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U.S. Senate Date: Wednesday, January 24, 2024

Committee on Environment
and Public Works

Washington, D.C.

HEARING ON OVERSIGHT OF TOXIC SUBSTANCES CONTROL ACT AMENDMENTS IMPLEMENTATION

Wednesday, January 24, 2024

United States Senate

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The committee met, pursuant to notice, at 10:01 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Whitehouse, Merkley, Markey, Fetterman, Cramer, Lummis, Mullin, Ricketts, Boozman.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Good morning, everyone. I want to start by welcoming our witness, Dr. Michal Freedhoff, the Assistant Administrator for the Office of Chemical Safety and Pollution Prevention. Michal, as most of you know, is no stranger to EPW or to the issues we are going to be discussing today, having worked on this Committee with us for a number of years and also previously for Senator Markey, although he says he worked for her, in both the House and Senate.

In 2016, Michal was one of the lead negotiators of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, the first reform to the Toxic Substances Control Act, TSCA, in approximately 40 years. A number of us worked tirelessly alongside our staff and colleagues on and off of this committee to support the bipartisan reforms in the Lautenberg Act. These reforms would help ensure that TSCA worked as Congress intended to protect the health and safety of Americans and our environment, while also allowing for innovation and competition within industry.

The task of protecting the health of our families, communities, and environment, while also continuing to advance chemistry that enriches our lives, is no easy feat. And it takes skill and experience to navigate the complexities around

the implementation of this law. Through TSCA, Congress has charged the EPA with this demanding responsibility.

Since we last welcomed Dr. Freedhoff before the Committee in 2022, I want to share some of the progress that has occurred in relation to the implementation of TSCA. The first 10 priority chemical reviews that were established in 2016 have been completed. And the Biden Administration has already begun to publish proposed rules for these chemicals, some of which are known carcinogens.

The EPA has also launched several initiatives to prioritize and streamline new chemical reviews for chemicals associated with batteries, with clean energy technologies, and with semiconductors to more quickly deploy investments from the Bipartisan Infrastructure Law and the Inflation Reduction Act, major pieces of which were discussed and debated right here in this room. According to the EPA, since June 2023, the agency has more than doubled the average amount of new chemical reviews that they are able to complete each month. This means EPA is addressing the backlog of chemicals awaiting review, while also reviewing new submissions.

But as the members of this committee have often heard me say, everything I do, I know I can do better. And the same is true with respect to TSCA. As we gather here today, my hope is that this hearing will offer us an opportunity to reflect on and

discuss what is working better and what can be done to further improve the implementation of this critical law.

Let's be clear: there is still more work to be done. The EPA needs adequate support from both Congress and the Administration to meet the expectations set into law by those of us who helped write the Lautenberg Act. As Dr. Freedhoff will highlight in her testimony, the EPA has been tasked with high expectations and a heavy workload, but has not always been equipped with the necessary funding to complete this technical work. Congress needs to ensure that the EPA has the appropriate resources to implement TSCA as intended.

Further, we know that the EPA is updating its fees rule to be able to more effectively collect revenues from chemical manufacturers. This is an important part of the funding equation, and we look forward to hearing more from Dr. Freedhoff about this effort.

Insufficient resources, over the course of multiple fiscal years, have led the agency to miss deadlines and delay decisions. This situation has created grievances from both those in industry pushing to get their chemicals to market and from environmental advocates eager to see harmful chemicals regulated.

As Dr. Freedhoff will relay today, the EPA is implementing a law that is written to the best of their ability. That said,

we hope today's discussion will help us determine what further actions the EPA can take, or what additional resources Congress can provide to better support the Lautenberg Act's implementation.

In closing, let me just to reiterate a couple of things. First, I am committed to working together with Senator Capito and all the members of this committee to ensure that we are providing the agency with the resources it needs in Fiscal Year 2024. Second, we will continue to collaborate with the EPA and request transparency in the agency's actions as they work to protect us from harmful toxins while allowing chemistry to usher in a new world of clean energy and lifesaving technologies.

Dr. Freedhoff, we look forward to hearing from you today, and welcome back.

With that, let me turn to our Ranking Member, Senator Capito for her opening remarks. Senator Capito?

[The prepared statement of Senator Carper follows:]

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Thank you, Chairman Carper. Thanks for holding the hearing, and Dr. Freedhoff, thank you for being here. Thank you for coming to my office last week. I think we had a very fruitful discussion and very substantive. I appreciate that.

For three years, the Biden Administration has been implementing the 2016 TSCA Amendments. Yet the slow pace, and the Chairman talked about this, of new chemical approvals has not improved. The scapegoat of blaming the prior administration is no longer holding water. Three years is long enough to take the reins.

Reviews are regularly blowing past the deadlines by months, but in some cases years. Approving submissions within the deadline is not an aspirational goal, it is a legal obligation for the EPA to ensure that innovation is not stifled by bureaucracy.

Agency timeliness in the chemical space is crucial to maintaining a competitiveness in the global market and also achieving what I believe, a point of bipartisan agreement, expanding key industries and onshoring critical supply chains right here in this Country. Chemical manufacturers in China are more than happy to fill the void of U.S.-based companies that

are stuck in regulatory purgatory by the EPA.

The slow pace of new chemical approvals forces continued reliance on older chemistries that may have not just lower performance by higher risk profiles and fewer environmental benefits than newer alternatives. According to a 2022 survey of American chemical manufacturers, 70 percent reported that they have decided to introduce new chemicals and therefore make the requisite investments in job creation outside of the United States. Let me repeat that: they have decided to introduce their new chemicals outside of the United States.

Slower reviews create a negative spiral for the EPA's own work. Slower reviews means fewer submissions, and with fewer submissions, the agency collects fewer fees to implement TSCA.

In addition to the slow pace, a troubling zero-risk approach at the EPA has taken hold of the TSCA program. Since 2021, the number of cases that have received a determination of "not likely to present risk" has dropped by 75 percent. It seems that no volume of data provided by applicants is satisfactory to the EPA to drop its predisposed worst-case assumptions of risk.

Previously, you stated that it is the submitter's responsibility to come in earlier to talk about the data that your assessors require. Those that have heeded that advice have not had positive things to report back. Stakeholders have

complained of a lack of responsiveness from the EPA staff, moving of goalposts and presumptions of denial at the start of the process as well as a failure of the EPA to consider data and approvals from regulators in Europe and Asia. In short, they found no benefit from making contact with the EPA early and often.

Your office seems to also have a mission creep where no data can satisfy risk assessments. And the EPA is intruding on other agencies like OSHA to which Congress has provided relevant authorities. The zero risk approach undermines the intent of the 2016 Amendments, and ironically, will hamstring the Biden Administration's ability to realize its own goals.

As an example, in 2023, the EPA selected a company to receive a green chemistry challenge award for developing a new bio-based chemical feedstock that would significantly decarbonize the chemical industry. Meanwhile, when that same chemistry went through the TSCA review process, it received such stringent restrictions that it can no longer be commercialized.

Unfortunately, this is just one of the many examples of the profound disconnected between the new hazard-based interpretation of TSCA and the Biden Administration's so-called onshoring efforts. It is the same disconnect that has the EPA mulling proposed rules to destroy domestic semiconductor manufacturing by effectively prohibiting essential chemistries,

despite Congress and the Biden Administration doling out tens of billions of dollars to stand up capacity here. I fear the program is in a worse state now, maybe, than before the Lautenberg Act was passed.

We may not agree on everything, but we can at least agree that the status quo needs to change. It is not lost on me that you didn't receive all the resources that you would like. However, simply throwing more money at the problem while doing nothing to change the underlying structural issues is not a solution, and Congress has made more resources available.

The EPA hired almost 2,000 new employees last year, but somehow the TSCA program struggles to fill vacancies that have been open for years. It is concerning to me to hear, and we talked about this last week, that it has taken two years to hire a single person under the Title 42 authority that Congress provided in 2022.

It is also troubling that the Office of Inspector General criticized the OCSPP for its lack of standard operating procedures and outdated guidance to more effectively onboard new staff. If resources are a problem, then why at a time when 70 percent of guidance documents and standard operating procedures for the new chemical programs are out of date is the EPA announcing that it is expanding resources for elective programs without statutory authorization?

Examples like this give me the impression that TSCA's programs resource demands and programmatic workload arbitrarily grow every year, no matter what resources Congress makes available for the policies that we choose to prioritize. So during today's hearing, I expect that will once again hear about the need for more resources and we will consider that request as the Chairman mentioned.

But more valuable will be learning how you intend to allocate the resources you have and what transparent commitments you are willing to make to improve management of and tangibly accelerate the review process. I shared with you in advance some of the ideas that we have to achieve that goal together, and I hope we can discuss those this morning.

Thank you, Chairman Carper.

[The prepared statement of Senator Capito follows:]

Senator Carper. Thank you so much.

We are now going to turn to our witness. We are pleased to welcome you back to our committee today. Dr. Mihal Freedhoff is the Assistant Administrator of the Office of Chemical Safety and Pollution Prevention at the Environmental Protection Agency. Dr. Freedhoff has more than 20 years of government experience and service, the majority of which were spent on Capitol Hill, and many of which were spent literally in this building.

She began her Congressional service in 1996, as I mentioned earlier, in the office of then-Congressman Ed Markey as a Congressional science and engineering fellow, after earning a Ph.D. in physical chemistry at the University of Rochester. With environmental expertise spanning a range of policy areas, her legislative work includes the 2016 reauthorizing of the Toxic Substances Control Act, 2019 legislation to address PFAS contamination, the fuel economy provisions in the 2007 Energy Independence and Security Act, and the law requiring creation of an online data base of potential consumer product safety defects.

Before you begin your testimony, Dr. Freedhoff, I have heard a number of people say to me, I have never met anybody named Mihal. Where does that name come from? For those of you who are steeped in the scripture, you may remember the story of David and Bathsheba. They had a son who sadly died, and he

ended up having other wives, one of whom was named Mihal. Mihal became the mother of a guy named Jedidiah. Jedidiah became King Solomon, one of the wisest men who ever lived. And this is a new generation of Mihal. She has quite a history in her lineage, and we welcome you warmly back to the committee where you spent so many years.

