

Yale Environment 360

The Trump-era EPA rejected a proposed ban on the pesticide chlorpyrifos, which is used on more than 60 crops. AP PHOTO/GARY KAZANJIAN

ANALYSIS

How the Trump Administration Pulled Back on Regulating Toxic Chemicals

The Trump administration has halted bans on toxic chemicals that are known to cause serious health threats. These moves, led by an ex-industry group executive now at the EPA, have allowed the continued use of products found to cause cancer, birth defects, and other ailments.

BY ERIC LIPTON • FEBRUARY 12, 2019

TCE is a clear, colorless liquid with a sweet odor that has proven itself for decades as an especially effective way for dry-cleaning shops to lift stubborn stains off of clothing, be it eye makeup, shoe polish, or ballpoint ink. NMP is another all-but-magic solvent, although it usually has a slightly yellow tint and a fishy odor. It is such a potent paint remover that if you spray it on a wall – as many city governments have done for years – you then can use a rag to simply wipe graffiti away.

There is just one complication with both of these modern conveniences: These substances are extremely harmful to your health. In fact, high levels of exposure to TCE in particular can kill you, while NMP causes birth defects, research shows.

That's the reason that the U.S. Environmental Protection Agency, in late 2016, moved to ban many of the ways these two products are used, as well as uses of a third even more toxic chemical called methylene chloride, which has been blamed in dozens of deaths.

This was a revolutionary step by the EPA. For the prior 25 years, the agency had been paralyzed when it came to regulating toxic chemicals, after a court ruling in 1991 had effectively curtailed its ability to remove known hazards like asbestos from the market. But thanks to landmark legislation passed by Congress in 2016, the EPA's powers were now clear again, and it was poised to enter a new era of activity on behalf of the public's health as it aggressively moved to remove from the marketplace widely used chemicals that were known to cause serious health threats or even death.

The pullback on the planned restrictions on toxic substances reflects the massive shift in philosophy that has taken place at the EPA.

"For the first time in a generation, we are able to restrict chemicals already in commerce that pose risks to public health and the environment," Jim Jones, then the assistant administrator for EPA's Office of Chemical Safety and Pollution Prevention, said in December 2016, as he proudly announced the planned ban on certain uses of TCE. "Once finalized, today's action will help protect consumers and workers from cancer and other serious health risks."

At least that was the plan. But then came the Trump administration. More than two years later, no final action has been taken on any of these three proposed bans. And while the agency has said it soon intends to move at least on methylene chloride, no action is currently planned for TCE or NMP, despite the well-established public health threats associated with both these chemicals.

Similarly, on pesticides, the Trump-era EPA rejected a proposed ban on the use of chlorpyrifos, which is used on more than 60 crops, particularly in California, and has been blamed for sickening farm workers and causing development disabilities in their children. Instead, the EPA has agreed to simply to do more studies on the threats of chlorpyrifos.

The pullback on the planned restrictions on these substances reflects the massive shift in management and regulatory philosophy that has taken place at the EPA during the Trump era – not just in the way it handles toxic chemicals, but across the agency's public health and environmental mission, from the way it protects clean air and clean water to efforts to combat climate change.



Dry-cleaning shops have long used the chemical compound TCE to remove stains from clothing. JUSTIN SULLIVAN / GETTY IMAGES

This has not simply been the typical pendulum swing that occurs anytime the party in charge at the White House flips.

Jones, the former EPA official, was no tree-hugging liberal. He had spent 30 years at the agency, under both Democrat and Republican administrations, and after he left the EPA in early 2017 he took a job with an industry trade association that represents major industrial chemical companies such as the BASF Corporation.

But well before 2016, it had been obvious to just about anyone who tracked how toxic chemicals are regulated in the United States that the time had finally come for the EPA to make some tough choices – choices that in some cases meant restricting the use of certain chemicals that might be profitable sales lines for the manufacturers. Yet once the agency had documented that specific chemicals were clearly a threat to public health, it needed to be able to move to prohibit their use.

The federal government had fallen so far behind in this task that major retailers like Wal-Mart and Target had become de facto regulators, as they were making decisions to stop selling certain harmful products, including methylene chloride, even before the EPA took action.

As a reporter at *The New York Times* based in Washington, I have had a particular interest in how the EPA regulates toxic chemicals and pesticides, given just how directly decisions related to these products impact the daily lives of so many people in this country – from farmworkers and dry-cleaning shop employees, to homeowners and consumers.

Policy changed ordered by one key EPA official reflected arguments, almost word for word, she had pushed as an industry advocate.

Prior to the election of President Trump, I specialized in writing about corporate lobbying in Washington, looking at such topics as how the pharmaceutical industry worked to kill off any price controls, or how the energy industry successfully moved during the Obama administration to get the ban on the export of crude oil lifted.

Once Trump moved into the White House, I watched his team fill key spots across federal agencies. Every president appoints experts who have views that reflect his own, and these people have work experience in the fields and industry sectors they are charged with helping to regulate.

David McIntosh, a former air pollution attorney at the Natural Resources Defense Council (NRDC), one of the country's most influential environmental groups, took a job early in the Obama administration as a senior legislative adviser to then-EPA Administrator Lisa Jackson. Michael Goo, NRDC's former legislative director on climate issues, soon thereafter joined McIntosh at the EPA and helped Jackson craft what would become the Clean Power Plan; after leaving the EPA, Goo was hired by NRDC as a lobbyist.

