



December 6, 2017

The Honorable John Shimkus, Chairman
The Honorable Paul Tonko, Ranking Member
House Energy and Commerce Committee,
Subcommittee on Environment

The Honorable Greg Walden, Chairman
The Honorable Frank Pallone, Ranking Member
House Energy and Commerce Committee

Re: TSCA Issues for Administrator Pruitt at Today's Committee Hearing

Dear Chairmen Walden and Shimkus and Ranking Members Pallone and Tonko:

In advance of today's hearing testimony by EPA Administrator Scott Pruitt, we are writing to express several concerns about how he and his staff are implementing the 2016 Frank H. Lautenberg Chemical Safety for the 21st Century Act (LCSA).

Safer Chemicals Healthy Families (SCHF) is a coalition of national, state, and local organizations committed to assuring the safety of chemicals used in our homes, workplaces and the many products to which our families and children are exposed each day. SCHF and its members took a leadership role during the LCSA legislative process, advocating the most protective and effective legislation possible to reduce the risks of toxic chemicals in use today.

LCSA is the first major overhaul of the 1976 Toxic Substances Control (TSCA) and an important step forward in evaluating and reducing the risks of chemicals to public health and the environment in the US. If EPA takes forceful and proactive steps to implement the new law, it can deliver significant health and environmental benefits to the American people. Unfortunately, under Administrator Pruitt, EPA is undermining the law's key provisions, weakening protection of health and the environment and allowing the chemical industry to dictate decisions that further its commercial interests at the expense of public health and safety.

Our principal concerns about EPA's failure to implement the law in accordance with its bi-partisan goals include the following:

Weak and Unlawful Framework Rules for Risk Evaluations and Chemical Prioritization: Under Administrator Pruitt, EPA rewrote sound and health protective rules proposed by the Obama Administration so they incorporated the chemical industry's recommendations, casting into doubt the effective implementation of LCSA's core mechanisms for conducting risk evaluations and prioritizing chemicals. Among several shortcomings, the final rules reflect the highly questionable propositions that EPA can pick and choose which uses it will assess in risk evaluations, has no obligation to consider the risks and exposures of discontinued products that remain in use, and can limit risk evaluations requested by industry to the particular uses that industry wants to declare safe and ignore uses and

exposures that could present serious risks. Along with other public health and environmental groups, SCHF is challenging the validity of the two framework rules in court.

Incomplete and Deficient Risk Evaluations for the First 10 Chemicals. We are deeply troubled by gaps in EPA's ongoing risk evaluations on the initial 10 chemicals. A glaring example is the Agency's decision not to address the many asbestos-containing building materials and products present in millions of homes and businesses despite the known dangers of asbestos to human health. Another example is EPA's decision not to evaluate production of 1,4-dioxane as a byproduct despite its contribution to the widespread presence of this carcinogen in the drinking water supply. These omissions will lead to risk evaluations that are insufficiently protective and incomplete, and fail to support effective risk management actions.

Failure to Finalize Proposed Restrictions on Unsafe Solvents. The new law removes the roadblocks to effective risk reduction that prevented EPA from regulating all but a handful of unsafe existing chemicals in more than 40 years. Using its expanded authority under section 6 of TSCA, the Obama EPA proposed to ban certain high-risk uses of three solvents -- trichloroethylene (TCE), methylene chloride (MC) and N-methylpyrrolidone (NMP) -- known to cause cancer, reproductive and developmental harm and severe neurological damage, including death. The EPA assessments for these uses demonstrate unusually high and widespread risks based on an extensive body of data that has been rigorously peer reviewed. Yet the Pruitt EPA has reportedly decided not to finalize the proposed rules and instead to conduct yet another review of science that is clear and compelling. If these rules are delayed, more than two million workers and consumers and their offspring will be needlessly exposed to serious, well-documented health threats and the revitalized chemical regulatory program that Congress directed EPA to establish will fail to materialize.

Backtracking on Enhanced Protection against Unsafe New Chemicals. In LCSA, Congress also strengthened the TSCA new chemical program significantly, requiring an *affirmative determination of safety* for every new chemical and directing EPA to issue an order restricting the chemical if it concludes that it does or may present an unreasonable risk, lacks sufficient information for an informed risk evaluation, or has or may have substantial production volume and exposure. Responding to the meager amount of data historically available on new chemicals, Congress also expanded EPA's authority to require testing necessary for an informed evaluation of potential risks. Initially, EPA diligently worked toward the goals of the new law, subjecting many more new chemicals to orders placing limits on human exposure and environmental release and increasing the amount of testing. But industry has relentlessly attacked EPA's early efforts to implement the law, claiming that it was "overreaching" even though Agency career scientists and engineers were simply doing the job that Congress intended. Now, industry has found a receptive ear in Administrator Scott Pruitt and his political staff. EPA is shifting gears, backtracking on its original implementation approach and weakening the core protections the law provides. If EPA continues on this path, the PMN program will be *weaker than under the old law*, a stark reversal of Congress's expectations when it called for a stronger program just 18 months ago.

Conflicts of Interest by the Ex-Industry Official, Dr. Nancy Beck, Directing the TSCA Program.

Administrator Pruitt's appointee to direct the TSCA program, Dr. Nancy Beck, is a former senior policy official at the American Chemistry Council (ACC). As an unconfirmed appointee, her credentials and industry ties have never been scrutinized by Congress. In her prior position, she prepared comments and presented testimony to Congress and EPA on behalf of chemical producers on the very issues that she is

now addressing as an EPA decision-maker. Although she is a senior policymaker in the Agency, Dr. Beck has never signed the Trump Administration's ethics pledge. Her role in rewriting the framework rules to incorporate ACC's positions was in violation of the specific advice she received from EPA ethics officials, and the subsequent "impartiality determination" allowing her free rein to protect ACC's interests was contrary to established ethics requirements. [We and other organizations have repeatedly sought Dr. Beck's recusal from TSCA matters raising conflicts of interest.](#)

We hope that you and other Committee members will raise these concerns during Administrator Pruitt's testimony and look forward to a productive and informative hearing.

Sincerely yours,

Elizabeth Hitchcock
Government Affairs Director