May 2017

Honorable Scott Pruitt
Administrator, US Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Ave., NW
Washington DC 20460

Re: *Appointment of Chemical Industry Advocate to Senior Political Position in Office of Chemical Safety and Pollution Prevention*

Dear Administrator Pruitt:

We are troubled and distressed by reports that you have hired Dr. Nancy Beck, a policy advocate at the American Chemistry Council (ACC), as a senior political appointee in the Office of Chemical Safety and Pollution Prevention (OCSPP). In this post, Dr. Beck will be well-positioned to direct the EPA staff to implement the same science and policy agenda that she played a central role in developing for ACC and its members, presenting a serious conflict of interest.

The groups signing this letter comprise 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. We are deeply concerned that Dr. Beck's appointment will compromise EPA's ability to provide this protection and undermine the integrity and objectivity of EPA's science-based judgments about the public health impacts of chemicals.

Empowering an industry advocate to exert a dominant influence over whether restrictions on toxic chemicals are needed to protect the public -- despite her long history of attempting to shape government policies on science and risk assessment for the financial benefit of chemical companies -- raises serious ethical concerns under the conflict-of-interest rules imposed by federal statutes and President Trump's ethics pledge for officials in his Administration. We request that you fully and transparently investigate these concerns before Dr. Beck assumes any duties in OCSPP, provide a comprehensive list of all EPA-related matters in which Dr. Beck participated while at ACC, and inform the public of the recusals and other steps you will take to assure that EPA's science and policy decisions affecting chemicals will remain unbiased and free from improper industry influence.

Dr. Beck's Extensive Record as an OMB official and Chemical Industry Advocate on Issues She Will Oversee at EPA

In her new post at EPA, one of Dr. Beck's principal responsibilities will be implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA), which was enacted by Congress last year

with bi-partisan support following a lengthy process that sought to reconcile the diverse interests of NGOs, industry, states and other groups. LCSA strengthens the ineffective Toxic Substances Control Act (TSCA) and gives EPA new tools for chemical testing, risk evaluation and restriction of chemicals that present unreasonable risks. You have pledged to make effective implementation of LCSA a high priority. Yet that commitment will be worth little to the public, and may be called into question by the courts, if your approach to implementation is dictated by the chemical industry.

Dr. Beck's appointment will likely have this unfortunate result. Before joining ACC, she worked for the Office of Management and Budget (OMB), where her actions were called into question as potentially politicizing White House review of agency science and second-guessing the professional judgment of career risk assessors For example, she was the primary author of the controversial 2006 OMB Risk Assessment Bulletin, which was rescinded after a highly critical report of the National Academy of Sciences concluded that it was "fundamentally flawed" and recommended that it be withdrawn. In another case, her efforts to rewrite, weaken and delay EPA IRIS assessments were criticized in a 2009 report of the majority staff of the House Committee on Science and Technology decrying OMB's "suppression of environmental science." The EPA assessments she sought to influence addressed chemicals that the Agency is now evaluating under LCSA.

In her five years as ACC's Senior Director, Regulatory Science Policy, Dr. Beck was centrally involved in ACC's extensive advocacy activities under TSCA and then, following its enactment last year, under LCSA.

For example, Dr. Beck signed detailed ACC comments submitted to EPA in August 2016 on the initial LCSA "framework" rules – creating processes for prioritization and risk evaluations – that must be finalized this June. She also presented ACC's position on these rules at EPA public hearings on August 9 and 10, 2016. Thus, Dr. Beck will be in a position to use her influence as an EPA official to reshape the proposed rules so they align with ACC's recommendations, an outcome that conflict of interest requirements are intended to prevent.

Dr. Beck also testified for ACC at a Senate hearing on April 9 of this year in which she expressed the industry position that EPA is failing to properly implement provisions of LCSA relating to scientific assessments. Dr. Beck is certainly entitled to her view on these matters but her testimony again illustrates the danger that she will use her official position to advance the interests of her former employer.

Yet another example is Dr. Beck's appearance on May 24, 2016 on behalf of ACC before an EPA advisory committee reviewing a draft EPA risk assessment on 1-Bromopropane. This chemical is one of the initial 10 substances on which EPA is conducting risk evaluations under LCSA and she would be in a position to pass judgment on the EPA staff's scientific work even though she has taken positions on the very same science and policy issues on behalf of the chemical industry. Dr. Beck was also the author of March 15, 2013 ACC comments on EPA's draft risk assessments on trichloroethylene, methylene chloride and N-methylpyrrolidone. EPA has finalized these assessments and is now using them as the basis for its initial risk management rules banning particular uses under TSCA section 6(a). It is also addressing the three chemicals through its initial 10 risk evaluations. Dr. Beck's participation in these rulemakings and risk evaluations as Deputy Assistant Administrator at EPA would conflict with her advocacy role on the very same chemicals on behalf of their manufacturers.