Please proceed. Thank you.

STATEMENT OF THE HONORABLE MICHAL FREEDHOFF, PH.D., ASSISTANT ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION

Ms. Freedhoff. Good morning, Chairman Carper, Ranking Member Capito, and other members of the committee. Thank you for the invitation to testify about the Toxic Substances Control Act, or TSCA. It is always a pleasure to come back to EPW.

When I was last here, I described how years of underfunding had delayed our work to put essential protections in place for communities across our Country, and delayed our ability to review the new chemistries needed to power our economy. While those problems haven't entirely been solved, and won't be at current funding levels, I am proud to say we have come a long way.

The promise of the new law was for EPA to evaluate tens of thousands of existing chemicals left unreviewed under the old law and to write rules to protect people. We are finally starting to make good on that promise. We proposed rules for five dangerous chemicals that would collectively protect 1 million workers and 15 million consumers. We feel a strong sense of urgency to get these and another four rules we have yet to propose across the finish line.

I can also assure you that I have personally met with companies who think our proposals miss the mark for some uses.

We are taking their input seriously and will be making some needed adjustments along the way.

We are also working on our risk evaluations. We have released two drafts and expect to finalize seven this year.

Last month, we announced the next five chemicals we expect to evaluate, including vinyl chloride, a cancer-causing chemical that was one of the examples used by the Nixon Administration when they first came to Congress and asked Congress to write the original TSCA. Before we even named those chemicals for the very first time, we also asked a very wide range of stakeholders for their input and their data so that we can get a jump start on those evaluations and come closer to meeting our deadlines.

We are expanding our scientific toolbox for risk evaluations with approaches that focus on the most concerning exposures, efforts to improve our understanding of occupational safety practices, and ways to account for exposures to the most vulnerable populations. These changes will help ensure that the people who need chemical safety protections get them and get them faster.

EPA also plays an important role in ensuring the safety of new chemicals. If the 2016 requirements that EPA formally evaluate the risks of all new chemicals before they were allowed into commerce had been the law all along, our people's pollution story, for example, might have had a very different ending. I

know there are continuing concerns that we are not moving fast enough to get new chemistries to market, and I know there is more we can do. But I refuse to accept that we have to choose between safety and speed.

With the budget increase, we hired 14 new chemical staff with 7 more hires in the works which were much-needed reinforcements for a staff that had been stretched razor-thin. We have standardized our review approaches for some of the approaches used in batteries and semiconductors. We have developed a framework for new PFAS which will ensure their continued availability for sectors like the semiconductor industry.

And we have prioritized the review of the new chemicals we need to support the Biden-Harris Administration's domestic manufacturing initiatives, and now review those in a third of the time compared to other sectors. By any objective standard, these efforts are working.

In Fiscal Year 2023, we completed 70 percent more risk assessments compared to Fiscal year 2022. Since June, we have more than doubled the monthly average number of completed risk assessments as compared to the year before. And we have cleared out about 50 percent of the older backlogged cases.

But the truth is, we are not able to achieve all that TSCA was expected to. The problem is clear: TSCA is underfunded. It

is the conclusion of EPA's analysis, the Inspector General, and GAO.

And the solution is equally clear. We don't need to change the law. We need funding to implement the law we have.

Full funding would mean 25 new hires to review new chemicals. It would mean we could modernize our IT more quickly, modernize our procedures and science more quickly, do more industry outreach and come closer to meeting that 90-day deadline for reviewing new chemicals.

Full funding would allow us to hire 75 new people to finish our risk evaluations and rules more quickly, which means that the protections workers and communities have been waiting for for decades will also come more quickly.

But no matter what our budget is, you have our assurance that we are going to continue to build the foundation for a chemical safety program that can deliver both the protections and the regulatory certainty that Congress envisioned in 2016.

Industry and environmental organizations all know that our door is always open, and I hope you won't hesitate to ask for additional briefings, calls, or answers to your questions. If a visit to companies or communities in your home State would help, we will do our best to make it happen. We all want the law to work as Congress intended, and I am fully committed to doing whatever it takes to get there.

Thank you again, and I look forward to your questions.

[The prepared statement of Ms. Freedhoff follows:]

Senator Carper. Thanks so much for your testimony and for being with us today. You have been consistent in your testimony to this committee that EPA has not had adequate resources needed to fully implement the Lautenberg Act. I think most of us will agree that funding for the program can come from two different sources, as we know, user fees generated by EPA and annual appropriations provided by us, and Fiscal Year 2023 received some additional resources from Congress, as you know, though while still short of the President's request.

The EPA is also working to improve its ability to collect user fees.

Would you give us a sense of what the EPA was able to do with the increased funding in Fiscal Year 2023? I know you have touched on this to some extent, but I think it deserves some additional attention. What more would the EPA be able to do if the agency received additional funding through both annual appropriations and more effective user fee collection?

Ms. Freedhoff. Thanks very much for that question, Senator Carper. We have really prioritized hiring with that additional pay increase, or funding increase, and have especially focused our efforts on the New Chemicals Division, because we really do agree that that was the area that was most under resourced as a result of the new law, which basically changed what our past practice had been, which was reviewing 20 percent of new

chemicals before they go into commerce to doing 100 percent of new chemicals before they go into commerce. So five times the amount of work, and for six years, zero extra dollars with which to do it.

So in addition to prioritizing hiring and getting people in the door and trained as quickly as possible, we have also really tried to standardize our approaches for chemistries that we know industry comes in with a lot of applications for. For example, we have been working to create a standardized and streamlined review process for the chemicals that are needed by the battery sector. We have a years-long collaboration with the semiconductor sector, and that has resulted in a regulatory path forward for dozens of the photo-acid generators that they need to do their work. I personally met with them a couple of weeks ago and we talked about expanding that collaboration in the future.

So we have really tried to work smarter, not harder, which is something Senator Markey often says, and are going to continue to do so with the funding that we have. If we got more, we would be able to modernize those standard operating procedures more quickly. We would be able to modernize our science policies more quickly. We would be able to create efficient approaches for classes of chemistries more quickly, and of course, we would also be able to write rules more quickly

and do risk evaluations more quickly, which would move through the tens of thousands of chemicals that were left unreviewed under the old law more quickly as well.

Senator Carper. All right, thank you.

Before I turn to Senator Capito for her questions, I have one more I want to ask. In 2018, the previous Administration, you will recall, promulgated a user fee rule that was based on faulty data, which has limited the EPA's ability to collect user fees as intended by those of us who worked to pass the Lautenberg Act.

The Biden Administration has been working to update this data and revise the rule. Would you please explain to us where the previous rule went wrong, and how the Biden rule is proposing to correct is? Also, when do you anticipate the new rule will be finalized?

Ms. Freedhoff. Sure, thanks for that question, Senator Carper. So the Congress expected the EPA would write a fees rule, and collect 25 percent of our authorized TSCA costs from fees. The first fees rule didn't collect any fees until Fiscal Year 2019, and it exempted the cost of the first 10 risk evaluations from being subject to fees at all. Those were by far the most expensive thing that the agency was working on in those first four years of the law.

As a result, we only collected a couple of million dollars

a year, $2 million to $5 million a year in the first couple of years under the new law. Moreover, to calculate the 25 percent baseline, the previous administration used the cost of the old TSCA before it was revised to expand EPA's authority. As a result, overall, that first fees rule collected less than half of the 25 percent of authorized TSCA costs that Congress expected it to collect.

So we have done things differently. We have tried to heed Congressional direction to reflect the accurate costs of implementing the law in our proposed fees rule. I think that rule is in the final stages of review at OMB, and I expect it to be finalized in the coming weeks.

Senator Carper. Good, thanks. Senator Capito?

Senator Capito. Thank you. I mentioned the document that we had shared earlier, last week, and you all came back with some responses to that on ways that we could improve the system. I wanted to get your initial reaction on any of these you think would help the most, maybe prioritize one, two, or something of that nature.

Ms. Freedhoff. Sure. Thanks again for the constructive meeting we had, Senator Capito. I always appreciate the way you and your staff work with the agency since I have been there, and of course on the Hill as well, when I was here. I thought your list had a lot of really good ideas in it and I think there is a

few I feel we can commit to, as long as our budget is not cut.

First, there was a program called the Sustainable Futures Initiative that existed before the law was changed. The purpose of that program was for EPA to help industry write better new chemical submissions, do training, technical assistance, and that sort of thing.

Assuming our budget is not cut, we would like to hire someone who is entire job it will be to revamp the Sustainable Futures Initiative, and build on the outreach industry that we have been doing over the past few years, to help them help us, really, in reviewing new chemicals.

Another thing that your list said, that sometimes we use models instead of industry submitted data, and there was sort of an interest in getting more transparency from us on why we might choose to do that if we have actual industry data. We think that is a great idea and are absolutely able to commit to that.

Senator Capito. I am going to stop you there, because I will have an additional, on the resource issue, because this keeps coming up. The budget has gone up, and I mentioned in my opening statement the interest in Title 42, which used to be the universal title that does everything, but it gave you an opportunity to get some highly specialized individuals.

You have had this ability for two years and haven't used it. It is hard for me to square, I need more resources, when we

gave, as a Congress, you an ability to really specialize here and it hasn't been used. What kind of assurances are more resources going to solve this issue?

Ms. Freedhoff. I totally appreciate the question. We are actually really excited about that authority, although it seems that we haven't used it.

Senator Capito. You and only one other entity has that ability.

Ms. Freedhoff. It took us more than a year to kind of do the administrative things we needed to do, both within the agency and with OPM to get the all clear to actually use the authority. So we haven't had the clearance to use it for two full years.

We do want to use it, and I think the very first place we would use it is in the New Chemicals program. Having a senior scientist who can really help us modernize those processes would be great.

I will also say, though, that those hires cost more money.

Senator Capito. Right.

Ms. Freedhoff. So when we are balancing, can we have three risk assessors, or one senior scientist, we aren't quite comfortable yet to put our money on the senior scientist. But we are getting there.

