley. I yield as much time as you want.

[Laughter.]

Senator Curtis. Okay, good, thank you, Senator.

I think if we were to try to summarize today's hearing into stereotypes, you would get the sense of, we have all of this innovation, we have all of these good things, we can't get them through this bottleneck. On the other side, if we don't do this

safely, it is a problem.

I don't think anybody here is suggesting we take shortcuts. But we are all trying to just figure out how to make this more effective. I was very hard on the previous administration, for the record, of getting new chemicals through in the statutorily required time. When Lee Zeldin was here, I told him I would be equally hard on him if he was also unable to do this. It is a big problem.

So for the three of you, just for a moment, let's think about public safety, public health, but also innovation, the need to get these chemicals to market, to compete. What suggestions would all of you have specifically for Congress about how we may look at this and kind of bust through these stereotypes?

Doctor, I will start with you. I would like to hear from all three of you.

Ms. Freedhoff. Thanks very much for that. I think that everyone at EPA wants things to move more quickly, and they want things to move as protectively, without sacrificing the safety for speed. I don't think that changes from administration to administration.

I do think focusing EPA on categories of types of chemicals, if you understand the hazard of the type of chemistry, then you don't need to do the hazard part of the risk

assessment over and over and over again. You can move to kind of standardize the approach and greatly speed things up.

I think some of the provisions in the draft bill that call on EPA to reestablish a program that used to really help industry understand what data EPA would find the most helpful and how EPA's models work would also really help with speed.

But the biggest thing I think Congress could do to help EPA speed things up is provide the resources sufficient to do the job. I honestly don't believe EPA has ever had enough to do it.

Senator Curtis. I remember when I was critical in the previous administration and was pointed to, we don't have the employee, even though the dollars were appropriated. There has to be something we have to figure out. Even though Congress is giving the dollars, we are still not getting the resources to get it done. So I would love to further that conversation.

Mr. Isaacs?

Mr. Isaacs. Senator, I agree with your summation of the hearing and am hopeful that there could be a bipartisan approach to thinking about improvements. We think the discussion draft has several concepts that it can be built upon.

We are not looking for a circumvention of review. We are hopeful that EPA can make an appropriate risk determination based on the science, and do so expeditiously. We think that is not a tradeoff, but rather two complementary goals that can be

achieved in conjunction with each other, if the assessment is targeted and based on real-life conditions of use and volumes and similar such factors.

Senator Curtis. Thank you.

Doctor?

Mr. Engler. I agree with Dr. Freedhoff, the category approach is a very effective method. EPA has used it for decades. It was used prior to the Lautenberg amendments. And it is being reestablished now, I do give credit for the Federal asset generator work that OPP has done, and OPPT is in the process of doing something similar for cathode materials for batteries, taking a very protective approach and applying it as these many novel cathode materials are coming in.

So it is a thorough review, and these things are being allowed to be marketed with significant restrictions. So yes, a category approach is a great way to go.

I also want to agree, the Sustainable Futures was a very effective program to train people how EPA does its reviews. I think especially where EPA is now, with having lost the brain drain that they have suffered lately, Sustainable Futures can be used to train the next generation of employees that are brought on board.

So I think Sustainable Futures will help submitters, it will help EPA with training, and I think it will also provide

transparency to the public on how EPA does its New Chemicals review. So those are all things that we see in the discussion draft.

The other thing I want to mention is the Safer Choice Criteria. These are decades-old criteria for really outstanding ingredients for mostly cleaning products, but for consumer products. To meet those criteria, you need to have the data, you need to go to a third-party reviewer. EPA does have the final review, but these are third-party reviewers. Then they determine, or they tell EPA, this new chemical, this new ingredient does or does not meet the criteria.

So having that, having the new chemicals meet that standard, get a preferential review in terms of timing, I think the EPA can be confident that those products are safe because it meets the Safer Choice standard. EPA still has the opportunity to review it. But they are pre-established criteria.

Senator Curtis. Thank you.

I have a couple more questions, but I would like to yield to my colleague, Senator Alsobrooks. And we are both trying to get over to vote. So I will yield to you, then I will come back to finish up my questions.

