

Congressional Committees Hold Additional Hearings on EPA's FY 2023 Budget Request

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The House Energy and Commerce Subcommittee on Environment and Climate Change [held a hearing](#) on May 17, 2022, on the fiscal year (FY) **2023** budget for the U.S. Environmental Protection Agency (EPA), and the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies [held a separate hearing](#) on May 18, 2022. EPA Administrator Michael S. Regan was the only witness at each hearing. The hearings included questions about EPA's implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act) amendments to the Toxic Substances Control Act (TSCA), the new chemicals program, and EPA's review of pesticides and compliance with the Endangered Species Act (ESA).

House Subcommittee Hearing

The [briefing memorandum](#) from Representative Frank Pallone, Jr. (D-NJ), Chair of the House Committee on Energy and Commerce, to the Subcommittee states that President Biden requested funding for eight overarching goals for EPA, including “Strengthen the Administration’s Commitment to Successfully Implement the Toxic Substances Control Act (TSCA) and Transform the Science of New Chemical Reviews’ -- provides \$124 million and 449 [full-time equivalents (FTE)] for EPA to carry out efforts under the TSCA program to protect Americans from hazardous chemicals, including completing chemical risk evaluations, issuing protecting regulations, and establishing a pipeline of prioritized chemicals for risk evaluation.” In his [written testimony](#), Regan states that EPA has “significant responsibilities” under the Lautenberg Act amendments to ensure the safety of chemicals in or entering commerce and addressing unreasonable risks to human health or the environment. The budget request would provide \$124 million and 449 FTEs to implement the Lautenberg Act. Regan notes that EPA also has significant responsibility under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to screen new pesticides before they reach the market and to ensure pesticides already in commerce are safe. EPA is also responsible for complying with the ESA and ensuring that federally endangered and threatened species are not harmed when EPA registers pesticides. The budget request includes an additional \$4.9 million to enable the Office of Pesticide Programs (OPP) to integrate ESA requirements in conducting risk assessments and making risk management decisions that protect federally threatened and endangered species from exposure to new active ingredients.

During the question and answer portion of the hearing, Regan testified that although the Lautenberg

Act requires EPA to meet certain deadlines, the previous Administration did not ask Congress for the resources to meet those deadlines. According to Regan, EPA is working to complete about 21 risk evaluations while rewriting the rules, yet it has only about 50 percent of the resources that it needs to do that. Representative Paul Tonko (D-NY), Chair of the Subcommittee, asked Regan why EPA is struggling to meet its deadlines and how this connects to its workforce needs. Regan reiterated that EPA is working with about 50 percent of the dedicated personnel and resources it needs to meet the requirements of the Lautenberg Act. Regan stated that the budget request specifically asks for the bodies and resources it needs to meet the expectations of Congress.

Representative Cathy McMorris Rodgers (R-WA), Ranking Member of the Committee, described the new chemicals program at EPA as the gateway to innovation. McMorris Rodgers stated that EPA was more efficient under the previous Administration, when between 2017 and 2020 EPA averaged 265 risk determinations each year and placed restrictions on almost 80 percent of those determinations. According to McMorris Rodgers, the Biden EPA has only made ten such determinations this year. McMorris Rodgers asked Regan how EPA would improve the efficiency of the new chemicals program with regard to the funding. Regan stated that he would have to take a closer look at the statistics that McMorris Rodgers has versus the ones that he has. McMorris Rodgers responded that her understanding is that 265 new chemical applications depend upon EPA action. She asked whether EPA will continue its policy of reviewing new chemical applications based on when they are received or whether preferred technologies will get a preference. Regan responded that he would have staff follow up with her on the exact list that she has.

Representative Debbie Dingell (D-MI) asked Regan about the “spend plan” to address per- and polyfluoroalkyl substances (PFAS) that the FY 2022 omnibus appropriations bill directed EPA to develop within 60 days. Regan stated that EPA has an aggressive plan and that he would provide Dingell the exact details of the spend plan in writing.

Senate Subcommittee Hearing

In his opening statement, Senator Jeff Merkley (D-OR), Chair of the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, described the collapse of the western monarch butterfly. He noted that efforts to support the monarch butterfly can be undercut when the milkweed that people plant in their home gardens is contaminated with neonicotinoids or other pesticides that might harm pollinators. Regan stated that EPA recognizes that pollinators are important to the environment and the economy and that he thinks the ESA is one of EPA’s best tools to protect endangered pollinators. According to Regan, the FY **2023** budget proposes to include for the first time a targeted increase for EPA’s ESA pesticide work -- \$4.9 million and ten FTEs to focus on this issue. EPA is also working to finish its review of some of the pesticides to which pollinators are vulnerable.

Merkley also asked about the significant number of EPA employees eligible for retirement in the next five years. Regan stated that EPA wants to implement the Lautenberg Act the way that Congress has asked, but that it needs the FTEs to do so. According to Regan, EPA has about 200 less staff to focus on processing and getting new chemicals to the market than it did in 1988. So while EPA needs to rebuild capacity at the core, it also needs to rebuild capacity in strategic programs such as the new chemicals program.

Commentary

As reported in our [April 12, 2022](#), and [May 2, 2022](#), memoranda, the Senate Committee on

Environment and Public Works held a hearing on EPA's proposed FY **2023** budget on April 6, 2022, and the House Appropriations Subcommittee on Interior, Environment, and Related Agencies held a separate hearing on April 29, 2022. In this week's Congressional hearings, EPA Administrator Regan continued to stress the resources that EPA needs to meet the deadlines under the Lautenberg Act and to review new chemicals in a timely manner. In addition, Regan warned of litigation concerning EPA's failure to meet ESA requirements and described how the FY **2023** budget request will help EPA meet the ESA requirement to ensure that federally endangered and threatened species are not harmed when EPA registers pesticides. Regan testified about EPA's ambitious agenda to address PFAS, as outlined in the [PFAS Strategic Roadmap](#). Without the requested resources, EPA will be unable to meet these goals, however.

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