Episode Title: First Six Months of the Trump Administration -- A Conversation with James V. Aidala

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Lynn L. Bergeson (LLB): Hello, and welcome to *All Things Chemical*, a podcast produced by Bergeson & Campbell (B&C®), a Washington, D.C., law firm focusing on chemical law, business, and litigation matters. I'm Lynn Bergeson.

This week, I was pleased to welcome back to the studio Jim Aidala, Senior Government Affairs Consultant at B&C and its consulting affiliate, The Acta Group (Acta®), to discuss the first six months of the Trump Administration. We have all been trying to take in and process the many executive orders, presidential directives, and other developments of all sorts coming out of the White House at a head-spinning pace and assess their impacts on the industrial and agricultural chemical community and federal workforce. Jim is a keen observer of presidential and executive level administrative action, having served as the Assistant Administrator of Toxics at EPA [the U.S. Environmental Protection Agency], and in many other senior EPA leadership positions. We discuss presidential actions, their impact on the EPA workforce, EPA actions to date, and a bit about the new MAHA [Make America Healthy Again] Report that came out a week or so ago and its impact on the pesticide community. Now, here is my conversation with Jim Aidala.

Jim, welcome back to the studio. I have been so looking forward to your observations on the first six months of the Trump Administration.

James V. Aidala (JVA): Well, I think that's a little different than looking forward to the first six months of the administration, but we'll do our best.

LLB: Indeed. Now that we're in June and well past the first 100 days of the new administration, what are your quick general impressions so far?

JVA: The good news, from a certain point, unfavorable to the administration, is they're much more organized. That's very clear compared to the first term, where, if people remember -- and I know ancient history in Washington is two weeks ago, let alone four years ago, or whatever, eight years ago, whatever it was -- they had to make a decision on chlorpyrifos in

the first two months by March 31 of their first term or their first year. At that point, there were only two people at EPA who were Trump appointee types: the Administrator, Mr. Pruitt at the time, and his Chief of Staff. That really did limit some of the activity on that decision. I'm not sure it would have been a whole lot different. Again, we're not trying to repeat all that, but it just is an example of how long it took to get things sort of organized.

This time, they had people in place pretty much in the first couple weeks in so-called deputy positions, but they're the nominee-in-waiting. They really had people hitting the streets, not just at EPA, but across many agencies as reported, early on. That was the good news. That let them get organized and have a little more of a sense of what's going on to begin with. Then, Project 2025, even though I don't really think it was an absolute blueprint, but it certainly was more than a bunch of helpful suggestions from a bunch of people, because a lot of the people who wrote Project 2025 were people who had been in the first term and ended up with positions also in the second term, maybe moving around, moving up, moving sideways, whatever. But the whole point is it gave them much more of a sense of what's going on in government and governing, such as it was. That's the positive news.

The bad news was from just -- and when I say bad, I don't mean so much as an opinion, which I may have, but just simply bad news in terms of getting things done -- it's been very chaotic. Cutting staff, having to rehire some, coming in with -- is it a chainsaw? Certainly not a scalpel. If it's a scalpel, which end are you using? It was chaotic and haphazard, and even then, some agencies getting cut by 50 or 100 percent. EPA fared better than that.

But at the same time, there are procedures for all that. And so "We're going to RIF [reduction in force] people." "What's a RIF? We're just going to fire people." "Yes, we can." "No, we can't." Some have to be rehired because somebody wants to make sure the airplanes come down safely and things. All that was, again, part of the chaos for the first six months. It's still ongoing in terms of judicial challenge and what's the real budget going to be. Last but not least, there's a general attack on being a federal employee and agencies, again, some more than others, but whatever you call it -- DOGE [Department of Government Efficiency], or chainsaws, or otherwise -- but it just means there's been a lot of uncertainty, a lot of morale impact -- which I'm sure we're going to talk more about -- and just sort of chaos among the workforce.

LLB: True that on the morale front, because people with whom we have worked, Jim, for decades defining that they are no longer there or are scheduled to leave soon is kind of soul crushing at some level. But maybe speaking more broadly -- given your familiarity with the EPA workforce, your former colleagues at EPA -- how would you characterize the vibe at EPA based on what you're hearing and seeing?

