

December 9, 2020

The Honorable Roger Wicker  
Chairman  
Committee on Commerce, Science,  
and Transportation  
United States Senate  
555 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member  
Committee, on Commerce, Science  
and Transportation  
United States Senate  
511 Hart Senate Office Building  
Washington, DC 20510

Dear Chairman Wicker and Ranking Member Cantwell:

We write once again to strongly oppose the confirmation of Nancy Beck to be Chair of the Consumer Product Safety Commission (CPSC).<sup>1</sup> Throughout her career, Nancy Beck has opposed and weakened standards that impact our health, safety, and environment, particularly with respect to toxic chemicals. If confirmed to lead the CPSC, she will be empowered to do even more damage to public health and consumer protection for many years. After the Senate Commerce Committee's hearing on Beck's nomination, Senators Shelley Moore Capito and Susan Collins publicly opposed her nomination—both of them citing Beck's failure to protect public health and the environment from toxic chemicals.<sup>2</sup> Senator Capito also referenced Beck's inadequate answers at the hearing.<sup>3</sup> The strong concerns of these two senators leave us even more convinced that moving Beck's nomination any further through the confirmation process would be misguided.

The CPSC is responsible for protecting consumers from hazards posed by consumer products.<sup>4</sup> The agency has the responsibility for ensuring that more than 15,000 products are safe, including toys, household products, furniture, cribs, and recreation equipment including all-terrain vehicles. Robust product safety protects not only consumers, but also workers including those involved in product manufacturing and disposal, as well as firefighters who face high risk of illness when exposed to smoke from consumer products containing toxic chemicals. From lead paint to flame retardants to toxic per- and poly-fluoroalkyl substances (PFAS) to asbestos, Beck has consistently fought for years to weaken safeguards designed to protect public health.

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<sup>1</sup> The term "chairman" is codified in statute and states that the chair is the "principal executive officer of the Commission" and exercises "all of the executive and administrative functions of the Commission." 15 U.S. Code § 2053.

<sup>2</sup> Rachel Frazin, *The Hill*, "Key Republican Jeopardizes Nomination of Trump Consumer Safety Pick" (June 17, 2020), <https://thehill.com/policy/energy-environment/503256-key-republican-jeopardizes-nomination-of-trump-consumer-safety-pick>.

<sup>3</sup> Press Release, *Capito Statement on Nancy Beck Nomination*, <https://www.capito.senate.gov/news/press-releases/capito-statement-on-nancy-beck-nomination>.

<sup>4</sup> *About CPSC*, U.S. CONSUMER PROD. SAFETY COMM'N, <https://www.cpsc.gov/About-CPSC> (last visited December 19, 2019).

As an official at the Environmental Protection Agency (EPA) over the past three years, Beck has been the architect of numerous policies to undermine health protection from toxic chemicals, increasing risk to first responders, children, and vulnerable communities.

*Nancy Beck's Record on PFAS Is Troubling.*

Per and polyfluoroalkyl substances (PFAS) are a class of toxic chemicals that have been linked to testicular and kidney cancer, thyroid disease, decreased fertility, decreased response to vaccines, birth defects, immune system disorders and other health effects.<sup>5</sup> PFAS are found in many consumer products as well as firefighting foam that is used at military bases. PFAS chemicals, which are highly persistent and mobile, have contaminated drinking water throughout the United States. Nearly 99 percent of people have PFAS in their bodies.<sup>6</sup>

While at EPA, Beck assisted in delaying the release of a government study which found that EPA's current health standard for PFAS is too weak to protect the public. The White House deemed the report a "public relations nightmare."<sup>7</sup> The final report is *still* stuck at the White House, where Beck is currently working on PFAS policies. Beck also failed to take measures to protect drinking water from PFAS contamination, to limit people's exposure to PFAS in consumer products, or to provide information to communities about discharges into the local environment – all measures that have been urged by a bipartisan group of Senators, Representatives, Governors, local officials, EPA staff, and the public. Congress finally stepped in with last year's National Defense Authorization Act to direct EPA to take some of the protective actions that Beck had resisted for years. Despite this congressional intervention, Beck has worked to weaken the measures that Congress directed.<sup>8</sup> With such a troubling track record, if Beck is confirmed to chair the CPSC, it is foreseeable that she will continue to undermine efforts to protect consumers from PFAS.

