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RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

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August 29, 2018

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Shimkus  
Chairman  
Subcommittee on Environment  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Walden and Chairman Shimkus:

We write today to renew our request for a hearing on the U.S. Environmental Protection Agency's (EPA) implementation of the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act. Democratic Committee staff first requested a hearing in June 2017 and again in August 2017. At the time, we were informed a hearing would be held in September. When no hearing was scheduled, we made a third request in a November 2017 letter.<sup>1</sup> It is now well over a year since our original request and two years since Toxic Substance Control Act (TSCA) reform legislation was signed into law, and it is completely unacceptable that the Committee has yet to hold a single hearing on implementation of this critically important public health program.

As you are aware, the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act was passed in an overwhelmingly bipartisan fashion last Congress. The law made substantial revisions to TSCA to strengthen public health protections, but we remain concerned that EPA's implementation of the reformed TSCA program contradicts the new law's language and intent and undermines public confidence in the program.<sup>2</sup>

We are particularly troubled that Trump Administration political appointees continue, in our view, to prioritize manufacturers' economic interests over the health of the American public. EPA has entrusted Dr. Nancy Beck with implementing the new TSCA law, despite her previous

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<sup>1</sup> Letter from Rep. Frank Pallone, Jr., Rep. Paul D. Tonko, Rep. Diana DeGette, House Committee on Energy and Commerce, to Chairman Greg Walden (Nov. 7, 2018) ([democrats-energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Walden.2017.11.07.%20EPA%20toxic%20chemicals%20hearing%20request.%20EE.OI\\_.pdf](https://democrats-energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Walden.2017.11.07.%20EPA%20toxic%20chemicals%20hearing%20request.%20EE.OI_.pdf)).

<sup>2</sup> Environmental Protection Agency, *Procedures for Chemical Risk Evaluation Under the Amended Substances Control Act*, 82 Fed. Reg. 33726 (Jul. 20, 2017) (Final Rule).

work experience and close relationship with the industry she is responsible for regulating.<sup>3</sup> Dr. Beck has reportedly held frequent meetings with her former employer and industry groups to discuss the chemical risk evaluation process.<sup>4</sup> Even more concerning are Dr. Beck's extensive modifications to the final rule on the procedures for chemical risk evaluation, in many cases inserting language identical to comments of her former employer, the American Chemistry Council.<sup>5</sup> Beck's involvement in rules that have a direct impact on her previous employer threatens public health and the integrity of the TSCA program.

We are further concerned that EPA's own scientific evidence and recommendations of experienced career staff regarding TSCA implementation are being ignored at the expense of public health. For example, EPA has abandoned its statutory mandate to review all new and existing chemicals known or foreseeable uses and exposures putting human health and the environment at risk. Instead, EPA has narrowed the scope of its analyses to consider the risks of only the currently approved uses of a chemical in commerce.<sup>6</sup> This approach ignores legacy uses, disposal, and improper use when these avenues of exposure can present significant ongoing risks to the environment and human health.<sup>7</sup>

EPA's decision is already undermining public health and, going forward, could result in an incomplete evaluation of the health and environmental risks of a number of extremely toxic chemicals, including asbestos, perchloroethylene (PERC), methylene chloride, and trichloroethylene (TCE).

According to a recent report by the *New York Times*, EPA officials proposed a rulemaking to review applications for use of asbestos in consumer products over the objections

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<sup>3</sup> *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, The New York Times (Oct. 21, 2017) ([www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html](http://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html)).

<sup>4</sup> Environmental Protection Agency, *Chemical Use Outreach – Meeting Summaries* (Sept. through Oct., 2017) ([cdn3.ewg.org/sites/default/files/u352/Sep%20%26%20Oct%202017%20EPA-HQ-OPPT-2016-0736.pdf?\\_ga=2.180238564.1136316006.1532101302-132527160.1528389001](http://cdn3.ewg.org/sites/default/files/u352/Sep%20%26%20Oct%202017%20EPA-HQ-OPPT-2016-0736.pdf?_ga=2.180238564.1136316006.1532101302-132527160.1528389001)).

<sup>5</sup> See note 2; American Chemistry Council, *Comments of the American Chemistry Council on EPA's Proposed Rule: Procedures for Chemical Risk Evaluation under the Amended Toxic Substances Control Act*, 82 Fed. Reg. 7562 (January 19, 2017); EPA-HQ-OPPT-2016-0654 (Mar. 20, 2017) ([www.americanchemistry.com/ACC-Comments-on-EPA-Proposed-Rule-for-Risk-Evaluation-under-Lautenberg-Act.pdf](http://www.americanchemistry.com/ACC-Comments-on-EPA-Proposed-Rule-for-Risk-Evaluation-under-Lautenberg-Act.pdf)).

<sup>6</sup> *The Chemical Industry Scores a Big Win at the E.P.A.*, The New York Times (Jun. 7, 2018) ([www.nytimes.com/2018/06/07/us/politics/epa-toxic-chemicals.html](http://www.nytimes.com/2018/06/07/us/politics/epa-toxic-chemicals.html)).