Senator Alsobrooks. Thank you so much. I want to say thank you as well to our witnesses for being here today.

The 2016 Lautenberg amendments to the Toxic Substances

Control Act were the product of years and years of bipartisan work by many people who were in this room today. I have heard from hundreds of my constituents who have urged me to protect the 2016 law. As our committee considers potential changes to that framework, our goal should be to improve efficiency without weakening the core public health protections that Congress put in place.

Dr. Freedhoff, I have a question. In your written testimony, you stated that EPA has never had sufficient resources to meet TSCA's statutory deadlines, even before the recent 25 percent loss of staff. So I wondered, if Congress imposes automatic approval timelines without addressing the staffing issue, what are the likely consequences?

Ms. Freedhoff. Ultimately, EPA needs the resources to make sure not just that new chemicals are safe before they go into commerce, but also that the existing chemicals that are under review move forward under the program. There hasn't been a single proposed or final rule on existing chemicals that has come out in the last year. And those deadlines are being missed as well.

Part of the reason for that is unquestionably the compounding loss of so many of the agency's top staff, and most experienced scientists, with the problem that the agency didn't have enough resources to implement any part of the TSCA program

before that happened.

So I think what you end up with is an erosion of safety and an erosion of public confidence in the safety of the chemicals that are needed for every part of our life.

Senator Alsbrooks. The Trump administration's broad workforce cuts, which you referenced some of here, and reorganizations have driven many senior career scientists and attorneys out of the EPA. A lot of them, of course, are my constituents. That office that administers TSCA has had about 40 fewer staff than it had at the end of 2024.

Do you think it is responsible for Congress to narrow safety reviews while the agency lacks experienced toxicologists and risk assessors?

Ms. Freedhoff. I think Congress should help the agency do its job, and that means reviewing the safety of new and existing chemicals and not taking shortcuts on any part of the safety review.

Senator Alsbrooks. Thank you. Dr. Freedhoff, I would like to ask you a couple of questions as well about Section 6 of the draft legislation proposing a third-party assessor program. The draft would direct EPA to set up a new program within 18 months to accredit third parties to review risk assessments for industry.

Who at the EPA would be responsible for setting up this

program?

Ms. Freedhoff. It would be the same scientists and lawyers who are charged with reviewing the safety of new chemicals. So they would be diverted from their work.

Senator Alsobrooks. That is the question. So if they spent 18 months setting up the program, it presumably means that staff would be taking time away from these new chemicals that you are talking about?

Ms. Freedhoff. I do think that is the case. Every time you tell the agency to set up a new process or program or rule or guidance document, it diverts staff away from their core mission. If there are so many fewer of them already, and they were struggling to meet their deadlines in the first place, some of this extra work, setting up new things, is going to make things even slower in the meantime.

Senator Alsobrooks. You also referenced in your written testimony that there would be challenges with conflicts, or could be some challenges with conflicts of interest. I wonder, would you say a little more about the conflict of interest that you think might arise.

Ms. Freedhoff. Sure. I think sometimes companies do their own chemical submissions and other times they hire other companies to do them. I just worry about a situation where a company that was in charge, that was hired to work on another

company's submittal, was also deemed by EPA to be the third-party assessors. They would sort of be grading their own work, in a way.

So it does feel like there is some potential for conflicts that would need to be managed if Congress moves forward with enacting this provision.

Senator Alsbrooks. Just one other quick question, because I know we both have to go vote. I sit on the Health Committee, and the committee oversees the FDA. There is a program at the FDA known as GRAS, or Generally Recognized as Safe program. Under that program, companies can make an independent determination that a food additive is generally recognized as safe, and then use that additive in food consumed by Americans.

Companies can notify FDA of this determination, but they are not required to do so. Many health advocates have criticized this program, and Section 6 of this chemical bill still seems to pave the way for the GRAS program, a GRAS-like program for TSCA.

When so many people recognize the GRAS program is broken, why would we create a similar program for other chemicals?

Ms. Freedhoff. I think people expect the Federal Government to keep harmful chemicals out of our air, water, food and consumer products. EPA's New Chemicals program and having EPA continue to be the decision makers in that program is an

important part of that.

