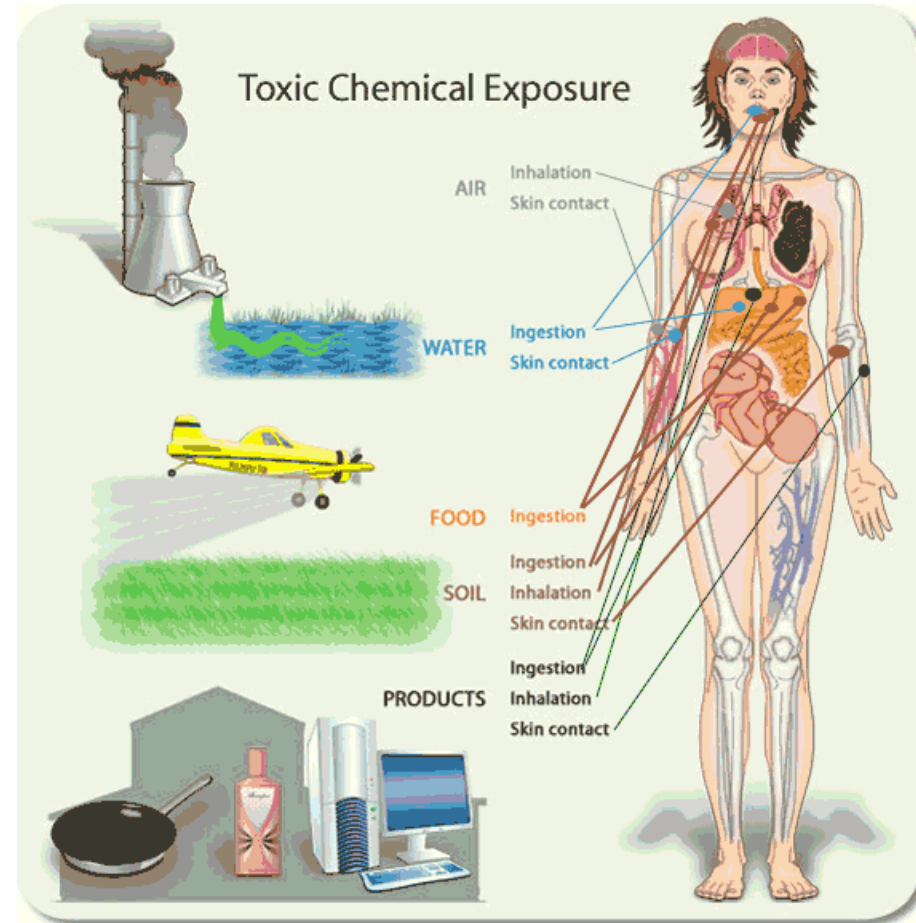




EPA IS NOT PROTECTING THE POPULATIONS AT MOST RISK OF INJURY FROM CHEMICALS

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Babies are born “pre-polluted,”* placing them at greater risk of cancer



Children Are at Special Risk for Cancer Due to Environmental Contaminants and Should Be Protected.

Opportunities for eliminating or minimizing cancer-causing and cancer-promoting environmental exposures must be acted upon to protect all Americans, but especially children. They are at special risk due to their smaller body mass and rapid physical development, both of which magnify their vulnerability to known or suspected carcinogens, including radiation. Numerous environmental contaminants can cross the placental barrier; to a disturbing extent, babies are born “pre-polluted.” Children also can be harmed by genetic or other damage sustained by the mother (and in some cases, the father). There is a critical lack of knowledge and appreciation of environmental threats to children’s health and a severe shortage of researchers and clinicians trained in children’s environmental health.

*Reducing Environmental Cancer Risk, President’s Cancer Panel (2008-09 Annual Report), https://deainfo.nci.nih.gov/advisory/pcp/annualreports/pcp08-09rpt/pcp_report_08-09_508.pdf



Workers are at particular risk from industrial chemicals

4,000

More than 4,000 workers die annually from work-related *injuries*

50,000

But far more – ~50,000 workers – die prematurely each year from *diseases* caused by workplace exposure to toxic chemicals

- Exposure to chemicals – even at very low levels – is associated with cancer, declining sperm counts, infertility, and neurological diseases
- Prenatal exposure to chemicals places children at increased risk of cancer, learning disabilities, autism and other health effects



Since its inception, TSCA has required EPA to consider chemical risks *comprehensively*

- “Intelligent standards for regulating exposures to a chemical in the workplace, the home or elsewhere in the environment cannot be set unless **the full extent of human or environmental exposure is considered.**” [House Rep. No. 94-1341, 94th Cong. 2d Sess. (1976), at 6.]
- “[T]here is no agency which has the authority to look comprehensively at the hazards associated with the chemical.... **[but this] bill would grant [EPA] the authority to look at the hazards in total.**” [Senate Rep. No. 94-698, 94th Cong. 2d Sess. (1976) at 3.]



