

# Appellate Court TSCA Decision Pauses Litigation Challenging TSCA Procedures

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Right on the heels of Administrator Lee Zeldin's announcement of the EPA's plan of action to combat PFAS contamination under the Toxic Substance Control Act (TSCA), the United States Court of Appeals for the District of Columbia Circuit issued a somewhat surprising [split decision](#) granting a request for abeyance in the consolidated litigation challenging the 2024 Biden-era rule, *Procedures for Chemical Risk Evaluation Under the Toxic Substances Control Act* ("2024 Rule"). The 2024 Rule expanded the scope of the risk evaluation process where the EPA may find certain chemicals pose an unreasonable risk to health or the environment. Among many important changes, the 2024 Rule requires EPA to assess all conditions of use in a single risk determination for the chemical rather than evaluating individual conditions of use separately, for purposes of whether a chemical poses an unreasonable risk. While the first Trump administration adopted the amendments that the Biden administration later finalized, as of March 20, 2025, the EPA publicly announced its intent to reconsider the 2024 Rule in its entirety through a new notice and comment rulemaking process.

The panel of Circuit Court judges issued their decision in the consolidated matter *United Steelworkers, et al. v. EPA* after hearing oral arguments on March 21, 2025, following EPA's motion for voluntary remand, and a renewed motion to hold the case in abeyance. At the hearing, EPA advised the court that it does not intend to defend the 2024 Biden-era rule but only continue to enforce the 2024 rule until it is replaced which the agency noted it is working diligently to do. Many of the original industry petitioners also expressed to the court that they are not seeking judgment on the merits at this time as the parties lack adversity with respect to the 2024 rule.

Senior Circuit Judge Edwards dissented from the grant of abeyance stating that the case is ready for hearing and any further delay is unjustified. Judge Edwards explained that at least three out of the four merits issues present purely legal questions of statutory interpretation which the court has authority to decide without any deference of the agency's views. Judge Edwards also found it "quite extraordinary" that nine years after the Lautenberg Amendment, which directed EPA to develop a process for risk evaluation, questions still remain as to the agency's obligation under the statute and "no clear framework has emerged for how the agency is to assess for risk."

The hard stance EPA is taking provides a clear indication of how the EPA plans to administer TSCA under the second Trump administration leaving the future of PFAS regulation uncertain. Stakeholders must stay engaged as the new rule takes shape. EPA plans to propose a revised rule by June 2025

with a 60-day public comment period to follow.

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