Senator Capito. Well, I would hope that authority, since

it is so unusual, and I think could be impactful, just on the face of it having a senior scientist and then having younger, newer hires coming in would have a mutual benefit there as well.

Let me ask you, one of the suggestions was sort of a mid-review meeting, a mid-stage meeting between engineering team members and submitters. You were pretty negative about that when we talked earlier last week. But I do think, and I think some of the stakeholders feel that if they can see where they are before they get into the engineering phases and other more technical phases of the assessments, so they could make the adjustments mid-stage instead of waiting toward the end, what would your response be to something like that? Seems to me that would benefit both sides of the submission.

Ms. Freedhoff. I did take that back to my staff. They do feel like it could have the unintended consequence of slowing not just that application down, but other people's applications down as well. We did have two other ideas that we think get to the same problem that you are raising.

First is, we encourage companies to come in and have presubmittal meetings with us. We don't always have engineers in those meetings, and we could. So I think that would be one way for companies to sort of get a reality check on what information they might want to include in their package before they even send their package to the agency.

The second thing we are able to do now that we have some more staff is actually create a second queue, a different line for those applications that are almost at the end of the process, but something in the engineering changes and they need a little rework before they can get it over the finish line.

Senator Capito. Right.

Ms. Freedhoff. So we actually want to create a dedicated, a tiger team of people whose job it will be to get those applications over the finish line more quickly. We actually think that might be a faster way of getting at the problem.

Senator Capito. Yes, I think that makes a lot of sense. One thing I would say is, in talking with submitters ourselves about this mid-evaluation meeting, I think their opinion sort of anecdotally would be, if I can get more clarity, more procedural clarity mid-way through the process, I will take a longer process. Because in the end, it ends up being longer anyway.

So I would just put that on your plate with everything else. And thank you, Mr. Chairman.

Senator Carper. Thank you very much.

Senator Boozman, you are next. Welcome, and good morning.

Senator Boozman. Thank you, Mr. Chairman.

Thank you for being here, we appreciate your many years of service in lots of different ways.

Section 9 of TSCA requires EPA to consult and coordinate

with other Federal agencies on its TSCA activities for existing chemical reviews, to maximize enforcement and reduce duplication. Longstanding executive orders also require interagency reviews of significant EPA actions.

I guess the question is, why hasn't EPA sought feedback from other agencies like USDA, FDA, the Small Business Administration, Department of Defense on its soon-to-be-released draft of the TSCA risk evaluation of formaldehyde?

Ms. Freedhoff. Thanks very much for the question, Senator. We actually engage more across the Executive Branch than I think had previously been done. We have an interagency TSCA group that includes membership of DOD, the Ag Department, FDA. It meets almost monthly, every month or two, I think. And we do talk to them in a very proactive way about the work that we expect to be coming up. We talk to them about the chemicals that we have just put onto the TSCA process before those chemicals were named to the public.

So we are actually doing a lot of very proactive engagement with the rest of the Federal family. We will certainly be doing that when it comes time to release our draft formaldehyde risk assessment as well.

Senator Boozman. I understand the problem of being underfunded. But also, I do think there is a lot of stove piping. We should be working more interagency. Here is what

the Small Business Administration said in their file comments last month on your risk evaluation framework rule. "EPA should commit to a robust interagency process for a review of the draft and final risk evaluations." Unfortunately, neither the preamble nor the current EPA practice reflect the commitment to interagency collaboration. EPA's risk evaluations "create a significant risk that the resulting risk management regulations will impose unnecessary and duplicative burdens on small businesses with minimal public benefits." "It is not good use of EPA's resources to duplicate the effort and expertise of these other Federal offices."

Ms. Freedhoff. I think we greatly value the input from other Federal agencies that we get during the risk evaluation process and the risk management process, which does go through formal interagency review. We have been proactively reaching out to the agencies that we know use some of the chemicals that we are looking at to make sure that we account for critical uses and needs that they might continue to have.

I think those conversations are going very well. I have personally been involved in many of them. We do take that responsibility to talk to the other agencies extremely seriously.

Senator Boozman. I have the opportunity to serve also as Ranking Member on the Agriculture Committee. Formaldehyde is

something that many users use there to keep us safe and keep our food supply safe, keep it affordable. Farmers use formaldehyde to reduce virus infectivity in pigs, as a barn disinfectant, protect against African swine fever. Egg producers rely on formaldehyde during incubation to help protection hatchling eggs against bacteria like salmonella. Animal feed, again, the list goes on and on.

Is it true that the EPA is considering an existing chemical exposure level for formaldehyde which is lower than the levels of formaldehyde humans exhale as much as 16 times below exposure levels set in European jurisdictions?

Ms. Freedhoff. First of all, let me just say that we have a great relationship with your staff on the Senate Ag Committee, same with Senator Stabenow's staff. We view that relationship as extremely constructive and collaborative. I would also note that the pesticidal uses of formaldehyde are not subject to TSCA.

But getting to your question about the exposure limits, we haven't calculated a level like that for formaldehyde yet. It is something that we do at the end of our draft risk evaluation process. So we haven't published one.

But I can commit to you that if the risk evaluation, which by law is not supposed to consider costs and other non-risk factors like the ones you are raising, if we end up with a level

like that in the draft risk evaluation, it can't be measured because it is below background, we will say right in the draft risk evaluation that it won't be the thing that we would propose to do in our rule. We are not going to propose something that can't be met, if that is the way it turns out in our risk evaluation.

Senator Boozman. I would hope not. Thank you.

Senator Carper. Senator Boozman, good to see you. Thanks so much.

Senator Mullin, how are you?

Senator Mullin. Good, thank you. Good to see you.

Ma'am, thank you for being here. This committee has been focused on plastics for quite some time. As I always like to say, almost a war on plastic. And I want to be very careful as we are moving forward that the EPA is actually working with industry, not just working with activists and knowing where we are headed.

I do have some concerns, because last month the EPA announced five more chemicals for prioritization underneath TSCA, all of which use plastics, the chemicals that they are using all goes towards plastics, including vinyl chloride, which is a chemical used for PVC piping. Obviously, that is something I am very familiar with, and it raises alarms, because we use PVC piping in almost all your homes now, either through your

drainage or your water, most of our drinking water is delivered through PVC piping.

And when we start looking at eliminating, there's a lot of questions that say, okay, what are you going to do then? And obviously, what are you going to replace it with?

You were quoted recently in a press release, you chose to quote a partisan, what I would consider very partisan, radical, anti-plastic activist and president of Beyond Plastic named Judith, I will leave her last name out of it. And the article, Chairman, that I would like to enter into the record from A&E News, December 14th, a quote that Dr. Freedhoff credited, that meeting with Judith is making a real difference as we move forward to make these decision.

Senator Carper. Without objection.

[The referenced information follows:]

Senator Mullin. Thank you. My question, ma'am, is when you go on a victory lap with activists and include their quote directly under your press release, how do manufacturers, contractors, that work in industry have any confidence that this is not just some activist move driven by and prejudged before it even comes out?

Ms. Freedhoff. Thanks for the question. I think that any of the stakeholders who work on TSCA, whether they are companies, whether they are families who have lost family members because of exposures to chemicals, environmental organizations, labor organizations, other Federal agencies, there is not any of them who would say that they feel like me or my staff aren't accessible to them, don't listen to them, and aren't doing --

Senator Mullin. Being accessible is different.

Ms. Freedhoff. And aren't attempting to fairly implement the law.

Senator Mullin. I think being accessible is not the question here. When you quote an activist in your paper, when you are releasing information that you are going after plastics and you are quoting the president of an activist group that is, you know, Beyond Plastics, and you didn't quote any industries in there. When you got a movement toward that to begin with, being accessible doesn't mean you are listening, doesn't mean

you are taking the industry into account or what is the next step for the industry.

A lot of people listen in Washington, D.C. But they already had their mind made up where they are headed. And when you quote someone like that, it would obviously send shockwaves to the industry saying that your mind is already made up before you even made this decision that you are looking into it.

So I am asking, how can they be confident that you are actually taking them into consideration?

Ms. Freedhoff. First of all, I would say we met with the industry to tell them what our short list of chemicals was before we met with any, with that particular organization. Second of all --

Senator Mullin. Why would you choose to name and to quote her?

Ms. Freedhoff. I think there is an undeniable interest in a large part of the community in taking a look at the chemicals that are used to make plastic. Vinyl chloride was actually the example used by the Nixon Administration in the 1970s for why Congress should write a Toxic Substances Control Act in the first place.

But I assure you, we have a multi-year scientific process that precedes any regulatory decisions. And we haven't even started that process. We are committed to being there --

Senator Mullin. When you say multi-year, what are you talking about? Like so before your decision is coming out on anything, you are going to spend years studying this?

Ms. Freedhoff. Correct.

Senator Mullin. What does that look like?

Ms. Freedhoff. In the next year, what we are trying to do is work with Federal agencies, industry, other organizations to get data and really sort of get ahead of our risk evaluation process so we can meet our deadlines. After this year passes, the law gives us three to three and a half years to actually finish the draft risk evaluation.

There will be multiple public comment periods as well as a peer review of the draft risk evaluation during that time. So really, an enormous number of opportunities for companies to provide their perspective and give us their data. It is only after that that we would move to proposing a rule for vinyl chloride. And I can assure you with full confidence that nobody at the agency has made up any, has any idea of what that rule would look like. We have only just started.

Senator Mullin. Thank you. Thank you, Mr. Chairman.

Senator Carper. Thanks for those questions. We have been joined by Senator Markey. While he prepares to ask some questions, I don't think this was Richard Nixon, but one of my favorite quotes is, people may not believe what we say; they

will believe what we do. I think that is something for us all to keep in mind.

Senator Markey, welcome.

Senator Markey. Thank you.

Senator Carper. You must have a sense of déjà vu here.

Senator Markey. Eleanor Roosevelt said, "I do not see the things which have been done, but only those things which remain to be done," which I think fully reflects the philosophy of our witness here today. There is more work to be done.

