

# TOXIC SPENDING

The Political Expenditures of the  
Chemical Industry, 2005-2012

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### EXECUTIVE SUMMARY

The chemical industry's successful campaign to prevent Congress from strengthening the Toxic Substances Control Act—which has not been updated since it was passed in 1976—has been accompanied by a growing surge in political expenditures. From 2005 through September 2012, the industry gave \$39 million to candidates for federal office, and from 2005 through June 2012 it spent \$333 million on lobbying at the federal level.<sup>1</sup> Since December 2011, the chemical industry has also spent at least \$2.8 million on political advertising in at least nineteen different campaigns.<sup>2</sup>

These three avenues of influence—campaign contributions, lobbying expenditures, and political advertising—have played an important part in the industry's campaign to convince lawmakers and voters that the environmental and public health benefits of strengthening TSCA and other regulations would be outweighed by economic costs.

In 2010, the chemical industry gained a powerful new avenue of influence when the U.S. Supreme Court's ruling in *Citizens United* threw out a century-old ban on corporations and unions spending money on electioneering. Since then chemical companies and a few very wealthy chemical executives have contributed more than \$23 million to Super PACs and other outside groups spending money on the 2012 elections.

## THE CHEMICAL INDUSTRY & THE 2012 ELECTIONS

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Since the beginning of the 2011-12 election cycle, the chemical industry's trade organization the American Chemistry Council (ACC), representing industry giants like Dow Chemical, Dupont, and Exxon Mobil, has reported spending \$2.8 million on political advertising. This represents both a major investment in a number of closely contested races (see Figure A) and in the campaigns of a number of Senators who are not on the ballot this year, but who have been allies of the chemical industry.

The Federal Communications Commission opened a new—albeit small—window onto political ad spending in August 2012 when it began requiring the nation's top 50 TV markets to report ad spending by candidates and political parties to the FCC. But tracking the full extent of ad spending by an entire industry is challenging for several reasons.

First, the FCC's database is only searchable by station, not by state or by entities making expenditures. Second, spending by third-party advertisers including PACs, groups registered as nonprofits, and "issue advocacy" groups is only reported in the 30 days before a primary election and in the 60 days before a general election. And another category of groups who call themselves "social welfare organizations" don't have to register with the Federal Elections Commission at all and, therefore, do not have to disclose their political spending.

As noted by the Sunlight Foundation, requiring disclosure from just the top 50 stations can leave the public in the dark about the extent of spending in many regions of the country, especially in swing states with smaller TV markets. According to Sunlight, in four of the swing states considered key in this year's general election—Colorado, Wisconsin, Iowa, and New Hampshire—fewer than half of presidential ads would be disclosed on the FCC database.<sup>3</sup>

The FCC's current disclosure requirements also fail to capture spending on cable television. Yet some of this information is available on the ACC's own website, in press releases announcing cable TV buys in support of Sen. Dean Heller (R-NV) and Sen. John Barrasso (R-WY) this year.<sup>4</sup> These ads can be found on YouTube.<sup>5</sup>

Despite limited disclosure, we do know that in states across the country voters are being flooded with chemical industry ads supporting candidates who are "fighting for jobs," "fighting to increase domestic energy production," "supporting small business," and "cutting government regulation."

In Des Moines, Iowa, for instance, voters have been inundated

with over \$111,000 in ACC commercials supporting the reelection of Rep. Tom Latham (R). In Louisiana, the industry has spent \$305,000 in support of Sen. David Vitter (R) and \$128,000 in support of Rep. Cedric Richmond (D). And in Grand Rapids, Michigan, the American Chemistry Council has spent more than \$200,000 to convince voters to reelect House Energy and Commerce Committee Chairman Fred Upton (R).

And that's where things get interesting.

The House Energy and Commerce Committee has jurisdiction over much of the chemical industry's legislative agenda. Behind the industry's calls for "jobs," "small business," and "domestic energy" the beneficiaries of some of its biggest expenditures on advertising and campaign contributions will have an important say in whether Congress moves to strengthen TSCA and whether it moves to strengthen federal regulation of another area of great interest to the industry—the boom in hydraulic fracturing, or "fracking," for natural gas.

## SHOW ME THE MONEY

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To the average American household, a couple million dollars is quite a lot, but for an industry with \$760 billion in annual revenues,<sup>6</sup> two million spent on commercials is only one small stream trickling into a broader river of influence. Since 1990, the chemical industry has donated \$117 million to candidates for federal office. From 2011 through September 2012, the chemical industry contributed \$10 million to candidates for federal office.

