

Midterm Elections Signal Increase in TSCA Oversight

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With Democrats now in control of the House, Congressional oversight of EPA's implementation of the 2016 amendments to the Toxic Substances Control Act (TSCA) is set to ramp up. The expected incoming chair of the House Energy & Commerce Committee, Rep. Frank Pallone (D-NJ), announced yesterday his intentions to hold a hearing early next year to address what he calls the agency's "broad efforts to undermine" the revised TSCA. Pallone was an early House sponsor of the bipartisan 2016 legislation that fundamentally revised TSCA and triggered a series of regulatory requirements that EPA must fulfill within a relatively aggressive timeframe.

While signed into law by President Obama, the major framework rules that govern how the agency moves forward with prioritizing, evaluating, and regulating existing and new chemicals has fallen primarily to the Trump Administration. Like any major legislation, the "new TSCA" embodies a multitude of compromises, with differing interpretations competing to be codified in regulations. Over the last several months, numerous controversies have arisen over how the Trump EPA is implementing the law's new requirements, most notably with respect to how EPA defines the scope of uses (intended and reasonably foreseen) that must be evaluated in assessing the risks of a given chemical.

Rep. Pallone's most recent statement, in fact, was issued in conjunction with the release by EPA of the first of ten draft risk assessments for existing chemicals.

"The new draft risk evaluation of [Pigment Violet 29] raises serious red flags about the Trump EPA's commitments to scientific integrity and protecting the public health. EPA appears to have purposely discounted known environmental hazards, numerous foreseeable uses, and all manufacturing below reporting thresholds for the Chemical Data Reporting Rule. This is disturbing but falls in line with the Trump Administration's ongoing attempts to weaken the updated TSCA law. We look forward to holding hearings on this draft and EPA's broad efforts to undermine the Lautenberg Act early next year."

The remaining draft assessments for the first wave of chemicals to be evaluated under the revised TSCA are scheduled to be issued by or soon after the new year. Given the precedent that these initial risk assessments will establish for future chemical reviews, they are expected to be a key focus of oversight by House majority Democrats.