Senator Alsobrooks. Thank you so much. I yield.

Senator Curtis. Thank you, Senator. I will follow up with just a couple quick questions.

Section 21 of TSCA includes a process that allows members of the public to request certain chemical restrictions. When Congress overhauled the risk evaluation process in 2016, it failed to account for how the old Section 21 petition process would interact with EPA's review of high priority chemicals, the ones Congress intended the agency to consider first because of the elevated degree of risk.

The law currently allows petitions to bypass the risk evaluation entirely, forcing the EPA toward restricting a chemical before the data needed to support that action has been deployed.

Dr. Freedhoff, based on your experience in charge of the EPA's Chemical Safety office under the Biden administration, how does the existing Section 21 process expose the agency to legal vulnerabilities while also significantly diverting limited resources?

Ms. Freedhoff. Thanks very much for that question.

When I was at the agency, we did get some petitions for chemicals to go right to rulemaking without first doing the risk evaluation. What that meant was the agency could spend the time

getting the information that would normally be part of a risk evaluation, so that it could write a legally and scientifically defensible rule, and they couldn't collect TSCA fees for that effort. Or the agency could deny the petition and risk being sued and having to go to court.

In both cases, EPA had to divert experts away from the work that they were already struggling to complete in order to respond and implement any part of the petition process. And in no case did a rule result in faster protections for people as a result of the petition process.

So I do think that it would help EPA conserve its resources if the petition part of TSCA was changed to better align with the TSCA prioritization and risk evaluation process.

Senator Curtis. All right. I am going to ask just one more, so we have this question on the record.

This is for Mr. Isaacs. The discussion draft recognizes EPA's current new chemical approval process is not designed to keep pace with the speed of innovation necessary to remain globally competitive in the semiconductor development, as the semiconductor industry is constantly making chips smaller, faster, and more powerful. The current new chemical process is simply not good enough.

Several provisions in the draft, including the Stewardship Pathway and the Low Volume and Low Exposure authorizations, are

designed to allow leading edge chemistries to be developed here in the United States for critical industries like semiconductor development.

Mr. Isaacs, will you please identify the key provisions of this discussion draft that would improve the chemical approval process for your members? I am going to ask you to be really brief, and perhaps we could have you even submit an answer for the record.

Mr. Isaacs. Yes, thank you, we would be happy to.

I should clarify that typically, it is not our industry that secures the chemical approval, but it is our chemical suppliers who are key partners in our innovation.

The key provisions that I spoke to earlier, I think, are number one, a focus on the conditions of use as the guideposts for the risk assessment. Number two, a pathway for low volumes that allows EPA to make certain determinations, taking into account those low volumes and the controls that are in place. Number three, some sort of defined timelines to provide certainty and predictability in the process. And finally, as has been discussed, providing EPA with sufficient resources to implement the program.

Senator Curtis. Thank you.

We are going to yield to the Senator from Massachusetts, and see if we can get you in and get over to the vote as well,

Senator.

Senator Markey. Great, thank you, Mr. Chairman.

First of all, thank you, Dr. Freedhoff, for your decades of work, including 16 years in my office on protecting the public from dangerous chemicals.

As you know, one of my first battles in Congress was to bring justice to families in Woburn, Massachusetts, who were harmed by a chemical called TCE. Because of their exposure to TCE, children fell sick with leukemia, and died deaths that may have been prevented if we had laws in place that allowed us to ban the use of these chemicals to begin with. But it didn't exist at that time.

That was Woburn, Massachusetts, it became one of the principal sites that led to the creation of the Superfund program.

The bipartisan 2016 TSCA amendments gave us the tools to finally ban TCE, which Dr. Freedhoff did in part, as part of the Biden administration in 2024. Unfortunately, the Trump EPA delayed the ban last year.

So for all the families that are worried about whether dangerous chemicals will hurt their health and their kids, we need a TSCA with teeth. But this discussion draft would de-fang TSCA.

When I helped craft the fee authorization 10 years ago, the

intent was not to require us to reopen the entire statute 10 years later, just to renew the EPA's ability to issue fees. We don't need to hammer at TSCA's foundation by weakening safety standards, creating new loopholes to exempt chemicals from review or allow industry to call the shots on scientific standards.