And when companies max out on their contributions to a candidate, they can give even more by contributing to the Political Action Committees of congressional leaders. In the 2011-12 election cycle, chemical companies gave \$388,000 to congressional leadership PACs.

Back in Washington, there is, of course, money to be spent on lobbying officials once they gain office. According to federal lobbying records, the ACC spent \$10.8 million lobbying Congress in 2011. The ACC ramped up lobbying spending in 2012, spending \$14.2 million in the first half alone. But again, that is only a small part of the lobbying story.

On top of that, many corporations in the chemical industry did their own direct lobbying, including \$7.8 million by Dow Chemical and \$4.8 million by DuPont. In all, chemical corporations spent \$52.5 million lobbying Congress last year. In the first half of 2012, the industry spent \$29.2 million, for a total of \$81.6 million to lobby the 112th Congress (see Figure C).

Since 2010, large contributions from just a few companies and executives have made the chemical industry the second-leading source of independent political expenditures. Of the \$23 million given by the industry, \$18 million has come from Conran Corporation and its CEO, Harold Simmons. Other major contributors are Jon Huntsman, Sr., with \$2.2 million; Melaleuca and its CEO, Frank L. VanderSloot, with \$1.1 million; Stephen Chazen of Occidental Petroleum with \$275,000; and PVS Chemicals with \$110,000.<sup>7</sup>

(EPA) to collect toxicity data on chemicals and create rules for those chemicals found to be dangerous. As far back as 1994, Congressional leaders began asking the Government Accountability Office (GAO) to study the law’s ability to limit the manufacture, distribution, and use of toxic chemicals.<sup>8</sup> The GAO found that the “act’s legal standards are so high that they have usually discouraged EPA from using these authorities.”<sup>9</sup>

In fact, the law is so weak that when the EPA tried to regulate asbestos, a known and dangerous carcinogen, industry took them to court and won.<sup>10</sup>

Since 2005, committee leaders in both the House and Senate have promoted new legislation to strengthen TSCA and broaden the scope of our chemical safety system. Of the 80,000 chemicals on the market in this country, the EPA requires testing for only about 200.<sup>11</sup>

## SAFE CHEMICALS ACT

First passed in 1976, the Toxic Substances Control Act (TSCA) authorized the Environmental Protection Agency

FIGURE A: CHEMICAL INDUSTRY EXPENDITURES ON POLITICAL ADVERTISING IN 2012

| Office       | Name            | Party | State | Ad Spending        |
|--------------|-----------------|-------|-------|--------------------|
| Sen.         | Tommy Thompson* | R     | WI    | \$648,600          |
| Rep.         | Gene Green      | D     | TX    | \$330,979          |
| Sen.         | David Vitter    | R     | LA    | \$305,253          |
| Rep.         | Tim Murphy      | R     | PA    | \$273,902          |
| Rep.         | Fred Upton      | R     | MI    | \$203,104          |
| Rep.         | Jim Matheson    | D     | UT    | \$161,306          |
| Rep.         | Cedric Richmond | D     | LA    | \$128,816          |
| Rep.         | Ed Whitfield    | R     | KY    | \$124,579          |
| Rep.         | Tom Latham      | R     | IA    | \$111,423          |
| Sen.         | Lisa Murkowski  | R     | AK    | \$103,806          |
| Rep.         | Mike Simpson    | R     | ID    | \$86,068           |
| Sen.         | Scott Brown**   | R     | MA    | \$81,080           |
| Rep.         | Hal Rogers      | R     | KY    | \$71,459           |
| Rep.         | Dave Camp       | R     | MI    | \$61,737           |
| Sen.         | Joe Manchin     | D     | WV    | \$60,422           |
| Rep.         | John Shimkus    | R     | IL    | \$57,507           |
| Sen.         | Mike Johanns    | R     | NE    | \$20,549           |
| <b>Total</b> |                 |       |       | <b>\$2,830,590</b> |

Data compiled from CMAG/Kantar Media, the FCC, and the FEC.

\* Data on Tommy Thompson from FEC reporting of spending by the ACC: <http://query.nictusa.com/cgi-bin/dcdev/forms/C90011578/808671/f57>

\*\* Expenditure on behalf of Sen. Scott Brown was paid for by the “Coalition for American Jobs”, an entity affiliated with the American Chemistry Council and the American Petroleum Institute.

## CHEMICAL INDUSTRY TIES WITH NATURAL GAS

The American boom in high-pressure hydraulic fracturing, or “fracking,” also presents tremendous opportunities and risks for the chemical industry. Obtaining gas through fracking requires large amounts of “fracking fluid”—a mixture of dozens of chemicals whose effects on groundwater quality are still being studied by the EPA. Many states now require disclosure

of the chemicals used in fracking but grant exemptions for chemicals that companies deem to be proprietary information, or “trade secrets.”