JVA: Sure, morale's horrible; it's almost too easy to say. The federal employees are often a little bit like Eeyore to begin with, "Oh well, here comes a bunch of new political appointees" and things like that, but it's much worse than that as a baseline, number one. Again, things like "We're going to cut all the temporary employees." Temporary employees just meant the newer employees. In some cases, that maybe is the new blood coming in; in some cases, that can be people that you worked really hard to recruit. Scientists, for example, are very important to OCSPP [Office of Chemical Safety and Pollution Prevention], which we know and love. By the time you find a new, willing, fresh Ph.D. to come and be trained and had been there a year and starting to get their legs in terms of how to do a chemical or pesticide assessment, and they're probably one of the ones that were let go. Some people being brought back, but then that also means you have to have people to go make the appeal to, and so on and so forth. That's a problem.

In addition to the attrition rate, which generally baseline has been between four and six percent, a little toward six for EPA just because of the older workforce. Again, that's regardless of any politics (small or big P politics). There have been cuts; there have been retirements; there are people who are just getting out. Again, there's a baseline level of that with a new administration coming in because people are like, "I really don't want to go through another transition, regardless of party. You've got to educate the new people; you've got to put up with their new whims and whimsies." The problem there becomes just accelerating all those dynamics, cuts in retirement, people just deciding not to put up with it, separate from anything on the merits. Then, between that and with Trump 1.0 Administration, it had a real reputation and it was real, with severe distrust between career staff and the political people. The new team has not come in and resolved that conundrum, whether it's fair or unfair, so there's even more distrust, generally, about agendas at a place like EPA, but then in particular, given all this other chaos for the broad workforce dynamic that we've been talking about. It's really just a chasm between the career people and the political people. Some of the senior political -- excuse me, senior *career* people -- are leaving, maybe at an accelerated rate and things like that. It's going to take time to have all that dust settle, regardless of anything on the merits.

LLB: You had noted a bit ago that to some extent EPA might have come out better than other federal agencies. I don't know. In my dealings with OCSPP, I would take you at your word, Jim, for all intents and purposes, that we've lost some key people, but on the whole, EPA OCSPP seems to have done better than other agencies, where much higher percentages might have been lost or they are in the process of losing their people. The folks who *are* there and are continuing to do the work that needs to be done are doing a super job of communicating, managing expectations, because I think EPA appreciates that it's a difficult room to read right now in terms of expectations and deadlines. Much of what we do is deadline-driven -- the PRIA [Pesticide Registration Improvement Act] deadlines, and new chemical deadlines, and deadlines that are court imposed or required by statute that are slipping -- but EPA seems to be trying as best they can, despite all odds, to get the job done. It's very stressful, and the lack of certainty regarding next steps is difficult to characterize and a little bit difficult to manage.

JVA: Again, compared to an agency that had a 50 percent cut of personnel or 100 percent, that's what I mean by comparatively. OCSPP is, even with the cuts at EPA, whatever magnitude -- it's been a little bit hard to tell, because of the way the budget's structured and again what's the real outcome going to be -- but word is, they're supposed to be getting about 130-plus new positions in OCSPP to deal with backlogs of PRIA, and backlogs in getting actions done under TSCA [Toxic Substances Control Act] amendments and so forth -- PMNs [premanufacture notice], as well as just getting the chemical assessment process further moving along. All that's good. But then you've also got questions about, 135 -- and that would be a significant bump; no question about it. That's very helpful.

LLB: No, that's huge.

JVA: But you've got to recruit them; you've got to train them. And then one thing I didn't mention earlier about the whole -- it's hard to tell if it's under the bucket of chaos or just the procedures, given the cuts that you do want to impose, as any leader of the agency or of the government -- there are RIF procedures and things. RIF procedures are a black art. For people who are familiar with pesticides, if you understand the concept of treated articles, it's nothing compared to understanding the RIF procedures. It's that bad, or complicated, I guess, to be a little more neutral term.

You might have somebody who was working in an eliminated program. Let's just pick one example -- it's public record. They worked hard to get rid of all the DEI [diversity, equity, and inclusion] programs. Anything that they thought was a DEI program or affirmatively was called that: "Okay, you're in that program." But you were an Environmental Protection Specialist, of which there are very, very, very many at a place like EPA, as you might imagine. So you were an Environmental Protection Specialist. You've got 15 years of experience as a fed. You spent ten years in the water program, doing whatever they did in the water program, and moved over to some DEI function for the last number of years. Great, right? Okay, that person might -- if they're an EPS, Environmental Protection Specialist, or a Chemist, who knows what kind of designations, right? Those matter greatly now, because under the RIF procedure, that person might bump somebody who's a "mere," quote, four-year employee in OCSPP, who was also an EPS, or a Chemist. That person will have, so-called, "bumping rights," and then might end up over in OCSPP doing chemical and pesticide assessments, even though they've spent all their time learning about the water program or water issues and may not know much about beloved FIFRA [Federal Insecticide, Fungicide, and Rodenticide Act] or TSCA. That's going to be a problem potentially, and all that's going to be part of the uncertainty where, even if you're, "I'm here in OCSPP. Whew, we didn't get cut. That's great! They need me because I'm a PRIA person, I'm a PMN person," all that, but there's still some question about whether you might get bumped as all these things play out. That's just another element of uncertainty hanging over your day-to-day job.