First of all, thank you to Dr. Freedhoff for decades of work, including in my office to protect the public from dangerous chemicals. As you know, I have fought for decades on behalf of the families in Woburn, Massachusetts. In Woburn, there was a boy named Jimmy Anderson. He was like any other kid from Woburn, except that at three years old he was diagnosed with a rare form of leukemia.

The kids in his neighborhood were like kids anywhere around Boston, except that they were also being diagnosed with this rare form of leukemia at an alarming rate in his neighborhood. Because of their exposure to trichloroethylene, or TCE, these children fell sick 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 finally, last October, you led the EPA in proposing to ban the use of TCE, an incredible

accomplishment.

That story became the book, A Civil Action, and then the movie, A Civil Action, about those families. It was nominated for an Oscar. So Dr. Freedhoff, did the 2016 TSCA Amendments make it finally possible to take action against TCE?

Dr. Freedhoff. Thanks, Senator. The answer is unequivocally yes. I learned about the Anderson family from you, but it wasn't until I started working on the TCE rule at EPA that I realized that Jimmy would have been exactly my age if he hadn't died as a kid. He might have been sending his kids off to college, he might have had a life like mine.

And it is not just his family. On the way to meet you that day, when we announced the proposed rule, I phoned two other parents who lost children and let them know that we were finally going to be addressing the risks of TCE because Congress had finally given the authority to EPA to do that.

Senator Markey. We were able to get it designated as a Superfund site, to get it cleaned up. And it is now the Jimmy Anderson Transportation Center, named after that boy who Anne Anderson had brought into my office when he was nine years old, asking for help. We didn't even have a law at that time, we didn't have a Superfund law.

Senator Mullin asked about the listing of vinyl chloride and what it means for companies. That is a fair question and I

am glad Dr. Freedhoff noted those companies are part of this process. But I want to raise another group of stakeholders here. Next week will mark one year since the toxic train derailment and chemical fire devastated East Palestine, Ohio and the surrounding community. Vinyl chloride was the main chemical being transported on that Norfolk Southern train, more than 887,000 pounds. So I was glad to see EPA's recent announcement that vinyl chloride is under consideration to be a high priority chemical for regulation under TSCA.

Dr. Freedhoff, would an eventual ban or use restriction on vinyl chloride help protect communities like East Palestine from hazards ranging from work exposure to disastrous explosions?

Ms. Freedhoff. Thanks, Senator. As I was saying to Senator Mullin, our risk evaluation and our rule on vinyl chloride has to go through very rigorous scientific process. But the reason why the Nixon Administration used vinyl chloride as one of the three examples of why Congress had to write the Toxic Substances Control Act was because they knew even then that it caused liver cancer to workers.

I am sure that occupational safety practices are vastly different now than they were in the 1970s. But the truth is that the original 1976 law that was supposed to ensure the safety of existing chemicals never really lived up to that promise. What the Nixon Administration said to Congress at the

time, it is a great quote, so I hope you don't mind if I read it.

Senator Markey. Please.

Ms. Freedhoff. This is what they said. "We should no longer be limited to repairing the damage after it has been done nor should we continue to allow the entire population or the entire environment to be used as a laboratory." That was what the Nixon Administration said when they asked Congress to write the original law.

The original law failed to protect people against existing chemicals. But the 2016 law that you and so many members of this committee worked on has the potential, and I think we will be able to see it realized, not just with TCE and vinyl chloride, but with many of the other chemicals that are long overdue for a look.

Senator Markey. So it is not a ban on the transportation of it, it is whether or not it should be manufactured at all, because it is too dangerous.

Ms. Freedhoff. Or whether it should be manufactured and used in a way different than it currently is.

Senator Markey. Yes. Thank you, Mr. Chairman.

Senator Carper. Thank you, Senator Markey. Senator Cramer, welcome.

Senator Cramer. Thank you, Mr. Chairman, and thank you to

the Asisstant Administrator for being here.

And thank you for the response letter to me and several of my colleagues of both the House and the Senate regarding chlorpyrifos and the Eighth Circuit's vacating of their final rulemaking.

But for the benefit of the dozens of people watching this online somewhere, the farmers in the prairies and throughout the Country, I want to ask you to drill down a little bit on some of the specifics in response. Specifically, is the EPA beginning the process of restoring, or how are you restoring those tolerances? I will give you all of them up front and then you can just elaborate.

To include like, timelines, if you have some specific timelines, what has been done? I would also just add on behalf of several constituents, they feel like the EPA has been fairly, well, not very specific. Some of the statements since the vacating of the rulemaking have not provided very much clarity.

So what I want to give you the opportunity to do over the next four minutes is provide that clarity for them, drill down a little bit on the specifics, the timelines, the tolerances that will restored, and what-not, if you could, please.

Ms. Freedhoff. Happy to do that, Senator. I actually met with a bunch of the brewer groups yesterday on this question. They told us about some of the confusion that some of the State

regulators have, and we are following up on that. We did try to reach out to everyone in advance of our December statement, but we will clearly need to do a better job and talk to more people.

First of all, what the Eighth Circuit did was it vacated EPA's rule that took away the permission to use chlorpyrifos on food crops. That decision has already happened, and all of those permissions to use chlorpyrifos on food are back in effect.

EPA has to write basically a technical correction to the Code of Federal Regulations. I think that is happening next week, but it is already in effect.

I think the next thing that we are doing, and the timeline on this I can't be quite as specific about, is the Eighth Circuit decision as well as a 2020 document that the agency put out on chlorpyrifos really focused on 11 uses of chlorpyrifos that had high benefits. So what we are working to do is talk to the companies that make the pesticide in order to incorporate some additional mitigations that were talked about in the 2020 decision, as well as some of the Endangered Species Act work that we need to do in order to comply with that law.

I know those conversations are well underway. But since it is a conversation with external parties, I can't be more specific about when we will be finished.

Senator Cramer. And the whole thing is about two months

old. You touched on the confusion that seemed to permeate the early statements. All I would say, wrapping up, Mr. Chairman and Madam Assistant Administrator, just be as clear as you can be. Because this is very, while we are heading into, hard as it is to believe in North Dakota today, we are heading toward spring, and the new seasons and all of that. So everybody from the manufacturers, the suppliers, the users themselves, the producers themselves, that seek this clarity, it is critical to get it done in a timely fashion. I appreciate your attempt.

Ms. Freedhoff. Absolutely, and if you get questions and people are still confused, just send them to us. Our staff want to be clear, also. So it actually helps us when people come straight to us and ask us the questions.

Senator Cramer. I appreciate that. Thank you very much.

Thank you, Mr. Chairman.

Senator Carper. Senator Merkley, if you are ready, you are next in line, and then Senator Ricketts.

Senator Merkley. Thank you, Mr. Chairman, and welcome, good to have you.

OMB is currently reviewing its Asbestos Part 1 rule for chrysotile asbestos. Can you give us a sense of a date when the final rule will be available?

Ms. Freedhoff. Thanks very much for that, Senator. As you know, it is our first Section 6 rule that went through the new

process. It is not an accident that it was the first one, because of the symbolic significance of the failed asbestos ban from the 1980s, and the fact that asbestos continues to kill tens of thousands of people every year.

So it is at OMB, I think the 90-day period ends maybe in, I think it ends in early March. It is hard to predict, though, since it is not in our control, whether it will hit the early March timeline or not. But I know we are in very active conversations with our agency partners and are really eager to unveil that final rule.

Senator Merkley. Well, it takes continuous advocacy, because things go to OMB and just disappear. It is like a, what the hell happened to it. So keep pressing, and keep us posted on that.

So this rule only affects one form of asbestos. But there are seven other types of asbestos fibers. Does EPA have a plan to address the additional asbestiform varieties?

Ms. Freedhoff. Yes. We are in the middle of Asbestos Part 2. As you might remember, when the last administration chose to only study chrysotile because that form is the only form used in ongoing uses, there was an adverse court decision that caused the agency to have to split that risk evaluation and rule into two. So we are working on the second part of asbestos, which includes the other forms and includes legacy uses, and it

includes reasonably available information on its presence in talc.

We expect to both release a draft and final risk evaluation for Part 2 in this calendar year.

Senator Merkley. Okay. Thank you. I am glad to hear that.

So one concern that we have heard about is in the peer review process. And EPA released peer review comments, and one reviewer wrote that, "The members of this panel who are reviewing this document have been told, 'we are not to talk to one another. We have been told there will be no conference calls with one another. We have been told there will be no face to face meetings.' This is entirely inconsistent with the history of EPA's Science Advisory Panels."

So I have concerns about that point. And I have heard EPA saying, well, we are not going to let people talk to each other because we don't have enough funding, and we are not going to have conference calls if we don't have enough funding.

But a lot comes from people actually sharing their comments with each other. Is this an accurate description of what is going on? And why is this a good process?

Ms. Freedhoff. Thanks very much for that question. First of all, let me just say that we think the scientific advice that we get from our peer review committee is invaluable. And we

really do listen to what they say and take their input seriously.

I think it is also a pretty standard process though to do peer review, to do letter peer reviews of scientific documents. And one of the reasons why we moved to doing that for Asbestos Part 2 is because a lot of the science, the exposure models and other information that we are using for Part 2, we had already had peer reviewed when we went through the Part 1 risk evaluation.

We also felt that moving to a letter peer review in this case would also really help us finish that Part 2 risk evaluation more quickly.

So I don't want you to come away thinking that we are abandoning the peer review process. We are absolutely not. I think we did choose for the first time to try a different approach for this one, and part of the reason for that was our sense of urgency in completing that risk evaluation.

Senator Merkley. Mr. Chairman, I think this is something we need to take a further look at. The idea that scientists are being told they can't talk to each other, even Zoom meetings, in person, I don't think you get the best result having individual people told they are in silos and have to operate without the process of consultation. So I am not sold. Count me skeptical.

Ms. Freedhoff. I appreciate it. Thank you.

Senator Merkley. My final question, actually I am out of time.

Senator Carper. Just make it a brief one.

Senator Merkley. Okay. In terms of PFAS, it is not a short question, so I may have to submit it to the record or just follow up with you.

Senator Carper. If we can do that, that would be good.

Senator Merkley. Okay, that is what I will do. Thank you.