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<sup>5</sup> Per- and Polyfluoroalkyl Substances (PFAS) and Your Health, AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY, <https://www.atsdr.cdc.gov/pfas/PFAS-health-effects.html> (last visited Jan. 13, 2020) and Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS), NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, [https://www.niehs.nih.gov/health/materials/perfluoroalkyl\\_and\\_polyfluoroalkyl\\_substances\\_508.pdf](https://www.niehs.nih.gov/health/materials/perfluoroalkyl_and_polyfluoroalkyl_substances_508.pdf) (last visited Jan. 13, 2020).

<sup>6</sup> Calafat, A. M., Wong, L. Y., Kuklennyik, Z., Reidy, J. A., & Needham, L. L. (2007). Polyfluoroalkyl Chemicals in the U.S. Population: Data from the National Health and Nutrition Examination Survey (NHANES) 2003–2004 and Comparisons with NHANES 1999–2000. *Environmental Health Perspectives*, 115(11), 1596–1602, <https://doi.org/10.1289/ehp.10598>.

<sup>7</sup> Annie Snider, *White House, EPA Headed Off Chemical Pollution Study*, POLITICO (May 14, 2018), <https://www.politico.com/story/2018/05/14/emails-white-house-interfered-with-science-study-536950>.

<sup>8</sup> Press Release, *Carper: New Evidence and Leaked Documents Reveal White House Official Worked to Weaken PFAS Protections* (April 17, 2020).

*Nancy Beck's Implementation of TSCA Has Been Rejected by Federal Courts and Scientific Peer Reviewers.*

Beck has played the leading role in EPA's implementation of the Toxic Substances Control Act (TSCA), revised in 2016 by Congress to require evaluation of chemicals, and protection of the public – including susceptible populations – from unreasonable risks. One of Beck's first actions at EPA was to block a proposed ban on the use of the dangerous solvent methylene chloride in paint strippers. It is known to pose a lethal risk to workers and consumers. In the two years that followed, at least four people died using the paint strippers. After strong public pressure from some of the victims' families and several organizations sued EPA, it finalized a ban on consumer sales, but not commercial use – meaning workers and consumers are *still* unprotected. Beck also blocked proposed bans on some workplace and consumer uses of trichloroethylene (TCE) a cancer-causing solvent that has also been associated with structural cardiac defects in newborns resulting from in utero exposures. And she pressured EPA scientists not to focus on the cardiac hazards when they evaluated whether the chemical presents unreasonable risk.

But Beck was just getting started: she overrode agency science and legal staff to re-write EPA's policies for evaluating toxic chemicals – directing staff to ignore potential exposure from drinking water, air pollution, and contaminated soil – a policy that will exclude the most vulnerable communities from protection. Another policy of Beck would have ignored potential exposure to asbestos and lead in homes, buildings, and schools across the country when evaluating how much of a danger they pose to public health. A federal appeals court rejected that approach. Beck has also blocked EPA from prohibiting the use of the brain-damaging pesticide chlorpyrifos, which several states have since banned, and is under review by a federal court. And she has blocked the ban of a related pesticide commonly used in pet collars and other products, endangering children.

*Nancy Beck's Work Has Been Criticized for Distorting Science and Undermining Health Protections.*

While Beck's supporters tout her scientific education and training, her background as a scientist adds little value to the CPSC because her scientific work has repeatedly been criticized by independent experts. A peer review panel appointed by the Trump administration found that chemical evaluations produced under Beck's oversight “strayed from basic risk assessment principles,” resulting in draft evaluations that were “unscientific,” “misleading,” riddled with “mistakes and inconsistencies,” and “generally lacking in [their] ability to present a coherent picture of” worker risks. This assessment is consistent with previous reviews of Beck's work. In 2006, the non-partisan National Academy of Sciences noted in a report that a document Beck wrote during her time at OMB was “fundamentally flawed,” “simplistic” and “of serious concern,” and unanimously recommended that it be withdrawn. It was. Beck has also advocated for policies embodied in the administration's proposed rule to limit the

use of human exposure studies, which has been widely criticized by scientific bodies and organizations, including EPA's own Science Advisory Board. More than 90 scientists have opposed Nancy Beck's nomination to the CPSC.<sup>9</sup> Nancy Beck's professional training as a scientist is not a sufficient reason to confirm her to lead the CPSC, and her record of advocacy far outside mainstream public policy or science underscores her lack of fitness for this important position.