LLB: Right, and also just managing the expectation that there are people there to do the job, but whether the people who are there to do the job know what job they're doing and have the time and supervision to get acclimated to their new roles. All of this takes time. Explaining that to clients and managing our own internal work expectations is challenging for everybody. Separate and apart from some of the administrative, employment, and morale issues that we've been talking about, are there any policy decisions that have evolved or have been communicated that surprise you to date?

JVA: In terms of level of scale, because eliminating ORD [Office of Research and Development] instead of just going after the IRIS program -- the IRIS program: Integrated Risk Information System, I think, is the acronym? Anyway, it was supposed to be a body of people who could then do universal risk assessment following agency procedures, but then it would be a risk assessment sort of an "all of chemical approach" -- that's another term of art for some places -- that then could be applied to a water program, air program, toxics program, and things. That's been controversial for a very long time for a whole bunch of different reasons. But -- and it was no surprise, if you will, that it was on the chopping block.

Okay, new sheriff in town, and they do have some authority to do things. They did get elected. Okay, IRIS is in trouble, but the announcement that they want to eliminate all of Office of Research and Development is a bit of a surprise just because, again, it's kind of a cliché and a little bit snarky to say, "If you didn't have them, you'd still have to invent them," but you need some research to be done in the environmental space, even if you're cutting back, even if you don't believe in the climate programs that Mr. Biden set up, or all kinds of other, again, policy choices that are frankly no surprise. But eliminating all of ORD is going to, shall we say, make a noise. Again, further chaos, because you're going to want to have some research. I was talking to someone who's pretty familiar with it, in the days right after the announcement came out. At first they were told to just walk away from the lab. So if you had animal experiments going on, who's going to feed the critters? They're

just going to die, literally, if they turn off the power to the lab or don't pay the bills. That was addressed, at least, again, in the immediate time.

LLB: Good.

JVA: But again, these are the kind of things. Yes, for even just animal rights arguments, let alone, "Hey, this two-year study was almost 90 percent done, but now -- oh," and problems like that. So all those -- back to the chaos element, and planning element, and doing things with, shall we say, not just an agenda. That's right, you have it because you're in charge, but the sort of planning and implementation of it, that matters! That's some of the issues. That's a little more surprising, coming in with whatever metaphor you want to use: shock and awe, chainsaws. That was a little bit of a surprise.

What is being reversed again is not a surprise, but it's rinse and repeat. There's a policy developed, which is then reversed under Trump, then reversed under Biden, then reversed back again, and things like that, where, again, it's just sort of whipsawing the affected and regulated community. How do you plan around that? Not a surprise that they wanted to reverse the position of Mr. Biden and his team, but simply the fact that, now what, so what? Which, again, isn't a surprise as much as, what's the implication of what's it going to be?

Some of the deregulation things, back to the planning and anticipation of it, we're going to have -- it's not news for a Republican administration to say they're going to reduce the regulatory burdens at all. Even in *my* day, Clinton-Gore Administration, we were reducing regulations, and making them streamlined, and doing better and better public service, but we'll put that aside again. That was very ancient history because it was 25 years ago.

But, at the same time, this group is saying that they want to have deregulation, ten for one: every new regulation has to be offset by ten other regulations that are eliminated. How does that apply to tolerances in the pesticide program? Because that's a regulation, and it grants something that the industry, and growers, and users want. Does that count in the same way as a regulation imposed by the water program, or air program, or something? I guess we better think about the counting rules, and how do you account for the accounting rules, and things like that. Again, it's partly trying to do things with a little more foresight and planning. It's one thing, again, it would be easier to -- if the career staff and political staff get along better, it'd be easier to explain some of these things and maybe come up with a -- devise a policy that balanced some of these priorities out. But again, it's unclear how all that's going to come out at the end of the day because of all these other elements of the moving pieces on the chessboard, I guess. How's the deregulation going to happen, especially for a place like pesticides and chemicals, when they're imposing regulations when they put out an assessment? Again, a tolerance is by definition a rule. Does it count the same as one of those kind of icky rules over in the water program or something? To be determined.