Senator Carper. Thanks very much.

Senator Ricketts, good morning.

Senator Ricketts. Good morning, and thank you, Chairman Carper, and Ranking Member Capito, for holding this hearing today. Dr. Freedhoff, thank you for joining us.

I have a few examples behind me of chemicals that have undergone the TSCA process which are critical for global food production. Formaldehyde is necessary for livestock production, to prevent disease. While you all may know that Nebraska is the Beef State, something you may not know is that we are also the global leader in irrigation system production such as what you see here, a center pivot, actually about 80 percent of all the world's center pivots are made in Nebraska.

Vinyl chloride is critical for the irrigation tubing, hoses, and drip lines. Both ethylene oxide and acetaldehyde are used in the production of crop protection tools, protecting our

food supply from insects and disease. These examples really exemplify the importance of predictable and reliable permittance of chemicals.

As governor of Nebraska, I implemented Lean Six Sigma for our State agencies to improve our processes. My understanding is the Trump Administration established an Office of Continuous Improvement at the EPA to implement the Lean program at the EPA. We talked about this a little bit yesterday, Dr. Freedhoff.

I am just looking for a simple yes or no on these. Does the New Chemicals program still utilize the Lean program?

Ms. Freedhoff. No, but we do seek to continuously improve through many of the same approaches that are in Lean Six Sigma.

Senator Ricketts. And does the Office of Continuous Improvement still exist at the EPA?

Ms. Freedhoff. That I am not sure about. But I know there are agency-wide conversations about ways to improve our processes and when one part of EPA comes up with something, it is actually shared throughout the agency.

Senator Ricketts. Well, there are clearly other process improvement methodologies besides Lean Six Sigma. But if you could follow up with me on the Office of Continuous Improvement, if that still exists at EPA.

Ms. Freedhoff. Sure.

Senator Ricketts. Also, we have heard that one of the

problems holding up PMNs are changes to the staff contacts throughout the process. If a new project manager is assigned to a PMN, will you commit to us that that project manager will then notify the submitter within a week to let them know there has been a change?

Ms. Freedhoff. I think that is an incredibly reasonable idea. We would be happy to do that. I think that would improve transparency for everybody.

Senator Ricketts. Great, thank you very much, Dr. Freedhoff.

The EPA issues existing chemical exposure limits, in other words, regulating chemicals throughout the workplace exposures. However, they are multiple times more stringent than the rest of the world. These limits are based on information from EPA's Integrated Risk Information System, or IRIS program, which is not Congressionally authorized and is a hazards based program.

This is not consistent with the agency's statutory mandate to complete risk-based chemical reviews using the best available science, not to mention that OSHA already is completing the work on this through some of their enforcement permissible exposure limits. In addition, the American Conference of Governmental Industrial Hygienists established exposure limits far above EPA's ECHOs. These values are regularly updated following industry standardization practices.

For many of the chemicals under EPA review, including asbestos, methylene chloride, perchloroethylene, carbon tetrachloride, and trichloroethylene --

Senator Carper. Could you say that again?

[Laughter.]

Senator Ricketts. I thought I did about as good as I could the first time through.

The ECHOs have come out after the proposed and final risk evaluation, some with proposed risk management rules which left stakeholders with no real opportunity to comment on these levels.

This is a significant problem that is compounded by the fact that these numbers are extremely low, often below the level of detection, and much lower than regulatory numbers in the rest of the world, as we kind of mentioned.

Setting levels below the level of detection is a de facto ban on these chemicals. For clarification, when you set a final regulatory ECHO for industrial uses, does that mean there is a level at which no unreasonable risk exists?

Ms. Freedhoff. I think what we are saying for some of those levels is that the proposed exposure levels that came out address the unreasonable risk that was identified in the risk evaluation. But it is important to understand that the risk evaluations are prohibited by law from considering costs and

other non-risk factors, like the point you made about them being unimplementable.

So I think as we move through the regulatory process following the risk evaluations, we are engaging pretty actively with industry to make sure that we really understand what their occupational safety practices can achieve. I think you will see some shifts in our approaches between proposed and final rules for some of the chemicals.

Senator Ricketts. Okay, thanks. So if I understand what you are saying, and correct me if I am wrong, the process has been set up, and the rule has been established and the law has been passed actually to make it so that you recommend some of the risk levels below detection level because you are not allowed to consider other factors? Is that accurate?

Ms. Freedhoff. Not quite. In the risk evaluations, we are not supposed to be considering costs or other non-risk factors. When we write rules, we 100 percent consider those things. So I think in an exchange I had earlier with Senator Boozman, I believe it was, going forward, if we get a draft risk evaluation that leans to a masked outcome that the draft proposed occupational safety limit is below background levels for that chemical, we will see very clearly in the draft risk evaluation that that number won't be the basis of our rule.

Senator Ricketts. Okay, so it is not a de facto ban in

that case, then?

Ms. Freedhoff. No.

Senator Ricketts. Okay, thank you very much, Dr. Freedhoff, I appreciate your explaining that to me. Thanks.

Senator Carper. Senator Ricketts, thank you for those questions.

I think Senator Fetterman is trying to get here to join us. Do we expect any other Republican colleagues to join us? Senator Lummis, okay, good.

I want to return to the issue of new chemical review for a minute or two. As you know, our committee has consistently heard concerns from stakeholders about the pace of new chemical reviews. Specifically, the chemical industry believes that EPA is moving too slowly, whereas others are concerned that EPA is not being thorough enough.

Dr. Freedhoff, your office has taken some innovative approaches to improve the pace of new chemical reviews. We talked about some of that already. Would you please elaborate on some of those approaches and specifically, what has worked well, and how have those approaches allowed EPA to review these new chemicals faster, while also being more thorough? Where might there still be room for improvement? In the spirit of everything that we do, we know we can do better. Go ahead.

Ms. Freedhoff. Thanks for that question, Senator Carper.

I think we have talked about new chemicals a little bit in this hearing, and I really do think there is still upside in what the agency can deliver. I think we have already demonstrated some, but I think we can continue to do more.

So it used to be when EPA didn't know enough about a new chemical before the 2016 amendments were passed, that chemical went right into commerce without a formal EPA review. As a result, there are a whole bunch of types of chemistries that EPA never really had to write anything down about. One of the things we have tried to do is work to write down the science policy that would allow us to standardize and streamline the review for chemicals that we see a lot.

One example, mixed metal oxides, which are used by the battery sector in particular. We had companies tell us that they expected to send us dozens of those every year as we move to increased electric vehicle production in this Country. So we decided we really needed to get ahead of that and worked on our science policy and risk assessment approach for that class of chemistry.

And we are doing that with other sectors, too. The fragrance sector has a couple dozen PMNs that have been stuck at the agency because of science questions like that. And while I don't think we can do the exact same thing for the fragrance sector as we did for the battery sector, we are convening a

scientific workshop with them and other stakeholders next week, I believe, to try to work to figure out what the answers to those questions are, so that we can move those PMNs along also.

So really it is a class work smarter, not harder, modernize our approaches, be strategic about where we focus our resources and try to increasingly improve both our speed and our protectiveness.

Senator Carper. Let me ask one more question, then we will turn to Senator Lummis. There are differences of opinion, as you know, about the amount of money that you need to run the programs in your agency. The House has proposed further cuts to the TSCA program in its Fiscal Year 2024 appropriations bill. Can you give us a sense of how you will prioritize your work if this is enacted? What will have to be sacrificed?

Ms. Freedhoff. Thanks for that question. It is important to remember, before the law was changed, EPA did zero comprehensive risk evaluations. Of the 30 chemicals that have gone through the process, we have met the statutory deadline for only one of them.

Before the law was changed, we wrote zero comprehensive rules to protect people against some of the most dangerous chemicals that have ever been made or used in this Country. Now we are in the middle of working on 10 of those. We have missed the statutory deadlines for those as well.

We have talked about our consistent struggle, since the new law was enacted, to meet Congress' expectation that new chemicals would been reviewed protectively within 90 days.

The House budget would take us back to the budget of the old law that didn't do any of the things that the new law has told the agency to do. So what it means is that the workers and communities who have been waiting for decades to get the protections they need will have to wait longer. What it also means is that the new chemistries that are needed to reshore the domestic manufacturing of everything from semiconductors to biotechnology to refrigerants to comply with the EMAC to all of these other chemistries, they will need to wait a little bit longer, too. Because we simply won't have the resources to do what Congress expected us to do.

Senator Carper. All right. I think that is an important point for us to keep in mind as we go through the appropriations process in the days to come.

Senator Lummis, we are glad to see you. Welcome aboard.

Senator Lummis. I am delighted to see you too, Mr. Chairman. Thank you very much for holding this hearing, and thank you, Ranking Member Capito.

My questions at least are going to start with PFAS. As you know, there is an ongoing debate over the definition of PFAS as it applies to a range of Federal regulatory regimes. I am

concerned that there is no current consistent agreed-upon definition for these chemistries being used across Government agencies.

While some PFAS chemistries may need urgent regulations to keep our communities safe, I am concerned that EPA is needlessly restricting critical PFAS chemistries essential for American manufacturing. And I am not the only one that is concerned.

Mr. Chairman, I would like to ask unanimous consent to enter into the record a report from the Department of Defense on critical applications of PFAS substances.

Senator Carper. Without objection, so ordered.

[The referenced information follows:]

Senator Lummis. Thank you.

Now, I want to quote from the Department of Defense report. It says, "Losing access to PFAS due to overly broad regulations or severe market contractions would greatly impact national security and DOD's ability to fulfill its mission and impact domestic industrial manufacturing and supply."

The report raises concerns about regulatory risks to our Nation's national security and industrial base and overall economy on page 15. After all, as the report reminds us, the DOD is reliant on the commercial industry for its applications.

So as the report cautions, there is no consensus on PFAS definitions. And a simple grouping together of over 38,000 specific individual chemicals does not inform whether a compound is harmful or not.

So, first question. Are you aware of the 2023 DOD report regarding PFAS?

Ms. Freedhoff. Yes, Senator, I am aware of it.