So why is it any different that the Trump administration appointed a former American Chemistry Council executive, Nancy Beck, to help oversee toxic chemical regulation, or that the EPA itself is now run by a former coal lobbyist and the Interior Department is run by a former oil industry lobbyist? That is a question I get asked frequently, particularly by conservatives.



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My answer is that both sides – liberals and conservatives – do basically stack the decks, filling key jobs with people who are sympathetic to their world views and committed to executing on that mission. But there is something materially different about this alignment in the Trump era – it is such an extreme flipping of roles, with huge consequences on public policy.

Beck, in her role as a top executive at the American Chemistry Council – a trade association that represents an industry that sells at least \$500 billion worth of products each year – had helped lead the charge against the regulation of certain toxic chemicals and against the rules the EPA intended to use to decide when their use should be banned or restricted.



Deputy EPA Assistant Administrator Nancy Beck (far left) with former EPA Administrator Scott Pruitt at the signing of new chemical guidance rules in 2017. EPA

Within a matter of weeks of her arrival at the EPA, Beck was dictating major revisions in proposed EPA policies detailing how the agency was going to define “risk” and prioritize which chemicals it would examine. The changes she ordered reflected arguments, almost word for word, that she had pushed as an industry advocate. She engineered these changes over the strong objection of long-time EPA professional staff.

And that was just the first of a long series of steps that have been taken that repeatedly suggest the agency is moving, with a certain urgency, to protect the interests of chemical manufacturers.

Consider the letter sent in March 2017 to the EPA by a group known as the Halogenated Solvents Industry Alliance, a trade association that represents makers of TCE and other chemicals. The group urged the EPA to “withdraw the proposed rule” banning certain uses of TCE, arguing that the proposed move by the agency, which was made after years of study, was “based on a very deficient risk assessment.” The industry group backed up this plea with two in-person, private meetings at the EPA headquarters, agency records show.

The chemical manufacturers also asked Squire Patton Boggs, one of the most prominent lobbying firms in Washington, to intervene with the House of Representatives to press the Republican-controlled body to pressure EPA to slow down any ban on TCE, NMP, or methylene chloride.

Soon enough, language had been written into the annual House appropriations report for the EPA asking (although not mandating) that the agency drop the proposed bans, using language that not so coincidentally echoed the pleas that the industry group had made directly to the EPA.

Separately, the industry group joined with other chemical and pesticide manufacturers in challenging the way the EPA evaluates academic and medical research, attacking what critics of the EPA have called “secret science.” The industry group cited what it called “the transparency problem” with the research that the EPA had in part relied on to conclude that TCE contamination of drinking water was a cause of heart defects in newborn children. The “data quality concern” was “sufficient to preclude” the study “from being used as the basis for regulation,” the industry contended.



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So just what has the EPA done?

The major delay in implementing these bans is a victory for the chemical industry. Sales can continue, unimpeded.

As requested by the chemical industry, it is no longer moving ahead with the proposed rule to ban TCE and NMP, and instead has restarted the process to broadly re-evaluate these two toxic chemicals. This has caused a major delay, which as far as the chemical industry is concerned is a victory. Sales can continue, unimpeded.

The proposal to ban the commercial use of methylene chloride as a paint stripper is still being considered, but the draft final rule now awaiting final action by the White House would significantly narrow the ban, according to information collected from environmental groups, as it would likely only apply to sales to consumers, not commercial users of the product.

And the EPA is considering a proposed new rule called Strengthening Transparency in Regulatory Science that would – just as the chemical industry wants – restrict the agency’s ability to rely on certain research, if the data is not publicly available. Scientists and environmentalists have noted that key health research data often cannot be released due to privacy issues. Yet the proposed new E.P.A rule would likely knock out dozens of studies that have found harm caused by toxic chemicals and pesticides and make it harder for the EPA to justify any move to ban or restrict their use.

And what about the apparent conflict of interest that Beck had, as she switched from fighting the EPA to try to block restrictions on certain toxic chemicals to helping run the office that adjudicated these matters?

The Trump-era EPA simply issued two separate “impartiality determinations” that allow Beck to participate in these debates, citing that her “unique expertise, knowledge, and prior experience will ensure that the Agency is able to consider all perspectives, including that of the regulated industry’s major trade association.”



Drew Wynne, of Charleston, South Carolina, who died in 2017 after inhaling fumes from a paint stripper containing methylene chloride.

The regulated, in short, had become the regulators. And then the ethics office had signed off on this role reversal as the new norm.

So what does this mean for public health? Consider chlorpyrifos: About 6 million pounds are sprayed onto fields nationwide each year – particularly on such crops as almonds, alfalfa, and citrus. If President Trump had not been elected, that pesticide would almost certainly now be off the market. The EPA in late 2016 had started the process of banning chlorpyrifos, before Trump's first EPA administrator, Scott Pruitt, overrode that effort in March 2017, just a month after he took office.

Instead, the spraying continues, as do the cases of workers falling ill – and reports of childhood respiratory complications, developmental disorders and lower I.Q.s.

It is a choice the Trump-era EPA has made.



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