LLB: Right. To your point, Jim, I, too, was surprised with the eliminating ORD part, because IRIS has been the subject of immense controversy for literally decades. So that came as no surprise to me, but I also see some potential upside. I know the dust is far from settled on all of these initiatives, but to the extent that some of the research and development funding program needs might align better if some of the talent, and the resources, and the people are embedded in the program offices, as opposed to detached from them. Do you see some upside there, at least organizationally in terms of mission accomplishment that might be an improvement? But we're very early in this process, and it remains to seen, but I do see some upside there.

JVA: So do I. I mean, when I was at EPA, just as a Program Manager, in the media office, you have these kinds of concerns. What's ORD up to? Are they coordinating with our people on the very same subjects? Or frankly, in whatever practical terms, are they causing us trouble because of what they're up to over there, wherever there is? OECA [Office of Enforcement and Compliance Assurance], regions, and things like that. Project 2025 did talk about some of these things. Some kind of consideration of how to reorganize the whole place makes some sense. It was an idea. Terry Davies, another name from the past, but for Bill Reilly [former EPA Administrator]. As head of the Office of Policy, as AA [Assistant Administrator] for Policy for Bill Reilly, came up with a whole 600-page bill that was going to be how to reorganize EPA by media programs, as opposed to by these silos that had evolved over the years. Because it was sort of sloppily put together when Terry was a very young professional at this place called Council on Environmental Quality [CEQ], where this president named Nixon -- so it starts way back when.

LLB: Mm-hmm.

JVA: The Nixon Administration and CEQ back in the early '70s, which is where -- that's the genesis. That's the origin story of EPA. There are some residual effects, vestigial tails and all kinds of other elements that could stand to be reorganized, and cleaned up, or whatever, again, modified and made more efficient. Yes, the idea of it is not the hard part, as much as how do you do it, and what kind of process do you use to come up with your ideas?

LLB: Yes, and how do you communicate it? Administrator Zeldin was a very early pick in the Trump Administration, which surprised me. I probably read more into it than I should have, but what do we know about Mr. Zeldin? Was he on your radar, Jim?

JVA: I don't think he was on *anybody*'s radar. The Beltway -- inside-the-Beltway -- pick was Andy Wheeler to come back and continue his time as an EPA Administrator, and that obviously didn't happen. It's not clear that Mr. Zeldin had a whole lot of interest in environmental matters. He was a little bit on climate and PFAS [polyfluoroalkyl substance] issues. That last one, of course, is relevant for OCSPP Land. It's certainly not a presence, and from one of the committees, it had jurisdiction over EPA activities and expressed interest in significant ways other than being a member from Long Island, which is not -- Long Island's a kind of pro-environmental world, and I think he would have been a young professional, young man out of college, if I have that demographic and timing right, when aldicarb and the groundwater of Long Island was an issue. Who knows if he ever put three and eight together a certain way?

I do know that he was just generally not one of the names on the short list, if you will, but no one knew what the short list was. So again, that becomes a double unknown. Yes, he was appointed rather immediately, one of the first people to actually get confirmed. Of course, his agenda is pretty clear, given the Trump statements and Trump campaign on climate issues and cutting back, certainly, a lot of the climate programs that Mr. Biden had set up and then also just money, and the infrastructure money. Right now, they'll be in the middle of the clawbacks of trying to get some of that money back, but a lot of that money has been being spent in Republican districts, so that's one of the fights that's underneath some of the current budget fights on the Hill as we speak, as reported. But again, he does know, he seems to be -- he's a lawyer, so some people think that's good, some may think it's less so. I'll leave it at that, since you're speaking here as a law firm, so I guess we should be nice to ourselves.

But at the same time, the agenda is set by the White House for all the agencies, rather emphatically so far. Mr. Zeldin seems to know the main talking points. What's interesting there is in the main talking points when you see him get asked a question at all related to OCSPP work -- pesticides and chemicals -- he basically talks about the backlogs and needing to do more work and get better delivery of decisions to the regulated community and to the public at large. As we talked about before, that's one reason to support a relatively major increase in positions. Again, even though EPA in a lot of different places is getting cut, OCSPP, personnel-wise, will not be, which is pretty impressive in a certain way.

At the same time, he seems not to have the same talking points as -- this became, I think we're probably going to end up talking about MAHA, something tells me, the Make America Healthy Again movement. But to anticipate a little of that, the main talking point about pesticides, for example, is, "We've got to worry about kids. We've got to worry about sensitivity." Did you know -- Lynn, did you know children aren't little adults? Did you know that?