Senator Lummis. Okay. Does the EPA intend to establish an expedited review process for PFAS with less concerning hazardous profiles, or for those used in limited volumes but critical to technological innovation?

Ms. Freedhoff. Yes, actually my office has already developed a framework just like that. What it basically says is if the PFAS is going to be used in a sophisticated industrial

environment, like the semiconductor industry has, workers are protected, environmental releases are controlled, there will be a path through the New Chemicals program for PFAS like that. We agree that while PFAS have unquestionably contaminated a large number of places in the United States, we also think that if the new chemicals provisions of the 2016 law had been in place all along and EPA had been charged with making sure that the new chemicals were being used responsibly, we would have a lot less PFAS pollution in the Country than we do now.

Senator Lummis. Have you met with DOD to try to go through with them which of those PFAS chemistries they believe are pivotal to national security, as they mentioned in the report, and those that are not?

Ms. Freedhoff. I met with DOD myself a number of times, not just on PFAS but on other chemicals that are going through the TSCA process. We are very committed to continuing to work with them to make sure that our work in the Chemicals Office doesn't undermine military readiness or remove their access to things they need to keep us safe.

Senator Lummis. Can you help us by returning to this committee a list of these 38,000 chemicals that DOD feels that they need to have access to without undue restriction, and those that you feel are appropriate for higher scrutiny?

Ms. Freedhoff. I am not sure how I would go about that

list without knowing exactly what DOD needs. But I can also say that there are more than two options under TSCA. It is not use it without restriction or ban it. There is also, use it responsibly. And I think that is what we are striving for when it comes to critical uses of chemistries, not just PFAS, but some of the others that we are looking at as well.

Senator Lummis. Okay. What might that look like?

Ms. Freedhoff. It could just be, don't dispose of it in sources of drinking water. It could be, make sure that when your workers are handling it, they are protected, either with PPE or with engineering controls that prevent exposures to them during key tasks. It is a whole range of things. I don't think the choice is ban them all or continue as we have for the past decades in ways that clearly harmed human health and the environment.

Senator Lummis. As you know, we are sometimes demanding that we onshore products that we have offshored. Then we want to restrict them from onshore manufacturing to the point that we can't onshore them.

So we are sort of giving with one hand and taking with the other. I think this is an area, chemistry, where there needs to be some very careful consideration, working with industry, working with Department of Defense to make sure that we are finding the sweet spot.

I thank you for your testimony. Mr. Chairman, I yield back.

Senator Carper. Thank you for those questions.

Next, we are going to recognize Senator Merkley again, if we are not joined by anyone else. Senator Capito will be after Senator Merkley.

Senator Merkley. Thank you very much, Mr. Chairman.

As long as we are on PFAS, EPA finalized a rule in September of last year that requires reporting for manufacturers to share data about the chemical identity, the uses, the volumes made and processes, so on and so forth.

Dr. Freedhoff, when will that data collected by EPA be available to the public?

Ms. Freedhoff. I know that it is due for different reporters at different times. I think we are expecting to get it next fall, to start getting it next fall. I know we will be working to make as much of it public as we can.

Senator Merkley. So does that mean it is not clear that the public will have access to that data?

Ms. Freedhoff. The law requires us to protect confidential business information, so if we get something into the agency that is marked that way, we will have to take some time to review it and make sure that we can get it into a form that the public can see.

But the entire point of that data collection effort, which was something that this committee actually wrote the law directing us to do, was to make sure that data was available and useful to everyone who might want to see it, including members of the public.

Senator Merkley. Yes, I hope that that information, which will help inform the PFAS debate extensively, is available to help inform the debate. Thank you, and the understanding of the challenge.

I want to turn to plastics-to-fuel. Pyrolysis is being advocated by many to be able to essentially use heat to return plastics down to a state where it is essentially once again fuel. The EPA has studied, well, what happens if you have that in a marine setting, what happens if you have that in an airport, a jet setting?

EPA's model produced a lot of concern, a lot of articles written about the high level of toxicity really was exceeding the standards that we normally have, producing cancer in one in 10,000 as opposed to the standard of one in 1 million, the one in four cancer risk from a lifetime of exposure.

Then I think EPA has said, oh, well, that is scary. Let's just set this whole model aside, and then approve the chemicals. How does setting a whole model aside and just approving the chemicals serve the scientific process and the whole goal of

TSCA to evaluate chemicals with deliberate scientific analysis?

Ms. Freedhoff. You said a lot in that question, Senator. First of all, the original chemicals that took the plastics and turned them into fuels were approved in 2015 and 2019. What we looked at was taking what companies wanted to do, which was take small amounts of those chemicals, mix them with traditionally drilled fuels, put them in a refinery, and come out with something that looked for all intents and purposes exactly like normal jet fuel or normal marine fuel.

So I think our staff was quite convinced that the safety profile of the resultant fuels was going to look exactly the same as what you would get if you just drilled for oil and put the oil through a refinery. That said, I do think that when our exposure model spit out numbers like that, we should have done a better job at reality checking ourselves.

When we did that after the fact, we learned that it was sort of clear that those exposure models are exceedingly conservative. They basically assume that 100 percent of the fuel burns in one location and the same person stands there and breathes 100 percent of the exhaust fumes from the plane in at one time.

So that is clearly not a real world scenario, not a real world risk. But it was on us to explain it better, and we are learning a lot from that experience.

Senator Merkley. Or to go back and say, we think our assessment model was flawed, and now we are going to get a more realistic assessment model and actually use an assessment model rather than just throwing it aside and ignoring it.

Ms. Freedhoff. So I think what we learned, normally when we make these, when we don't have actual exposure information, which is often the case for a new chemical, we just assume that the worst case scenario is some set percentage of it gets into the environment, or some set percentage of it exposes workers. But that model fundamentally fails when the end product is a fuel that is supposed to be burned.

But I agree with you; we should not be doing it that way for transportation fuel.

Senator Merkley. I do think the reason it is raising concerns is that the plastics themselves have huge numbers of contaminant chemicals. So the pyrolysis process vents off a lot of stuff, and often, we have made an emphasis on environmental justice in this community, in communities that are poor, in communities that are primarily Black and Brown communities.

Then those same contaminants survive and are in the fuel when it is burned. Therefore, our evolving understanding of this potential pathway, which could involve fuels that are not just a slight amount added to some other fuel, but burned in the whole as folks try to get a more circular economy. These are

significant concerns that should not be ignored in this process.

Ms. Freedhoff. I agree with you. I think we know a lot more about those potential impurities now than we did in 2015 and 2019 when those original chemicals were approved. I think our policy going forward, including for these particular fuels, is to make sure that there aren't impurities like that, if companies are going to move forward with a process that creates those fuels.

Senator Merkley. Thank you.

Senator Carper. All right, thanks, Senator Merkley.

Senator Capito?

Senator Capito. Thank you, Mr. Chairman.

I am going to kind of go back on a few things that have been alluded to in some of the questions. It seems there has been a question of EPA's interpretation of what is reasonably foreseen. So is it reasonable to foresee that somebody would drink bleach? Of course not. None of us are going to drink bleach. Well, I wouldn't say none of us.

But these speculative, unintended uses of chemicals are being used to justify overly stringent restrictions. Do you believe that every potential use of a chemical, including the intentional misuses, are reasonably foreseeable or a reason to restrict?

Ms. Freedhoff. No, I don't.

Senator Capito. Well, good. Because I believe what we are hearing too is that sometimes your office will continue to assume non-compliance on OSHA standards. Senator Ricketts kind of alluded to the OSHA issue. I, in my opening statement, talked about a mission creep here.

What is your relationship in terms of, how do you put the bright line between where you are and where OSHA is? It sounds like you have more than enough on your plate. I am not sure you want go into what OSHA is doing as well.

Ms. Freedhoff. TSCA says that we have to consider the risks to potentially exposed and susceptible subpopulations. That term is explicitly defined to include workers.

Senator Capito. It includes what?

Ms. Freedhoff. It includes workers. Explicitly by law it includes workers. So OSHA wrote most of its chemical-specific rules in the 1970s. When you go on their website, the very first sentence that you read is that their standards are outdated and inadequate for the protection of worker health. That is what OSHA says about its own chemical safety worker rules.

The other thing is that OSHA rules don't cover everybody. They don't cover self-employed workers and they don't cover public sector workers that aren't subject to a State OSHA plan. So even if the OSHA rules weren't outdated and inadequate for

the protection of worker health, we would still need to recognized that some of the workers that the TSCA risk evaluation uses cover wouldn't be subject to them in the first place.

So what I do think we are trying to do is work extremely closely with both OSHA and NIOSH. We are trying to align what we write in our final rules to be as consistent as possible with what their practices and approaches are for things like monitoring and detection. I also think we are working really closely with industry, because in many cases, industry has gone way beyond those 1970 standards when it comes to protecting their workers, because those standards are outdated, and those sophisticated companies know it.

So we are also trying to align with the best industry practices that we are made aware of as well, as we make sure that our final rules are implementable.

Senator Capito. Well, I mean, I guess my interpretation of that would be, there is laxness in, or inadequacy in a particular different part of the Department of Labor, is obviously where OSHA is. I just think with what we have kind of uncovered and agree where some of the issues are, staying in the lane would probably be helpful.

Let me ask you another thing to clarify. Because I said this in my opening statement, and I want to make sure we are in

agreement here, where I said that companies are opting to go offshore to create chemicals and that your applications for new chemicals are down, therefore your user fees, we are getting to the resource thing, the user fees, the amount of people paying use fees is going down.

Is that an accurate statement from your viewpoint?

Ms. Freedhoff. I don't think so. I think it was accurate for a couple of years after the enactment of the 2016 law. But we have actually seen new chemical submittals kind of come back up to what they have been historically in the last couple of years.

Senator Capito. Well, we need to follow that, because I think that is an important issue in terms of being able to move forward.

Another suggestion, question, is, there is an ability, because you are talking about being resource constrained, there is an ability for you under the Intergovernmental Personnel Act to be able to access other Federal employes at no cost to your agency for specialized things. We see this in endangered species, Fish and Wildlife, we see them borrow from other agencies when they have a large request. I have seen that in my own home State.