Natural gas obtained from fracking will rise from 16 percent of all U.S. natural gas production in 2009 to 45 percent by 2035, according to the U.S. Department of Energy.<sup>12, 13</sup> And after gas is removed from the ground, it can be sent to a chemical plant to help make more complicated chemicals that end up in consumer products.

**FIGURE B: TOP 25 RECIPIENTS OF CAMPAIGN CONTRIBUTIONS FROM THE CHEMICAL INDUSTRY IN 2011-2012\***

| Recipient              | Party | State | Office Sought | Contributions |
|------------------------|-------|-------|---------------|---------------|
| Rep. John Boehner      | R     | OH    | House         | \$127,950     |
| Lt. Gov David Dewhurst | R     | TX    | Senate        | \$124,000     |
| Josh Mandel            | R     | OH    | Senate        | \$120,520     |
| Sen. Tom Carper        | D     | DE    | Senate        | \$98,227      |
| Sen Bob Corker         | R     | TN    | Senate        | \$94,190      |
| Rep. Fred Upton        | R     | MI    | House         | \$80,100      |
| Rep. Eric Cantor       | R     | VA    | House         | \$78,800      |
| Sen. Dean Heller       | R     | NV    | Senate        | \$60,600      |
| Rep. Peter Hoekstra    | R     | MI    | House         | \$59,100      |
| Rep. John Shimkus      | R     | IL    | House         | \$57,749      |
| Rep. Charlie Dent      | R     | PA    | House         | \$52,750      |
| Rep. Pete Olson        | R     | TX    | House         | \$52,749      |
| Rep. Tim Murphy        | R     | PA    | House         | \$52,550      |
| Rep. Gene Green        | D     | TX    | House         | \$50,100      |
| Sen. Orrin Hatch       | R     | UT    | Senate        | \$46,500      |
| Sen. Joe Manchin       | D     | WV    | Senate        | \$46,200      |
| Sen. John Barrasso     | R     | WY    | Senate        | \$45,798      |
| Rep. Ed Whitfield      | R     | KY    | House         | \$44,000      |
| Rep. John Barrow       | D     | GA    | House         | \$42,500      |
| Rep. Joe Heck          | R     | NV    | House         | \$40,850      |
| Rep. John Kline        | R     | MN    | House         | \$40,000      |
| George Allen           | R     | VA    | Senate        | \$37,500      |
| Sen. Sherrod Brown     | D     | OH    | Senate        | \$36,980      |
| Sen. Scott Brown       | R     | MA    | Senate        | \$35,950      |
| Rep. John Dingell      | D     | MI    | House         | \$33,000      |

\*Through September 30, 2012

A March 2011 ACC study laid out the importance of fracking for the chemical industry:

*Access to vast, new supplies of natural gas from previously untapped shale deposits is one of the most exciting domestic energy developments of the past 50 years. After years of high, volatile natural gas prices, the new economics of shale gas are a “game changer,” creating a competitive advantage for U.S. petrochemical manufacturers, leading to greater U.S. investment and industry growth.*<sup>14</sup>

And in a September 2012 letter to Sen. Ben Cardin (D-MD), the EPA cited TSCA as one source of statutory authority for regulating and determining the toxicity of chemicals used in fracking.<sup>15</sup>

A November 2011 report by Common Cause found that oil and gas companies engaged in fracking had spent \$747 million over ten years as part of campaign to convince federal officials to ignore the dangers of fracking and to preserve the “Halliburton loophole,” a provision that Vice President Dick Cheney inserted in the 2005 Energy Act exempting fracking from EPA review.<sup>16</sup>

## INDUSTRY: A PUBLIC FACE, WITH HIDDEN ACTIONS

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Since the introduction of the first bills to reform TSCA, most of America’s chemical companies have used their trade association, the ACC, as their public face. At first the ACC opposed any changes in chemical regulation. During an early hearing on the 2005 version of a bill, an ACC representative told Senators:

*The statute itself has proven effective and remarkably adaptable to changing needs and priorities. TSCA works, and it works well, and the facts support that conclusion.*<sup>17</sup>

But it became impossible to defend the credibility of that statement as more than 18 states passed chemical-related laws, explicitly citing the lack of meaningful federal protections.<sup>18</sup> Similarly, companies like Walmart and Staples began to implement their own chemical policies to weed out some of the worst chemicals from their supply chains, citing a collapse in consumer confidence in the federal system. So the ACC publicly changed course in 2009 and endorsed reform of TSCA, even proposing their own principles for reform.