I almost had bumper stickers printed up with that when we worked for Mr. Clinton. I'm sure it was, in some quarters, heard as an annoying phrase, not in a bad way as a parent, but just simply, "Yes, we get it" kind of priority. That's what's in FQPA [the Food Quality Protection Act]. The talking point there is, "For pesticides, we need to worry about sensitivity." We've got that covered. We need to worry about things like the whole aggregation of things that they might be exposed to. We've got that covered, too, and cumulative risk, because chemicals might act similarly. Yes, that's *in* the law. It's not just we *think* about it; it's in the law. I would recommend that in addition to worrying about deadline meeting, which is pretty important, but those are the real fundamental talking points that are absent in the MAHA reporting on -- certainly on the pesticides -- to the extent there is much talk about pesticides in the MAHA Report.

LLB: I think Mr. Zeldin and the administration generally are beginning to populate senior positions at EPA. We don't yet have anyone in OCSPP. It's a tough job, a tough position to fill, lots of different constituencies, skill sets important. Any speculation there -- is it late? It's early June, and we don't have leadership in that position. Does that surprise you at all?

JVA: I'm surprised there's no nominee. It's not surprising that the nomination process can take --

LLB: -- a long time.

JVA: Yes, a fairly long time. In the first term of Mr. Trump, it took two years to get a confirmed AA for other reasons. But again, by that measure, they're still early in the game. It's unusual that it's taken this long without even a nominee on paper, shall we say? Even someone who's been announced that "We'll be submitting their paper to be confirmed," let alone any way station along the confirmation process. But who knows? It is, as you say, it's a tough job. It's an interesting one, and it's an acquired taste. Other than that, it is easy to find people who want to do it.

LLB: Yes. Is there an "other than that"? To your point, Jim, let's talk a little bit about the Make America Healthy Again (MAHA) movement and more precisely the MAHA Report that came out very recently. There's an awful lot going on. I think when Secretary Kennedy ascended to the position that he is now in, there was some legitimate concern about his positions with respect to Big Ag, Big Pharma, chemicals in general. The report that came out is probably both surprising and unsurprising in some respects, but can you tell us a little bit about it?

JVA: Yes, if you look at the introduction, it telegraphs a lot of what's in the, obviously, what's to follow in the larger report, but there are four basic themes. One is that the American diet is horrible and dangerous, full of ultra-processed food, and that's what's foisted upon the consuming public by Big Food and Big Pharma, which then they go into detail along the way in the report. There's a -- the term I always use in my head is there's a soup -- of untested or lightly regulated chemicals and pesticides, and that bucket includes food additives that are regulated, to the extent they are at all, because GRAS [generally regarded as safe] -- assuming food additives have a whole different set of rules and regulations, which are a little more on point about being subject to criticism than pesticides and chemicals, but we can maybe get into that. But basically, regardless, the level of regulation is full of biased and co-opted science, as claimed in the report. I'm not certainly --

LLB: -- No, you're not making this up; it's in the report.

JVA: Yes, happy to rebut those points, but that's what's in there right now. There are manipulated farmers and manipulated regulators, even by the corrupt practices of the affected industries and things. Then there's a little bit about the general: children don't get outside, they don't get enough exercise, they spend too much time on their devices, the social media, social element of modern American life. Separate from being, again, the result of Big Food or Big Pharma, although some of that is encouraged by Big Pharma, going to the *last* point they raised, which is that the medical establishment overmedicates and overdiagnoses people in general, but kids in particular.

Look at the rates of autism going up, diagnosed autism, or diagnosed attention deficit disorders, and things like that, suicidal thoughts. It's a combination of everything from perhaps some of the chemicals in the food supply, as well as the environmental exposures from the world around us, and again, back to social media and the way we currently run our society, for lack of a better phrase. It's a real wholesale attack on modern life, in a certain way, and especially some of the major institutions that we live with currently.

LLB: I know the report has only recently come out, and there was some question about the report, who authored it, and there is some confusion on some footnotes, I know. But aside from the report and its rollout, have you had time to digest the substance? And more to the point, what are some of the reactions from the various regulated community sectors to it?

JVA: Government-wise, the main players -- FDA [U.S. Food and Drug Administration], EPA, and USDA [U.S. Department of Agriculture], right, the farming element in food -- we do live in a world, and this is back to the point about -- there are some real legitimate criticisms about regulating food. One of them -- I mean, I can't count back far enough, given my 50-year career in this issue set, the number of times we've heard that we need a single food safety agency. It makes no sense that a cheese pizza is regulated by an entirely different bureaucracy than a pepperoni pizza, and that's a true fact --

LLB: That's true, right.

