

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

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 21, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt,

I am writing today on the eve of the one year anniversary of the enactment of the Frank R. Lautenberg Chemical Safety Act for the 21st Century with deep concern over your personnel and implementation decisions. In particular, the recent appointment of Dr. Nancy Beck as deputy assistant administrator in the Office of Chemical Safety and Pollution Prevention and the role she appears to be playing in finalizing the Toxic Substances Control Act (TSCA) framework rules threaten the success of the TSCA Reform legislation passed last year. Her appointment has the potential to undermine the scientific integrity of the Environmental Protection Agency's (EPA) TSCA implementation and the consumer confidence we sought to build with a reformed TSCA. The final rules I expect to be published tomorrow will show whether she has been allowed to impose her former employer's positions on the public.

Dr. Beck comes to the EPA from the American Chemistry Council (ACC), a trade association representing the chemical industry. She has existing and potentially problematic relationships with the companies that she is now in charge of regulating. In fact, Dr. Beck testified on behalf of ACC at a Senate hearing on the use of science at federal agencies just one month before she was selected for the EPA job.¹

Before joining ACC, Beck worked in the Office of Management and Budget (OMB) during the George W. Bush administration. Beck's time at OMB was marked by controversy over her role in weakening EPA's risk assessment of polybrominated diphenyl ethers (or PBDEs), a highly toxic class of chemicals that was widely used as flame retardants but has since

¹ Senate Committee on Homeland Security and Governmental Affairs, Testimony of Nancy Beck, *Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability*, 115th Cong. (Mar. 9, 2017).

been phased out. A Congressional report² cited Dr. Beck's efforts as evidence of White House staff rewriting science. The report concluded that Dr. Beck attempted to alter the EPA assessment on PBDEs so as to "enhance uncertainty or reduce the profile of the effect being discussed", downplaying the risks associated with this harmful chemical class. This history deepens my concerns.

In her new role, Dr. Beck oversees implementation of the Frank R. Lautenberg Chemical Safety Act for the 21st Century, legislation that originated in my Committee and was passed in an overwhelmingly bipartisan fashion last Congress. If implemented well, this new law will provide the American public with much-needed confidence in the safety of the products we use and rely on every day. Dr. Beck herself acknowledged the need to ensure that "the Act achieves the fundamental objective of improving public confidence in the federal regulatory system."³ As Dr. Beck testified, without public trust, "stakeholders can lose confidence in regulatory decision making, which in turn can lead to product de-selection that is not supported by science, unwarranted public alarm and unnecessary costs."⁴

However, Dr. Beck's role in finalizing the TSCA framework rules is not transparent. On April 28, 2017, the U.S. Office of Government Ethics (OGE) issued a data call for certain waivers and authorizations to the White House Chief of Staff, Agency Heads, and Designated Agency Ethics Officials, Inspector Generals, and Appointees.⁵ On May 17, 2017, Office of

² House Committee on Science and Technology, *Nipping IRIS in the Bud: Suppression of Environmental Science by the Bush Administration's Office of Management and Budget*, A staff report by the Majority Staff of the Subcommittee on Investigations and Oversight for Subcommittee Chairman Brad Miller, 111th Cong. (Jun. 11, 2009) (www.ucsusa.org/sites/default/files/legacy/assets/documents/scientific_integrity/miller-iris-report-june-09.pdf).

³ Senate Committee on Homeland Security and Governmental Affairs, Testimony of Nancy Beck, *Agency Use of Science in the Rulemaking Process: Proposals for Improving Transparency and Accountability*, 115th Cong. (Mar. 9, 2017).

⁴ *Id.*

⁵ U.S. Office of Government Ethics, *Data Call for Certain Waivers and Authorizations*, Memorandum from Director Walter M. Shaub, Jr. to Chief of Staff to the President, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees (Apr. 28, 2017) ([oge.gov/web/OGE.nsf/All%20Advisories/5B5DECAECCE6CB8185258110007ADC76/\\$FILE/PA-17-02.pdf?open](http://oge.gov/web/OGE.nsf/All%20Advisories/5B5DECAECCE6CB8185258110007ADC76/$FILE/PA-17-02.pdf?open)): The data call applied to the following types of waivers and authorizations: 1. Waivers issued or approved under Executive Order 13770 2. Waivers issued or approved under Executive Order 13490 3. Waivers issued or approved under 18 U.S.C. § 208(b)(1) 4. Authorizations issued or approved under 5 C.F.R. § 2635.502(d) 5. Waivers issued or approved under 5 C.F.R. § 2635.503(c).

Management and Budget (OMB) Director Mick Mulvaney asked OGE to stay this request,⁶ in an apparent effort to hide from the American people information about whether current administration appointees are complying with ethics requirements.⁷ On June 7, 2017 the OGE released responsive documents provided by agencies, EPA responded to OGE with no responsive records.⁸

This leads me to conclude that Dr. Beck is inappropriately involved in finalizing rules that will have a clear and direct impact on her previous employer, or that EPA has inappropriately responded to the OGE with no responsive records. Either explanation directly threatens the integrity of this program and the public's confidence in the rules that will be finalized tomorrow. I therefore request, immediately,

- All ethics agreements, recusals, memoranda of understanding or other pertinent documents that detail the issues on which Dr. Beck is permitted to work and those on which she is prohibited to work.
- Documentation of all changes made after Dr. Beck started work at the EPA to the preambles and rule texts for the framework rules to be finalized tomorrow, including previous versions of those texts.
- Dr. Beck's Public Financial Disclosure Reports and any supplemental materials.
- A list of all issues Dr. Beck has worked on, is allowed to work on, and is prohibited from working on.
- The statutory hiring authority and type of appointment occupied by Dr. Beck (i.e. Senior Executive Service, Schedule C, Administratively Determined).

Thank you for your assistance with this request. Should you have any questions, please contact Jacqueline Cohen with the Minority Committee Staff at (202) 225-4407.

⁶ Letter from Director Mick Mulvaney, Office of Management and Budget to Director Walter Shaub, Office of Government Ethics (May 17, 2017) (www.documentcloud.org/documents/3727995-OMB-Director-Mulvaney-Letter-to-Office-of.html).

⁷ *White House Moves to Block Ethics Inquiry Into Ex-Lobbyists on Payroll*, New York Times (May 22, 2017).

⁸ U.S. Office of Government Ethics, *Certain Waivers and Authorizations Issued Between May 1, 2016 – April 30, 2017* (Jun. 2, 2017) (oge.gov/Web/OGE.nsf/Resources/Certain+Waivers+and+Authorizations+issued+between+May+1,+2016+-+April+30,+2017).

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Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." The signature is written in a cursive style with a large initial 'F' and a trailing flourish.

Frank Pallone, Jr.
Ranking Member