

Pruitt Addresses Legacy Issues, TSCA Implementation in Oversight Hearing



Article By

[Lynn L. Bergeson](#)

[Susan M. Kirsch](#)

[Margaret R. Graham](#)

[Bergeson & Campbell, P.C.](#)

[Toxic Substances Control Act Blog](#)

- [Environmental, Energy & Resources](#)
- [All Federal](#)

Wednesday, January 31, 2018

On January 30, 2018, the Senate Committee on Environment and Public Works (EPW) convened an Oversight Hearing to Receive Testimony from U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt. In a [written statement](#) submitted in advance of the hearing, Pruitt described implementation of the new Frank R. Lautenberg Chemical Safety for the 21st Century Act, or the “new” Toxic Substances Control Act (TSCA), as being of “significant importance” and a “top priority for ensuring the safety of chemicals in the marketplace.” In opening remarks, Senator Tom Carper (Ranking Member of the EPW Committee) (D-DE) challenged Pruitt’s record on implementing TSCA reform, stating that EPA has not truly used the authority bestowed on it through TSCA to declare that products being sold on the market are safe, therefore, consumers do not have the confidence that they deserve and that Congress intended in passing TSCA. Pruitt did not respond to this comment, and did not go on to address TSCA implementation in his brief opening remarks. Instead, Pruitt devoted the bulk of his opening statement to highlighting

specific areas where EPA's environmental protection goals dovetail well with opportunities for economic growth. These issues/economic opportunities included: investment in infrastructure to eradicate lead from drinking water within a decade; advancing initiatives that incentivize private companies to take on clean-up projects at abandoned mines; and remediation activities at "Superfund" sites -- hazardous waste sites regulated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Senator Jeff Merkley (D-OR) expressed concern that EPA's chemical reviews under TSCA were only focusing on new "items" (chemicals) being made, but overlooking "legacy" chemicals already in the environment (e.g., asbestos). Merkley cited a report that claimed that review of the ten chemicals on the priority list were being "slow-walked." In response, Pruitt stated "it is an absolute priority during [EPA's] first year," the three TSCA final rules were issued consistent with the implementation schedule in the first year, and the backlog of chemical reviews has been addressed through the addition of resources.

Senator Kirsten Gillibrand (D-NY) expressed her concerns regarding the toxic levels of perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) that have been found throughout New York State, stating that EPA was not using its TSCA authority to regulate these chemicals, as the implementation final rules "ignored the public's exposure to the past uses of chemicals called legacy uses" that could still have the potential to contaminate groundwater. She also stated her concern that due to this oversight, EPA will not likely study the health risks of widespread exposure to chemicals such as PFOS/PFOA. She requested of Pruitt to revise the TSCA implementation rules to address legacy issues, so that "all uses of a chemical, including legacy uses, are studied." Pruitt stated that as PFOA and PFOS have not been manufactured since early 2000, they are in fact legacy uses, and that EPA was "very much going to focus" on this issue. Gillibrand appeared to be content with his answer, as she did not demand a further commitment from him. In regards to the Hudson River, Gillibrand requested that data from the sediment sampling be integrated into EPA's five year review plan regarding the effectiveness of dredging for removing polychlorinated biphenyl (PCB) from the Hudson River. Pruitt stated that EPA was reviewing the samples currently and that there is more work to be done to get clarity on this issue. Gillibrand requested Pruitt to personally review the final report to ensure that all issues have been addressed and Pruitt confirmed that he would.

Near the close of the hearing, Senator Carper further stated that EPA has failed to follow through on its proposed ban of three highly toxic chemicals that Congress gave it the authority to ban when it enacted TSCA reform: specifically methylene chloride, trichloroethylene (TCE), and methylpyrrolidone (NMP), and asked Pruitt to commit to using EPA's authority to ban them within the next 30 days. Pruitt responded that they are on the priority list and that he will confirm this with the agency (that they are priorities, not that they will be banned in 30 days). EPA's delay in finalizing the bans was among the failures cited in the Senate EPW Minority Staff report, released January 29, 2018, "[Basically Backward: How the Trump Administration is Erasing Decades of Air, Water and Land Protections and Jeopardizing Public Health.](#)"

Several Senators indicated their intention to submit additional questions for the record. Pruitt has until **February 13, 2018**, to submit written responses, which will be made available on the EPW Committee website. The full hearing is available on the [EPW Committee's website](#).

©2019 Bergeson & Campbell, P.C.

Source URL: <https://www.natlawreview.com/article/pruitt-addresses-legacy-issues-tsca-implementation-oversight-hearing>