JVA: -- and one that is very weird, and is, I guarantee you, no matter, you can be the biggest advocate of FDA or USDA or all the various bureaucracies and everything else, and explain that to your neighbor why it makes sense that a cheese pizza is regulated by a different bunch of people than a pepperoni pizza. There can be an answer to that question, but it's not one that satisfies your neighbor, if you will, because they're just average citizens going, "That doesn't make any sense to me."

Along the way, part of that -- and part of the explanation when you dig down into that -- is the history of bureaucracy, the rivalries on the Hill, even between and among committees, some of the regulated industries that have something to say about any such ideas, and things like that. You end up with -- again, this is something in the MAHA Report, which is stressed quite a lot -- which is regulatory capture: that the political system and the regulatory system is -- especially criticizing FDA -- captured by the regulated entities, both medical and food.

As a result, we don't have these more commonsense solutions to some of these problems. No one knows what the commonsense solutions might be. They offer things and are generally saying things like, "We need to eat healthier." I'm not sure anyone would disagree with that sentence per se, but what's that mean operationally, and separate from criticism of the way the current system regulates (or lack of regulation of) food, or medicine, or approval processes? All that is part of this -- I think it's 68 pages, if I remember correctly?

LLB: It's not super long.

JVA: Right. My response to it generally is, yes, certainly legitimate criticisms are being raised, but there's usually, again, like many things in Washington, there's a long-winded explanation to a very short, curt, reasonable criticism, again even back to cheese pizza, pepperoni pizza. "That's stupid." Okay, what do you do about it? How do you then get into why that has evolved that way, and what would you do to fix it?

LLB: I think some of the folks with whom I've spoken have characterized their general impressions as like dodged a bullet, could have been a whole lot more damning, or could have been a whole lot worse than it is. Is there -- are you picking up any of that in regulated trade associations, for example?

JVA: At Pesticides, if you search for the word *pesticide*, it only comes up a couple of times. There's only three that are named in it: chlorpyrifos, atrazine, and glyphosate. It reminds me of something I've said for a long time -- again, my snarky side -- saying, "Never have a pesticide name which is pronounceable because you're more likely to become in the public eye." Obviously, there are serious issues behind all those three, as well as others. I was a little surprised it wasn't a little more specific about -- and I'm not going to name any. I'm like, it's not so much I don't want to give them ideas, but they're out there in the public. It's not the first time those three, and then even larger categories and other names of chemicals, have come up. I was just surprised that it was that relatively limited while you're trying to say the entire food supply is suspect.

Back to my point earlier about, "But we need to look at whether pesticides that act similarly." We do that, with all due respect to Mr. Zeldin. It's a point of defense that EPA could have made. I guess one of the things that you asked about in effect along the way is it seems as though there's a real -- again, not to sound blithe about it -- but a classic, real, hardcore left critique of government, left side, left-wing attack of government. Notwithstanding the extent we have strong laws or exhaustive review processes and all that, some people think it's still not enough. "We ought to have more of a precautionary principle, like they use in Europe. Then we ought to have more stringent requirements, even though," whatever -- you could add up the long list of conservative assumptions that are already put in place about a chemical or pesticide assessment. At the same time, you could always do more. At the end of the day, this is what a regulator faces every day of their life: you cannot prove a negative.

I can't tell you that someone claims chemical *X* or pesticide *Y* causes blank -- causes people to die earlier, to get cancer, to have more attention deficit disorders, or whatever. I can't prove absolutely that this chemical or pesticide exposure does not do that. I cannot prove a negative. So a lot of what you go with as a regulator is -- what law do I have? What's my authority? What have I done to implement these standards? Because by definition, no one has a law that says, "Let's go make unsafe chemical or food." They say, you want to be protective of the public. You want to be safe. You want to do all these other good things, but how do you implement that? That's the nature of what the government's supposed to do.

Again, pesticides are cited, but just a couple names. It's a broad critique. Chemicals -- there are not even too many specific chemicals mentioned -- but again, it's just the broad, a classic, not to sound too casual about it, but the classic critique. There are endocrine disruptors; there are cancer-causing chemicals. What about the effects on children? They do have some occasional mention -- especially in the endocrine disruptor category -- about phthalates and stuff, materials that are not new to that discussion.

I was looking at the footnotes, which are always interesting reading in almost any document, but in this one, you've got -- you mentioned one thing, which is what are the sites? Some of them are phantom sites, or they're AI [artificial intelligence]-generated. Put that criticism aside, but the ones that are very clearly there are ones that have been around a long time, on endocrine disruptors and some work done by ORD, not to mix up the stuff we talked about earlier. All kinds of issues have been long in that space, but it's all tied together in a picture, back to my starting point, about the overall that Big Food and Big Pharma, and our diet is horrible and causing all kinds of harms. To me, it was a lot of the classical critique of current regulatory, both the regulatory reach of the statutes and the regulatory implementation by the agencies. But then bolted on every now and then, you'll see this sentence that says, "But by the way, farmers are great."