Is this something that you have considered to fill in the gaps that you say you have?

Ms. Freedhoff. Actually, we have already done that. Under the Fiscal Year 2022 budget, which gave us a really small increase in resources, and wasn't enacted until March 2022. So that was sort of more than a year of this Administration with a flat budget. We actually did borrow some staff from other parts of the agency, specifically for New Chemicals, because of the dire situation that New Chemicals was in.

I think it is one of those things, though, that most Federal agencies, including EPA, have resource issues and have workload issues. Other parts of the agency also have laws that they have to implement.

So there isn't an infinite capacity for us to be able to do that. But we have done it in a temporary basis with New Chemicals.

Senator Capito. Okay, so I think we have a lot of agreement. We will keep working on the list that we put forward.

I don't want the hearing to end, to have any kind of misunderstanding that questions or accountability issues means that any of us, certainly me in particular, would want to sacrifice any kind of safety issues around a chemical use for speed. But we do have certain deadlines in the law. You were probably around when TSCA was written, and those were established to be reasonable deadlines at the time. So there is

a reasonable expectation that those can be met.

So I think, while I expressed to you last week the frustration I have as a member, I think probably all of us, doesn't matter what side of the aisle you are, it may matter what administration it is, it is always, I just need more money, if I had more money, I would solve every single problem. Sometimes, we have to be more efficient, we have to be more innovative, we have to be more, use the authorities, like Title 42 that we have to be able to move forward for more specialized investigations, listen more to the stakeholders.

All these kinds of things I think we can make improvement on, understanding that the resource issues -- but you have gotten more resources, and certainly EPA, 2,000 more people. I mean, could the Administrator reprioritize? This is an important area.

Another thing, then I will get off my high horse here, is if we look at chemicals, I think the assumption is sometimes, well, you just want more chemicals that are going to be more hazardous and more flammable, and everybody thinks it is always the bad part of chemistry.

The good part of chemistry is getting held up, too. The chemistries that would take our old chemistries off the shelf and make improvements, have better health outcomes, maybe even be more efficient, maybe even be more economical to use and

certainly can be made here, they are getting held up at the same time.

So we will just continue to monitor this. I appreciate your frankness, and thank you for coming.

Senator Carper. Senator Markey, if you are ready to go again for another round, I will recognize you. Otherwise we will go to Senator Whitehouse.

Senator Markey. I would love to hear his questions.

Senator Carper. Senator Whitehouse?

Senator Whitehouse. Thank you, Senator Markey. Thank you very much for being back here again on one of our favorite topics and one where I think we did some very good bipartisan work. I think of Senator Inhofe, who was not always somebody that I agreed with, and our good work together on this issue.

I would like to ask you about the process involved. As you recall, as you know, we set up a process for the industry to make application to go through the TSCA process. What I hear we have seen is a lot of industry revisions of the application.

Could you tell me first of all, is that true? How often is that happening? Are there multiple revisions sometimes, not just one but a cascade of cumulative revisions? And what effect have those revisions had on the ability of EPA to meet the schedule and proceed to the conclusion of the process?

Ms. Freedhoff. Thanks very much for that question,

Senator. You are right, sometimes companies do come in toward the end and give us new information that we wish they would have given us at the very beginning. That causes us to have to rework, redo parts of the risk assessment, and that doesn't just delay their chemical, it delays everybody else who is waiting behind them in line.

I think some of that is a reflection of the still pridian law, companies don't necessarily know what we need to know to review their chemicals quickly. So one of the things that we have really tried to do is outreach to industry, do webinars, do trainings, really kind of tell them from the beginning, this is what we really need to review your chemical as quickly as possible.

So some of those efforts are working. But I think we could do more, and I think industry could do more to get a complete application in front of the agency in the first place. I think it would have benefit to everybody.

Senator Whitehouse. Is the source of these revisions just confusion? Or do you think there is also some motivation to delay?

Ms. Freedhoff. I don't think there is motivation to delay on the New Chemical side. I think what happens is they didn't write down in their application that they were going to dispose of the chemicals properly, and then when we do our risk

assessment, we assume they are going to release it to water. Then they see that, and they say, oh, we weren't going to do that, and we say, well, you should have told us that from the start. It is a lot of those kinds of changes. I don't think they are intentional. I think they are a little bit a lack of experience, a little bit of a failure to realize that the more they give us, the better it is for them.

Senator Whitehouse. Okay. And you think the kinks in the process have now been worked through pretty well?

Ms. Freedhoff. I think it is a work in progress. I think we have made a lot of improvements, but it is important to note that before the 2016 law, we only did formal safety reviews on about 20 percent of new chemicals. Now we have to do them on 100 percent, and for the first six years of the law, we got zero extra dollars.

So the agency was sort of hamstrung for a good, long time. Now that we have gotten a modest increase in our budget, we are working to build in some of those efficiencies without losing the protectiveness of what we are supposed to be doing.

Senator Whitehouse. How many employees does EPA have? Thirteen thousand?

Ms. Freedhoff. Ish, yes. In the New Chemicals Division, we were able to hire 14 new people with the Fiscal Year 2023 budget increase, with a handful more that are still in the

works. So we are not at 15,000 people in the New Chemicals Division.

Senator Whitehouse. I get that. When I worked in the Department of Justice, and there was an urgent matter, they would detail people from the field to headquarters to work on it, just as they have done with the January 6th prosecutions. I hope that EPA is at least considering borrowing from the regional offices and putting people in detail for significant projects like this, where the immediate staff aren't sufficient to meet the new need.

Ms. Freedhoff. We have done some detailing, and will continue to do that. I do think some of the expertise we need is pretty specialized. There just aren't that may toxicologists around who know how to study exposures.

So another thing we have done is we have dedicated a person in the Toxics Office to really revamp our recruitment process, and really go places to advertise the jobs that we have that we haven't previously gone. So now we are getting a lot of qualified applicants for those jobs, which is great. But it hasn't always been the case.

Senator Whitehouse. Well, thank you. It is great to see progress in this area.

Thank you very much, Chairman.

Senator Carper. Thank you, Senator Whitehouse.

Senator Fetterman, welcome. You are recognized. Good to see you.

Senator Fetterman. First, I just have to acknowledge your recent happy birthday, Mr. Chairman. Sixty-three, was it?

[Laughter.]

Senator Carper. God bless you.

[Laughter.]

Senator Fetterman. And thank you.

I live across the street from a steel mill, actually the largest steel mill in my State, one of the remaining ones left. And I have some really personal experience of myself and my family of the impact of the industrial sector and what that can have on the surrounding community.

I don't believe that we have to choose between keeping good union jobs and also be averse to a clean, safe environment. Do you agree, how you are seeing the dynamic play out, how you lead the EPA's work regulating toxic substances?

Ms. Freedhoff. Yes, Senator, I do. As we talked about last week, I really don't believe you have to choose between good paying jobs and having clean air to breathe and clean water to drink.

One thing that we have been doing is working really hard with the sectors that are trying to bring good jobs into this Country to make sure that we are approving their chemicals more

quickly, or as quickly as we can. For example, we have prioritized the chemicals that are needed by the semiconductor sector, by the batter sector, by the biotechnology sector, and put those to the front of the line whenever we can. Now we approve those in about a third of the time as compared to other sectors.

So we do think that you can use chemicals responsibly, keep your workers safe, keep communities safe and do well as a company.

Senator Fetterman. The EPA, are you familiar with the history, who established the EPA?

Ms. Freedhoff. President Nixon.

Senator Fetterman. Nixon, well, he was a Republican, right?

Ms. Freedhoff. He was.

Senator Fetterman. That is right, he was, oh my gosh. So actually the fact that the EPA was funded by a Republican, and now it is really a shame that sometimes that has drifted away from us, and that gets weaponized here, where two things can be true at the same time, that we need to maintain and protect good union jobs that sustain the community and families, but also, we know a clean environment is pretty useful. I think it is useful all the time. I think both can happen together. I would like to remind everybody that a lot of important environmental things

were done under leadership of a Republican administration.

And now moving on, of course we are all familiar with the Norfolk Southern train derailment in Ohio. That is very close to my State's border. It released more than 100,000 gallons of vinyl chloride into our community, as I am sure you know. Last month, the EPA announced that the vinyl chloride would be prioritized for considering under the Toxic Substances Control Act. But we are still looking at years of that evaluation to be finished, and a safety protocol to be recommended. Why does this process take so long?

Ms. Freedhoff. Thanks very much for that question, Senator. Ironically, it was the Nixon Administration also that ked Congress to write the Toxic Substances Control Act. They actually used vinyl chloride as one of three examples for why that law was needed back in 1971. They basically said, when they asked Congress, this is what they said: "We should no longer be limited to repairing the damage after it has been done, nor should we continue to allow the entire population or the entire environment to be used as a laboratory." That was the Nixon Administration's reason for why Congress had to write TSCA in the first place.

When Congress rewrote that 1976 law, it was because it wasn't effective. It was because when EPA tried to ban asbestos, a chemical that has killed tens of thousands of people

every year for decades, EPA's ban was overturned in court and it rendered the original law unable to be used. When Congress came together and wrote the 2016 law, it defined fairly prescriptively the process by which EPA was supposed to review those thousands of chemicals, including vinyl chloride, that hadn't been evaluated before.

And the timelines in the law are very clear. We need to spend a year with two public comment periods before we can start work on vinyl chloride. Once we do start work on vinyl chloride, the law says we have three to three and a half years to finish our work and really and really comprehensively assess all the risks. After that, it is a year to propose a rule and a year after that to finalize a rule.

So it is a long process. But the idea was, instead of doing little, we will regulate this use here and that use there, the idea behind the law was, we really want to comprehensively study all the ways in which a chemical is made and used, and write a comprehensive rule using that best available science in order to give the public confidence that the chemical can continue to be used safely for the uses that we think can continue.

Senator Fetterman. Mr. Chairman, thank you, and thank you.

Senator Carper. Senator Fetterman, thank you for those questions. Senator Lummis, you are recognized again, and a vote

is underway. I think we are about 10 minutes into our first vote of a couple of votes. Senator Lummis, then Senator Markey.