But as pressure has mounted for action on the Safe Chemicals Act, industry has maintained a public face of cooperation while working diligently behind the scenes to stall and defeat

reform. In 2012, although Sen. Frank Lautenberg (D-NJ) reworked legislation to strengthen TSCA to reflect months of input from chemical companies, the ACC worked hard to prevent Republicans from joining him in a compromise, even mounting an extraordinary campaign to punish some of their own members for participating in such efforts. Nevertheless, in their statement at the time of the vote, ACC expressed its commitment to reform:

*“ACC and our members are committed to working with the Senate Committee on Environment & Public Works to pursue reform of the Toxic Substances Control Act (TSCA), and have demonstrated our commitment time and again.”*<sup>19</sup>

In July 2012, legislation passed the committee in spite of this campaign, though without Republican support. Industry contributions in the current election cycle have gone predominantly to Republicans, who have received 78% of the total, compared to just 22% for Democrats.

In June 2012, the *Chicago Tribune* exposed a complicated web of relationships—beginning with a partnership between the tobacco industry and the State Fire Marshalls Association—to promote the use of flame retardant chemicals in the early 1990s.<sup>20</sup> At that point, the tobacco industry was trying to avoid “fire-safe cigarette” legislation, so instead they promoted the increased use of flame retardants in furniture and consumer products to prevent fires. By teaming up with the State Fire Marshalls Association for added credibility, and by funding this Association, the chemical and tobacco industry found mutual benefit in their successful regulatory efforts to increase the use of flame retardants.

Later, as the science began to emerge that many of these flame-retardant chemicals are not safe for human health, build up in the human body, and can be found in breast milk, the chemical industry set up a front group called “Citizens for Fire Safety” to oppose state-imposed limitations on their use.

As concerns about the dangers of these chemicals have grown, Citizens for Fire Safety has fought state efforts to limit flame retardant use in various state legislatures, using images of burning buildings and a variety of ethically-challenged lobbying practices. Citizens for Fire Safety even went so far as to pay a doctor to travel from state to state to tell a false story about how a lack of flame retardants led to the burn death of an infant in her crib.<sup>21</sup> The funders of “Citizens for Fire Safety” have been, since its founding, the three major flame-retardant manufacturers: Chemtura, Albermarle, and ICL Industrial Products.

The *Tribune* series detailed an industry that would go to significant lengths to promote its agenda, and, of course, would spend heavily on lobbying, campaign contributions, and paid media to make its case.