<sup>7</sup> *EPA Moves to Regulator Past Asbestos Products, Limit Reviews*, GreenWire (Jun. 1, 2018) ([www.eenews.net/greenwire/stories/1060083229/search?keyword=methylene](http://www.eenews.net/greenwire/stories/1060083229/search?keyword=methylene)).

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of EPA attorneys and scientists.<sup>8</sup> Asbestos is found in existing building materials, automotive products, and landfills across the country. Each year, 15,000 Americans die from asbestos-related diseases such as mesothelioma,<sup>9</sup> and now EPA's rulemaking has created a loophole that allows legacy asbestos uses to be revived without requiring agency review or approval.<sup>10</sup> The continued presence of legacy products and their reintroduction into commercial products could result in increased asbestos exposure and fatalities linked to asbestos-related diseases.

We are similarly concerned that widespread and well-documented exposure to PERC through drinking water will not be included in EPA's risk evaluation of that dangerous chemical.<sup>11</sup> PERC has been detected in drinking water sources in 44 states and the cancer risks related to these drinking water exposures are known.<sup>12</sup>

EPA also has failed to follow through with a proposed ban of methylene chloride and TCE, contrary to the extensive public record of harm and EPA's own recommendations.<sup>13</sup> Deaths from exposure to methylene chloride continue to be reported as a result of the delay of the ban.<sup>14</sup>

We are extremely concerned that EPA's increasingly limited review of chemical risk amounts to little more than a rubber-stamping process and does not reflect the higher level of scrutiny for new chemicals required by the TSCA reform law.

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<sup>8</sup> *E.P.A. Staff Objected to Agency's New Rules on Asbestos Use, Internal Emails Show*, The New York Times (Aug. 10, 2018) ([www.nytimes.com/2018/08/10/climate/epa-asbestos-rule.html](http://www.nytimes.com/2018/08/10/climate/epa-asbestos-rule.html)).

<sup>9</sup> Mesothelioma Center, *Ray of hope for nearly 15,000 Americans who die each year of asbestos-related disease* (Jun. 16, 2015) ([www.mesotheliomacenter.org/mesothelioma-news/2015/06/16/ray-of-hope-for-nearly-15000-americans-who-die-each-year-of-asbestos-related-disease/](http://www.mesotheliomacenter.org/mesothelioma-news/2015/06/16/ray-of-hope-for-nearly-15000-americans-who-die-each-year-of-asbestos-related-disease/)).

<sup>10</sup> See note 8; Environmental Protection Agency, *Asbestos, Significant New Use Rule*, 2018 Fed. Reg. 12513 (Jun. 11, 2018) (Proposed Rule).

<sup>11</sup> Environmental Protection Agency, *Problem Formulations for the Risk Evaluations To Be Conducted Under the Toxic Substances Control Act, and General Guiding Principles To Apply Systematic Review in TSCA Risk Evaluations; Notice of Availability*, 83 Fed. Reg. 26998 (Jun. 11, 2018) (Notice).

<sup>12</sup> See note 6.

<sup>13</sup> *Id.*; Environmental Protection Agency, *Problem Formulation of the Risk Evaluation for Methylene Chloride (Dichloromethane, DCM)* (May, 2018); Environmental Protection Agency, *Problem Formulation of the Risk Evaluation for Trichloroethylene* (Jun. 11, 2018).

<sup>14</sup> *Families Tell EPA Chief of Deaths Linked to Paint Stripper*, U.S. News and World Report (Jun. 2018) ([www.usnews.com/news/politics/articles/2018-05-09/epa-chief-talks-with-families-of-men-felled-by-solvent](http://www.usnews.com/news/politics/articles/2018-05-09/epa-chief-talks-with-families-of-men-felled-by-solvent)).

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The Committee on Energy and Commerce bears a responsibility to the American public to hold EPA to its mission of protecting human health and the environment, and to ensure the effective and impartial implementation of the protections afforded by a reformed TSCA. It is clear EPA is not meeting this responsibility, which is why this Committee must schedule a hearing on this important public health matter as soon as possible.

Sincerely,



Frank Pallone, Jr.  
Ranking Member



Paul D. Tonko  
Ranking Member  
Subcommittee on Environment



Raul Ruiz, M.D.  
Member of Congress



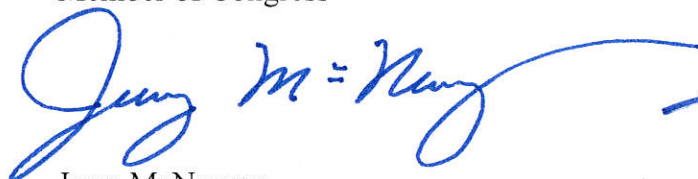
Scott H. Peters  
Member of Congress



Gene Green  
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Debbie Dingell  
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