LLB: Right, I did notice that.

JVA: Yes, farmers only do good things. They are the salt of the earth, if you will. I'm sort of a yeoman, yes, Jeffersonian yeoman farmer, even though being manipulated by Big Ag and Big Food, and the result is this horrible diet, and things like that. That was a weird kind of juxtaposition because it -- the sort of, "But this is really terrible. All these things are really bad in the American diet or American system." But "By the way, the food supply is safe. By the way, farmers are really nice and really work hard." It's just sort of a weird -- in my head, as I read the thing, I could hear it in the interagency review process, someone complaining about this: "You can't bad-mouth farmers." "Oh, okay. We'll put in a sentence about farmers are really good."

LLB: Farmers are great, right.

JVA: Yes, farmers are great. Okay, then what about the previous 15 pages, where you said everything in the food supply is going to be hurtful? Yes, whatever. Again, this is a draft, technically, so maybe they'll fix some of that as it goes through the public review process. But it was really interesting to see that bolting-on process, as I thought about the interagency review process, which I'm sure it went through to some extent. I mean, if you look at the list of authors, it's listed, it is basically the Cabinet --

LLB: Exactly.

JVA: -- are listed as, quote, "the authors," so they're technically representing the entire agencies about which is their jurisdiction.

LLB: There's certainly much in the report that raises questions but doesn't answer them, identifies issues, but some of which are presented in a way that, to your point, Jim, are quite controversial and somewhat internally inconsistent. But it is what it is. It is causing quite a stir and almost inevitably will have consequences. I'd like you to speculate on what some of the implications of the report could be on OCSPP.

JVA: Three or four things, I guess. One is, it was not unlike a bill for pesticides, for example, a bill put in by Senator Booker, past number of sessions in Congress, which basically says here, two things. One is -- and this is something Mr. Trump said on the campaign trail, too: "Why are we using chemicals that they can't use in Germany?" Good question. The answer in part is, all those cotton chemicals, because they don't grow cotton in Germany, but that's an aside. But it's more that, yes, we have a different regulatory standard and regulatory approach. If you look at the fine print of what the EU [European Union] does, they use a lot of the same things that are officially banned by what we would otherwise have in our system, the emergency exemption process, and things like that. At the end of the day, though, we have a different system, and reasons for that. It's fair to ask that question. That's the fair part.

One of the good -- to me, the biggest criticism in the pesticide space, which is always hard to answer – is, "Hold it. But maybe I can be convinced that your thorough assessment of a pesticide is adequate, thorough, well thought out, worries about children, all the things that we talked about." There are also so many -- not only the fact that there's 1,100 active ingredients and 40,000 formulations, but one crop may have six or eight chemicals on it, certainly three or four, an herbicide, and an insecticide, maybe a fungicide, and it may be something for while they're storing the crop or some treatment in the silos, if it's a stored grain. All true.

Does anybody really look at all those at one time? The answer there is very opaque. No one really says, "Is this production system making a grain, which uses an herbicide, an insecticide, and then something fumigating the silo before or after storage?" Someone looked at all those, and the answer is not specifically in most cases. There's some level of effort by -- for example, a food company might have a question and have at least asked a question about it and done enough of an evaluation in their head to say, "No, not a problem." But does EPA have a set of all the possible combinations of 1,100 active ingredients? As you might imagine -- I forget my binomial distribution formula in my old age -- but that's a whole lot of possibilities, so it is context specific.

At the end of the day, as a regulator, you come back to saying, we basically make sure each individual exposure is safe, by law, in terms of what's in the food supplies and residue. A whole bunch of safe things equal a safe outcome. I think that's fundamentally correct, but someone can raise that question, and I can't prove a negative, as we discussed. I can't prove a negative that some strawberry with 12 different chemicals on it -- and strawberries from Florida tend to have more uses than some other food crops. Yes, I can say that we've tested whether someone who eats strawberries with 12 different chemicals specifically, what that's going to do. We do know that the residues are within safe levels. We know that each one individually doesn't contribute to a risk that we're concerned about, and so on. It can't prove a negative. So that's the kind of thing where --

LLB: -- Mm-hmm.

JVA: -- it's a valid criticism. There's an answer to it. The answer is for real, but it sounds like you're starting to tap dance as a bureaucrat. Should we do more? Back to the precautionary principle that the European system is characterized as having. Don't you want to be precautionary, too? Our answer is "We are." Look at all this stuff we make a pesticide or chemical go through before it gets approved, before it's used in any kind of wide way. Yes, that's pretty precautionary.