Senator Lummis. Thank you, Mr. Chairman. I do appreciate the perspective of the gentleman from Pennsylvania. I too live next to a refinery and have benefitted personally from the existence of the RCRA law, without which we would have had no remediation of significant migration of hydrocarbons into the creek where our cattle drink. So this is a bipartisan subject, this is not partisan. Reasonableness becomes the issue.

So I want to return to the ECHOs Draft Rules. I have heard from experts in industry who say there is no realistic way to implement some of the draft rules on ECHOs. So my question here is, when you hear from industry that there is no realistic way to implement a draft rule, will any of the proposed changes be adopted between the proposal and the final rule?

Ms. Freedhoff. I do think we are working quite closely with industry to understand what might be needed by way of adjustments to make those more implementable. I will say that for a number of our chemicals, the data we have shows industry is already either meeting our proposed levels or pretty close to it.

But they will change between proposed and final sometimes. Sometimes it might be more time to come into compliance, sometimes the numbers themselves might change. I think when we

propose a rule and look for public comment on it, we are serious about reviewing those comments and making adjustments whenever we think they are needed.

Senator Lummis. Question about existing chemicals that were never peer-reviewed. It is my understanding that EPA's worker exposure levels for existing chemicals were not peer-reviewed. Can you commit to ensure there will be peer review and public comment on these values going forward?

Ms. Freedhoff. Just to elaborate a little bit, the last administration wrote the risk evaluations. I think they were in such a rush to get them done that they didn't really think a few steps ahead for how they were going to do the worker protection, how they were going to address the worker protection risks that they found. So that is why those exposure limits came out after the risk evaluations came out.

I will say, all of the data that went into deriving those limits was peer reviewed. That said, I also know that industry really wants to see them earlier in the process, really wants to see them go through the peer review process, and I think that is entirely reasonable. That is what we have started to do and will continue to do going forward.

Senator Lummis. Thank you. Question about hazard based review of a new chemical. Can you explain to me what factors are considered in a hazardous based review of a new chemical,

and how that differs from the standard applied to older chemicals under TSCA?

Ms. Freedhoff. Sure. I think with existing chemicals, we have a lot of data. Sometimes we have data, like in Woburn, Massachusetts, where we know that exposure to TCE caused a cancer cluster. And we have information about what that chemical did to people that were exposed to it.

With new chemicals we don't have that usually. So what we have sometimes are tests that the company has put together, sometimes using non-animal testing to show what the new chemical's expected hazard might look like. Sometimes what we do is we look at the structure of the new chemical and compare it to something that do know something about, and infer what we can from reading across what we know about an old chemical to what we can expect to happen from the new.

So it is a variety of techniques, but with new chemicals they are by definition new, there is less information about them.

Senator Lummis. I appreciate that.

Mr. Chairman, I want to just return for one second to the PFAS discussion, and just remind you that DOD's report kind of sets off some alarm bells about the importance of working closely with DOD. So he debate over the definition of PFAS is going to be extremely important to them. Just to implore you to

work closely with Department of Defense on these definitions, and to try to make sure that we are not compromising our national security or our defense posture by a regulatory regime that is so rigid that it provides no escape valve.

Thank you. Thanks for being here. I yield back.

Senator Carper. Thanks for your focus on PFAS and permanent chemicals. It is much needed and much appreciated.

We have been advised by the cloakroom that we are almost 20 minutes into our first vote. Senator Markey, I am going to recognize you but not for a real long time. Thank you.

Senator Markey. I appreciate it. I was willing to wait a good long time, in my Chevron deference to Senator Whitehouse to go first, not understanding all of the implications of that decision in terms of other people who would be asking questions.

[Laughter.]

Senator Markey. So I thank you for that.

The Trump Administration violated TSCA by ignoring fence line communities in its chemical exposure and risk analysis. What is a fence line community? Well, I guess I grew up in a fence line community, because I lived three blocks from the Malden River, and my mother told me when I was 10, whatever you do, Eddie, don't swim in the Malden River, because it was black, with a kind of pre-Jimi Hendrix purple haze over it, because of the coal companies, the chemical companies, all of the polluting

companies right along the Malden River.

Just don't swim in that river. Because there were no fences in that era. But now the company has put up a fence. But 100 feet later at the homes of the kinds who were playing, and then it goes out for two or three miles.

There was an underestimation of the harms and it undervalued the lives of environmental justice communities living near polluting facilities. The Biden Administration made the right call by changing that harmful policy of the Trump Administration by actually look at the risks that dangerous chemicals pose to fence line communities, people who live right up next to the facilities.

Dr. Freedhoff, when done as required by TSCA, do fence line analyses help EPA better protect vulnerable communities by more fully accounting for how those communities get exposed to dangerous chemicals?

Ms. Freedhoff. Thanks very much, Senator, and absolutely. I toured a number of those communities and visited with them in Houston. It was just unbelievable to be standing in the middle of a playground and seeing 10 smokestacks literally on the other side of the road. So unquestionably there are some communities that are more exposed to more chemicals than others.

And unquestionably, even though TSCA requires us to look at one chemical at a time, the fact is that you sometimes breathe

more than one chemical at a time and you sometimes drink water that has more than one chemical in it as well.

So what we have been doing is trying to create the scientific tool box, so to speak, that will let us really understand those risks, the risks from more than one chemical, the risks from exposure through both the air and the water to the same chemical, and the different risks that some communities have compared to others.

Senator Markey. Thank you for that. There was like a cloud over my ward growing up. In fact, there was a union leader in my office last week, and we were talking about the Lewis Candy Company where I worked making gum drops and jelly beans when I was 16, right on the Malden River.

And he said, oh, yes, everyone knew there was like a huge black cloud over that building, which we didn't even think about, because that is just the way it was along the Malden River, just this big cloud which today would be something that obviously families would be concerned about young people being exposed to.

Dr. Freedhoff, what would you say to those who say that TSCA isn't an integral part of the EPA's ability to use science to keep the United States and workers clean and healthy? What would be your message to them?

Ms. Freedhoff. There are people who say that TSCA is not

supposed to be for protecting workers who might be exposed to chemicals inside facilities. There are people who say that TSCA shouldn't be about protecting people in communities who breathe or are exposed to chemicals from breathing air or drinking water.

I kind of struggle to understand what TSCA is about, if it is not supposed to be about protecting the people who work with chemicals, and it is not supposed to be about the people who are exposed to those chemicals in their homes and communities. I think very clearly that is what it is about. It is important for us to be writing rules that are implementable and don't prevent the reshoring of jobs in this Country.

But I really don't think you have to choose between jobs and safety. We can do both things, and I think we have to.

Senator Markey. I agree with you. I was a worker in one of those facilities. So absolutely, it is historic work that you are doing, and clearly within the full intent, the penumbra of what the law intended. It is to protect people from these dangerous chemicals and you are doing an historically great job in accomplishing that goal.

Thank you, and thank you, Mr. Chairman.

Senator Carper. Thank you, Senator Markey, very, very much.

Dr. Freedhoff, is there anything you haven't been asked,

you have been asked a lot of questions here today, but anything you might like to have an opportunity to just very, very briefly highlight before we close?

Ms. Freedhoff. Honestly, all I would say is that I really value the bipartisan engagement on EPW. It was integral to getting the law passed in the first place. EPW was really the center of all of those years of work to get the law over the finish line. I really do welcome and appreciate the ideas, all the constructive engagement, and all of the collaboration as we work to implement the pridian law.

Senator Carper. My colleagues have heard me say over and over again, bipartisan solutions are lasting solutions. It took a hard-fought, difficult struggle to get us to where we actually could enact and sign TSCA into law. Our thanks to you and all the staff folks who helped us in those days to get the ball into the end zone.

My dad used to say, some of the hardest things to do are some of the things that are most worth doing. Passing TSCA was a hard thing to do. It is not enough for us to just say, we are going to pass this bill, and that is that. We have a responsibility to make sure it is being implemented in the spirit it was intended.

We need to make sure that folks who are needed to help run these programs are well chosen and they do a good job. We have

to make sure that funding is provided. In this case here, we have two major sources of funding, one is EPA has the opportunities in those fees, and we have the obligation to provide reasonable appropriations to make sure they are being well utilized.

I want to comment you. I have talked to several of our colleagues who said that you have taken time to come and meet with them and talk with them and their staffs. I urge our witnesses to do more of that. I think it pays great benefits. President Biden likes to say, all politics is personal, all diplomacy is personal. It always has been, and it continues to be that.

The last thing I would say, there is a shared responsibility in terms of oversight. We have a responsibility, and the House has that responsibility, and we need to work in a spirit of collaboration and cooperation with them and the administration and other interested parties.

Not forgetting the football playoff season, a guy who pulls for the Eagles pretty regularly, I am a great Andy Reid fan. He used to coach for the Eagles. But as he used to say, it is not time to spike the football, and it is not time to spike the football on this front either.

Thank you for joining us today. Thanks even more for your service to our Nation, and our thanks to your family for sharing

you with us for all these years. We appreciate your dedication and your insight into some of the challenges that EPA is facing in the implementation of this legislation. I believe both you and the members of the committee are committed to addressing TSCA implementation challenges. We also have a shared interest in both protecting people from exposure to harmful chemicals, and preserve our Nation's ability to compete and bring innovative chemicals into the market.

I am an optimist by nature, and I am optimistic that we can work together to continue to make progress. With the right kind of leadership here on this side of the dais and on your side, I think we can continue to make progress.

Before we adjourn, a little bit of housekeeping. I want to thank our staffs, your staff, and also the staffs of our committee for a lot of work that went into the preparation of this hearing. I just want to say a special thanks to everyone, and Senator Capito.

Senators will be allowed to submit written question for the record until the close of business on Wednesday, February 7th, which is about two weeks from today. We will compile those questions, we will send them to our witnesses who are going to be asked to respond by Wednesday, February 21st.

With that, it is a wrap. This hearing is adjourned. Thank you so much.

[Whereupon, at 11:52 a.m., the hearing was adjourned.]