Dr. Beck's Serious Conflicts of Interest

Dr. Beck's participation in LCSA implementation and other matters affecting the interests of the chemical industry presents multiple conflicts of interest.

First, ACC is a registered lobbying organization. Paragraph 7 of the ethics pledge required under Executive Order 13770, signed by President Trump on January 28, 2017, requires appointees who are registered lobbyists to refrain for two years from participating in matters that fall within the issue area in which lobbying occurred. Clearly, ACC's lobbying of Congress and the Executive Branch touched on all aspects of the LCSA in which Dr. Beck will be involved in her new capacity at EPA. Although ACC has not listed her as a lobbyist, it is likely that she helped develop positions that it advocated with members of Congress and EPA officials. This support work falls within the definition of "lobbying activities" under the Lobbying Disclosure Act. It would subvert the intent of EO 13770 to allow Dr. Beck, who provided substantive support to ACC lobbyists, to participate in the very issues under TSCA and LCSA on which ACC lobbied government officials.

Second, building on established government ethics requirements, paragraph 6 of the Trump ethics pledge bars appointees for two years from participating "in any particular matter involving specific parties that is directly and substantially related to [the appointee's] former employer or former clients, including regulations and contracts." ACC is the principal advocacy arm of the chemical industry and its members include the nation's largest and most influential chemical manufacturers. Since LCSA's express purpose is to boost testing, evaluation and restriction of chemicals produced, used and distributed by ACC's members, any proceedings under LCSA that place obligations on or otherwise affect the financial interests of these member companies would qualify as "particular matters involving specific parties" with a substantial and direct relationship to ACC, Dr. Beck's former employer. At a minimum, test orders, significant new use rules, premanufacture notices, risk evaluations and risk management actions targeted at particular chemicals manufactured by ACC members would fit this definition and would be off-limits for participation by Dr. Beck. As noted above, Dr. Beck has participated recently in several such actions on behalf of ACC. A thorough and public disclosure and accounting of all other matters that Dr. Beck worked on during her tenure at ACC is needed to ensure that all such areas of potential conflict are identified and recusal is assured.

Finally, the Office of Government Ethics (OGE) standards of conduct for government employees impose an obligation to "act impartially and not give preferential treatment to any private organization or individual." 5 CFR Part 2635, Subpart A. Employees must "avoid any actions creating the appearance that they are violating . . . [these] ethical standards" and any such appearance of misconduct "shall be determined from the perspective of a reasonable person with knowledge of the relevant facts." Any reasonable person would conclude that, because she will oversee the very same policies, decisions and programs that she sought to influence as a chemical industry advocate, Dr. Beck's actions at EPA will create the appearance of a lack of impartiality and preferential treatment to her former employer and its member companies.

In sum, we believe that an objective ethics review would require that Dr. Beck be recused from participating in (1) any particular matters (rulemakings or other proceedings) directly affecting the interests of the U.S. chemical industry on which she took positions as an ACC advocate and (2) any chemical-specific proceedings targeting a discrete and identifiable subset of ACC members, whether she participated in these proceedings or not. We strongly urge that, before Dr. Beck assumes her new

duties, EPA must complete a thorough ethics review and, if she is to remain in her position, inform the public of the recusals and other precautions that will be put in place to prevent conflicts of interest. As part of this review, EPA should prepare and release to the public a comprehensive list of all matters in which Dr. Beck participated as an advocate while at ACC. This list will promote transparency and enable the public to fully understand and monitor the chemical industry's influence through Dr. Beck on the EPA decision-making process. Finally, we urge you not to issue any waivers, either public or secret, that would allow Dr. Beck to participate in matters from which she would otherwise be recused, as no compelling justification for such waivers can be demonstrated in this instance.

Sincerely yours,

Andy Igrejas, Director
Safer Chemicals Healthy Families (on behalf of the following groups)

Alaska Community Action on Toxics
Asbestos Disease Awareness Organization
Alliance of Nurses for Healthy Environments
BlueGreen Alliance
Breast Cancer Action
Breast Cancer Prevention Partners
Center for Environmental Health
Clean and Healthy New York
Clean Water Action
Communications Workers of America
Earthjustice
Ecology Center
Environmental Health Strategy Center
Health Care Without Harm
Healthy Legacy
League of Conservation Voters
National Center for Health Research
Natural Resources Defense Council
Physicians for Social Responsibility
Safer States
Science and Environmental Health Network
Sierra Club
Toxic Free Future
Union of Concerned Scientists
Vermont Public Interest Research Group

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