No, no, theirs is this other way. If there's any kind of hazard -- what's this exposure stuff? We don't need to wait until there's exposure. We just want to do hazard. There's a counterargument to that. But again, "Preventing hazard, that sounds good. Can I have some of that?" You can, but then you might have higher food prices, and less flexibility of the crop production systems, and things like that --

LLB: -- and fewer crop technologies, right?

JVA: Right, exactly. So, and underneath it, there's no full frontal attack on genetic modification, GMOs [genetically modified organism] and things, but it's there. It's embedded in there. In my personal and professional opinion, a large fraction of the glyphosate debate is really about the GMO space and GMO crops. But again, that's not today's discussion, so we'll let that one go.

It does do some shout-outs about, again, chemicals being tested in the high-production volume program that we had at the end of Clinton-Gore years and early years of Bush, Bush Jr., and things like that. There's some acknowledgment of some of the things that go on. There's some criticism about how it could be better. Some of that is still going to come up in terms of chemical testing because the chemical testing record is still pretty thin, relative, certainly, to pesticides. There are reasons for that. Pesticides have to have the full set of data before they get their approval. That's a big difference between the chemical side of OCSPP and the pesticide side. You don't want to have -- it's bad enough from a certain point of view, bad enough meaning intense enough, having 1,100 active ingredients versus the 40,000 chemicals all being separate. You're not going to have the Part 152 requirements for 40,000 chemicals. You would literally be blowing up the world by expense and regulatory barriers and some other kinds of things.

What's appropriate? Fair question. That's one of the good things perhaps. To the extent this is going to focus attention on those questions, that's good, always good. It's -- even asking clients -- it's okay to ask reasonable questions, and the public should be asking reasonable questions of the government or of the people selling the product. Question where are those boundary lines? My definition of appropriate, being a policy wonk, it may be different than somebody who's just, "I don't know why this chemical is in my fill-in-the-blank product." There may be a solid answer to that.

LLB: Beyond OCSPP -- and clearly the report does have implications for it -- I see potential for a great deal of change in the FDA food additive space and the GRAS area. It's not like the report is a blueprint for change, but it certainly raises questions regarding whether GRAS has outlived its utility, and it's a concept whose time now needs to be reevaluated. There's already movement in the food additive and color additive space, which is, I think, a target of Mr. Kennedy's concern. Lots going on, and many of our clients have expressed interest in following that space, because it's an important one for our clients who have stakes both in the agrochemical, industrial chemical, and Food and Drug Administration areas. So, lot's going on.

JVA: Right, and take a ticket. Not to be casual about it, but this has been an old criticism of that part of FDA, for sure, with food additives. That section of the statute, that's the part that was left behind. We fixed 408 for pesticides, but 408 is fundamentally the same as it's been for a very long time on the not-pesticide side of food additives. That's where a lot of this controversy comes about who all has looked at it. If anybody who's an independent -- even if you believe FDA's staff and systems are all corrupt or whatever phrase, captured, regulatory captured, talked a lot about in the report. Okay, but what is this professional, sort of self-certified bunch of people who get to do these things? That's just kind of a -- sounds like a weird system. It made more sense, maybe, in 1962 or '58, or whenever, but it certainly by today's standards seems to be a little thin. At the same time, there's literally a list your elbow long on GAO [U.S. Government Accountability Office] reports talking about the problems of how we should have a single food agency or a single food law. Those are some of the things that would improve these systems you're talking about.

LLB: Never a dull moment, lots to think about, and much more to come. Jim, we'll have to have you back toward the end of the year to catch up from this point going forward, because I think the report's important and does portend some significant changes, both at EPA and at FDA.

JVA: I think by the end of the year, we'll have fixed all these problems --

LLB: In your dreams!

JVA: -- we'll have Teslas driving themselves all over, so we'll be a more productive and healthy society. Isn't that what Mr. Trump has promised, like every other first-year president?

LLB: I want to remind our listeners that you contribute often to our Public Policy and Regulation Blog™. Your thoughts are always welcome, Jim. You have many of them, and you speak with an abundance of experience, and your perception and perspective on these issues are always very valuable. Thanks for joining me today. I appreciate it.

JVA: My pleasure, and like almost any good issue in Washington, stay tuned, sports fans.

LLB: Exactly right. Thanks, Jim.

JVA: You're welcome.

LLB: My thanks again to Jim for speaking with me today about the new administration and key issues to date impacting the industrial and agricultural chemical community and the federal workforce.

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