FIGURE C: CHEMICAL INDUSTRY FEDERAL LOBBYING EXPENDITURES FOR 2005-2012

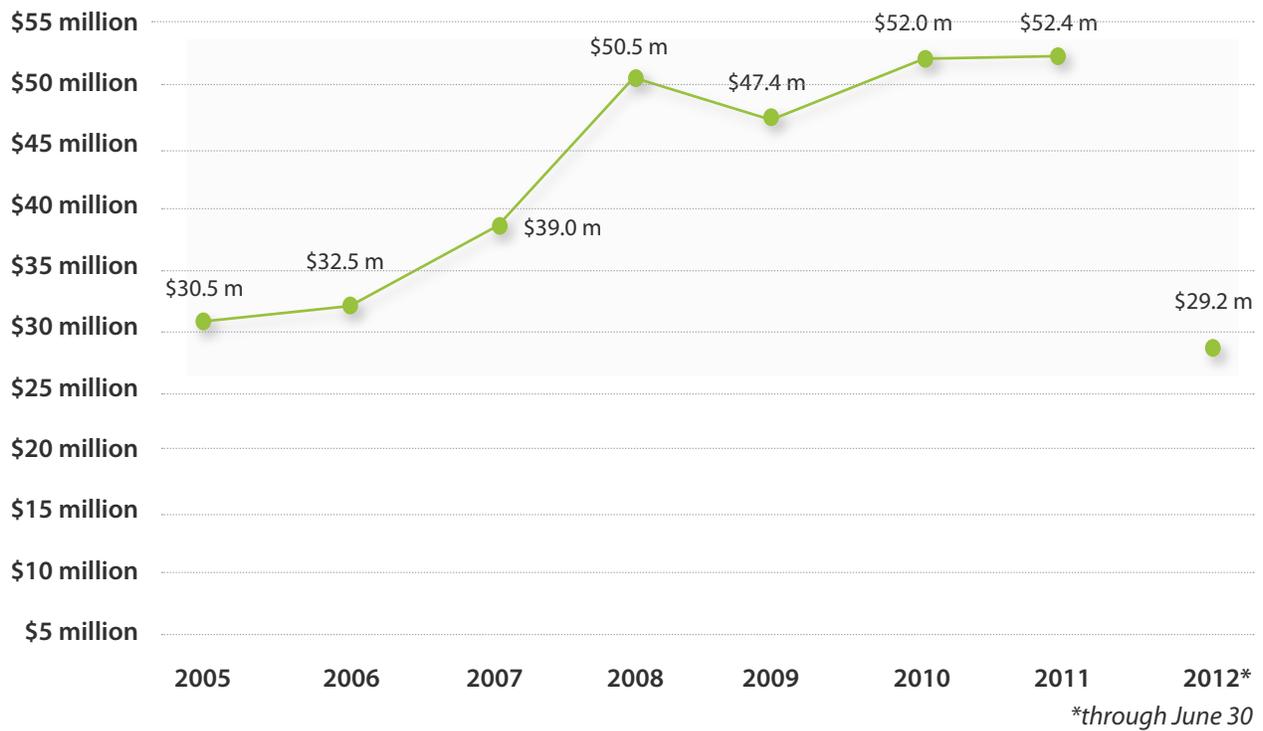


FIGURE D: CHEMICAL INDUSTRY CAMPAIGN CONTRIBUTIONS FROM 1990-2012

| Year         | Contributions from Individuals | Contributions from PACs | Total Contributions  | % to Dems  | % to Repubs |
|--------------|--------------------------------|-------------------------|----------------------|------------|-------------|
| 2012*        | \$7,199,119                    | \$3,186,630             | \$10,385,749         | 22%        | 78%         |
| 2010         | \$4,906,685                    | \$3,694,473             | \$8,601,158          | 36%        | 64%         |
| 2008         | \$9,759,077                    | \$3,499,984             | \$13,259,061         | 35%        | 65%         |
| 2006         | \$4,180,863                    | \$2,791,456             | \$6,972,319          | 22%        | 78%         |
| 2004         | \$5,429,199                    | \$2,356,591             | \$7,785,790          | 21%        | 79%         |
| 2002         | \$2,609,724                    | \$2,195,785             | \$4,805,509          | 22%        | 78%         |
| 2000         | \$4,379,458                    | \$2,069,087             | \$6,448,545          | 21%        | 79%         |
| 1998         | \$2,563,936                    | \$1,607,506             | \$4,171,442          | 23%        | 77%         |
| 1996         | \$3,219,395                    | \$1,745,825             | \$4,965,220          | 24%        | 76%         |
| 1994         | \$2,386,085                    | \$1,719,239             | \$4,105,324          | 33%        | 67%         |
| 1992         | \$2,748,007                    | \$1,544,806             | \$4,292,813          | 28%        | 72%         |
| 1990         | \$1,209,649                    | \$1,670,402             | \$2,880,051          | 27%        | 73%         |
| <b>Total</b> | <b>\$50,591,197</b>            | <b>\$28,081,784</b>     | <b>\$117,891,268</b> | <b>26%</b> | <b>74%</b>  |

\*Through September 30, 2012

## CONCLUSION

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Since passage of the Toxic Substances Control Act in 1976, the debate over disclosing and reducing the risks that certain chemicals pose to human health and the environment has been dominated by two important trends. The first is the growing body of evidence that certain chemicals are harmful to human health, and the growing number of chemicals in daily use whose effects on human health have not been fully studied. Yet at the same time the chemical industry's annual spending on campaign contributions and lobbying expenditures has doubled since 2000, and the industry enjoys a powerful new avenue of influence in the form of the unlimited "independent" political expenditures now allowable under the U.S. Supreme Court's ruling in *Citizens United*.

## RECOMMENDATIONS

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- Independent political expenditures should be disclosed in a timely manner so the public can better understand their impact on elections.
- The extent of a corporation's political expenditures should be disclosed to its shareholders, and shareholders should have the right to approve or disapprove such expenditures.
- The FCC should create a truly searchable database of political ad expenditures that covers all television markets and allows for searches by geographic region, ads run for or against particular candidates, and by entities purchasing ads.

## ACKNOWLEDGEMENTS

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This report was researched and written by James Browning and Paul Thacker. Design by Anagramist, [www.anagramist.com](http://www.anagramist.com)

## CITATIONS

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- 1 According to data obtained from The Center for Responsive Politics, [www.opensecrets.org](http://www.opensecrets.org)
- 2 According to data obtained from CMAG/Kantar Media, the FCC, and the FEC.
- 3 <http://reporting.sunlightfoundation.com/2012/fcc-database-misses-huge-chunk-ads/>
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