So the Trump administration is already working to undermine TSCA without any legislative changes. In just over a year, President Trump has fired EPA scientists and regulatory experts that together held hundreds of years of knowledge and experience, losing from one out of every four EPA employees.

Dr. Freedhoff, has the Trump administration taken any real action on existing chemicals in the past year?

Ms. Freedhoff. No. There hasn't been a single proposed or final rule for an existing chemical under TSCA in the last year.

Senator Markey. They did say that formaldehyde doesn't cause cancer.

Ms. Freedhoff. They did. So, they have finished some risk evaluations. They reviewed the formaldehyde risk evaluation. It is important to note that risk evaluation completion is actually under a court-ordered consent decree. But for all of the other work, the rules that the Biden administration proposed but didn't finalize, those remain unfinalized. And rules for risk evaluations that were finished by the Biden administration

have not been proposed.

Senator Markey. So to put it bluntly, would this draft legislation make it easier or harder for EPA to get dangerous existing chemicals off the market?

Ms. Freedhoff. I think ultimately this draft would divert agency resources away from its new and existing chemicals work, and that would ultimately make it harder for EPA to continue with ongoing efforts.

Senator Markey. So the EPA can't fulfill its mission to protect human health and the environment when its core scientific arms have been sacrificed on the altar of Elon Musk and DOGE. This bill wouldn't fix what is broken; it would break TSCA further and let more potentially dangerous chemicals sneak through the cracks.

So this bill would only allow EPA to review a chemical's uses that are identified by the manufacturer, preventing EPA from doing its own assessment of all the ways a chemical could reasonably be used.

Dr. Freedhoff, would limiting the EPA's review of reasonably foreseeable uses potentially expose more Americans to harm?

Ms. Freedhoff. It is certainly possible. If only, if the way that the original company wants to use the chemical is safe, that is great. But if other companies come in and then use the

very same chemical to do other things, but EPA hasn't reviewed those other things, that could lead to public health harm.

Senator Markey. One of the comments I use is, if students could have take-home exams and then give themselves a grade, there would be a lot of A-pluses that they would give themselves. We just can't let the manufacturers have a take-home exam that they grade. We need to have a way of looking at this that is objective and dispassionate.

From my perspective, EPA doesn't have the power to police how every individual customer might use a chemical once it is on the market. But EPA should have the power to prevent people from being hurt by chemicals on the market. That is what we would lose to this change. This bill doesn't just mean fewer chemicals would get reviewed, it also means that the reviews that would have been wouldn't actually keep people safe.

Chemical companies are responsible to their shareholders, not to the American public. These companies fight lawsuits, while American families fight cancer. That is why EPA and TSCA exist, so that someone is responsible for the health and well-being of the American public.

If chemical companies get to set the rules of engagement, EPA might as well walk off the field. And that is where we were in 1979 and 1980, in Woburn, Massachusetts. I brought the EPA in, I brought the investigators in, it eventually became a book

called A Civil Action, and it eventually became a movie called A Civil Action that Robert Redford produced and John Travolta played the lawyer.

It was only to combat these companies that were going to sue all the way. They weren't going to admit the harm that their chemicals did, TCE. And what we had was unfortunately too many children in Woburn died from leukemia because of that substance in the waters.

So we just have to avoid repeating the past. I thank you, Mr. Chairman, for your indulgence.

Senator Curtis. Thank you, and I would like to point out that many of these chemicals that are in the backlog would replace dangerous chemicals. That is the other side of this coin, to your point, Senator. If we want to replace these chemicals, we have quite a host of chemicals that are safer and cleaner for our environment that we need to get through the system.

With no further questions, I would like to thank the witnesses. You have been great today. And all my colleagues for your participation in today's hearing.

Senators who wish to submit written questions for the record have until 5:00 p.m. on Wednesday, March 18th to do so. The witnesses' responses to those questions are due back to the committee no later than 5:00 p.m. on Wednesday, April 1st, and

will be submitted for the record.

With that, the hearing is adjourned. Thank you very much.

[Whereupon, at 11:29 a.m., the hearing was adjourned.]