Since 2016, TSCA has required EPA to protect “potentially exposed and susceptible subpopulations” from unreasonable risk

- These are groups who, “due to either **greater susceptibility** or **greater exposure**, may be at **greater risk** than the general population of adverse health effects from [chemical] exposure.”
[Section 3(12)]
 - **TSCA identifies infants, children, pregnant women, workers and the elderly as examples of at-risk populations.**



EPA must consider at-risk populations when prioritizing and evaluating existing chemicals

- High priority substances: “may present an unreasonable risk of injury . . . because of a potential hazard and a potential route of exposure . . . , **including an unreasonable risk to a potentially exposed or susceptible subpopulation. . . .**” [Section 6(b)(1)(B)(i)]
- Risk evaluations: EPA must “determine **whether [the] substance presents** an unreasonable risk of injury . . . , without consideration of costs or other nonrisk factors, including an **unreasonable risk to a potentially exposed or susceptible subpopulation**” [Section 6(b)(4)(A)]



EPA must consider at-risk populations when reviewing PMNs

- New chemicals cannot enter commerce unless they are “**not likely to present** an unreasonable risk . . . , including an **unreasonable risk to a potentially exposed or susceptible subpopulation**” [Section 5(a)(3)(C)]
- If EPA lacks information sufficient to make a “not likely to present” finding, it must “**prohibit or limit** the manufacture, processing, distribution in commerce, use, or disposal . . . to the extent necessary **to protect against** an unreasonable risk . . . , including an **unreasonable risk to a potentially exposed or susceptible subpopulation. . . .**” [Section 5(a)(3)(B)]



EPA is not fulfilling its obligations under TSCA



EPA's approach to *new* chemicals is leaving workers at risk

- Instead of regulating hazardous chemicals, EPA assumes that workers will protect themselves using personal protective equipment (PPE) identified in Safety Data Sheets (SDSs), even though they are not required to do so.
 - “EPA also identified worker risks for **skin sensitization, mutagenicity, carcinogenicity, and developmental, reproductive, liver, and kidney toxicity ... EPA expects that workers will use appropriate personal protective equipment** (i.e., impervious gloves), consistent with the Safety Data Sheet ... in a manner adequate to protect them.”
 - [TSCA Section 5(a)(3) Determination for Premanufacture Notice (PMN) P-18-0221]

EPA has failed to protect workers from methylene chloride paint strippers

- **January 2017:** EPA proposes *complete* ban on MC paint strippers, noting disproportionate impact on Latino workers.
- **February 2019:** Labor Council for Latin American Advancement and others sue EPA for not finalizing MC ban.
- **March 2019:** EPA finalizes consumer-only MC paint stripper ban.
- **April 2019:** Labor Council for Latin American Advancement and others challenge the consumer-only rule because it does not address unreasonable risks to workers.






The Framework Rules allow EPA to understate risks

Congress said:

- Evaluate risks considering “the conditions of use,” meaning all sources of exposure
- * * *
- Evaluate risks from use and disposal of chemicals even if chemical is no longer manufactured for that purpose (e.g., asbestos in situ, lead pipes)

EPA says:

- We’ll pick & choose which sources and pathways of exposure to include in risk evaluations
- * * *
- We won’t consider “legacy activities”



Relying on this unlawful approach, EPA is ignoring risks to the most exposed populations

- Focusing on “greatest potential for risk” ignores that ***children can be harmed from low-level exposures*** (especially in combination)
- Assuming the Agency know what uses are associated with greatest risk makes no sense ***before the risks are evaluated***
- Excluding exposure pathways because they are or could be regulated under other laws is not acceptable ***unless EPA determines that the risks have been managed*** so they are not “unreasonable” under TSCA
- Excluding use and disposal of substances no longer manufactured (“legacy uses”) ignores the ***real world risks involved in use and disposal independent of manufacture***



EPA is proposing to exonerate PV 29 without adequate – and reasonably available – information

EPA lacks data on key endpoints such as carcinogenicity, hormone disruption, and developmental neurotoxicity, as well as the effects of chronic exposure. Without this, EPA cannot make a science-based determination on unreasonable risk.

EPA's draft risk evaluation of PV 29 relies heavily on a study from which it refuses to release virtually all of the data.

EPA's bases its exposure assessment entirely on a personal communication with the chemical's sole US manufacturer that does not explain its conclusion and is not backed up with monitoring data.

EPA assumes that PV 29 use on consumer products is 1% of all use – but this is not backed up with any data.



EPA has failed to use TSCA to stop the flow of PFAS chemicals into commerce, or to restrict new PFAS

- EPA continues to approve PMNs for PFAS with no restrictions, or in some cases with 5(e) consent orders that impose only minor conditions, many of which are not triggered until production exceeds a certain volume, but those volumes are almost always CBI.
- EPA is allowing many PFAS to enter commerce through the “low volume exemption,” even though PFAS are associated with health risks at extremely low levels.
- EPA allows the manufacture of PFAS as “byproducts” without any new chemical review, even though byproducts are chemical substances under TSCA.
 - For example, GenX was made as a byproduct for decades – and released into the environment with no restrictions – before it was commercialized and went through PMN review



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