*Nancy Beck Played a Role in Suppressing CDC Guidelines, Continuing a Career-Long Trend.*

The Associated Press reported that as an official on detail to the White House, Beck recently contributed to suppressing detailed guidelines that the Centers for Disease Control and Prevention (CDC) sought to release to help the country reopen in the midst of the COVID-19 pandemic. Beck is neither a public health official, a medical doctor, nor a virologist, and there is a great deal of uncertainty as to what her current responsibilities are within this administration.<sup>10</sup> Although her role in this recent matter has not been fully explained, it appears to be consistent with other incidents - including blocking or slow-walking the release of the government report on PFAS noted above, and administration efforts to suppress the release of hazard assessments of formaldehyde and other chemicals by EPA's IRIS Program.<sup>11</sup> If the CPSC is to be led by someone who follows the science, it is clear that Nancy Beck is the wrong choice for the position.

*CPSC Will Be Nancy Beck's Biggest Perch to Weaken Safety Standards and Undermine Science.*

Immediately prior to joining EPA, Beck was the Senior Director of Regulatory & Technical Affairs at the American Chemistry Council, a powerful chemical industry lobbying group. Understanding her role there is important because the CPSC has jurisdiction – and the statutory obligation – to safeguard consumers from products that contain hazardous levels chemicals. For example, the CPSC has issued a rule, as directed by Congress, limiting the use of phthalates in children's products, and is currently considering a rule limiting the use of toxic flame retardants in certain consumer products. The chemical industry has ardently opposed these protections, which have significant impacts for the health and safety of consumers and is even challenging the phthalates ban in federal court. It is foreseeable that Nancy Beck will thwart the CPSC's ability to protect consumers from the well-documented harms that these chemicals pose.

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<sup>9</sup> Transcript, *NPR*, Scientists Warn Against Consumer Protection Nominee, <https://www.npr.org/transcripts/876309425>.

<sup>10</sup> Ms. Beck currently works at the White House, though her title and position are not clear; indeed, the website of the Environmental Protection Agency (EPA) reports that she holds a senior position there.

<sup>11</sup> Annie Snider, *Sources: EPA Blocks Warnings on Cancer-Causing Chemical* <https://www.politico.com/story/2018/07/06/epa-formaldehyde-warnings-blocked-696628>

Confirming Nancy Beck would leave a seasoned and aggressive fox guarding the henhouse – and responsible for the protection of children and consumers – to complete the duration of a seven-year term, ending in 2025. The CPSC is already hamstrung by laws that make it difficult for the agency to robustly protect families from injury and death. For example, recent reports have shown how a little-known provision of the law prevented the CPSC from informing the public that inclined sleep products were linked to the deaths of more than 90 infants.<sup>12</sup> The agency has also come under fire for working with a stroller company to evade undergoing a recall for faulty parts that contributed to injuries of more than a hundred children and adults.<sup>13</sup> Consumers and children cannot afford a further erosion of the CPSC’s commitment to protect the public from dangerous products.

Since her hearing in June, EPA’s Office of Chemical Safety and Pollution Prevention (OCSPP) has:

- Finalized its evaluation of the dangerous toxic solvent methylene chloride, which fails to account for the exposures people face each year from air pollution, contaminated drinking water and other sources of exposure;
- Finalized its evaluation of the carcinogen trichloroethylene (TCE), without prioritizing the most significant potential harm: causing birth defects to hearts of babies in utero;
- Released a revised evaluation of cancer-causing 1,4 dioxane, which fails to account for contaminated drinking water, a major source of exposure; and
- Issued a draft evaluation of asbestos that EPA’s Science Advisory for Chemicals Committee has strongly criticized for failure to account for exposure to most forms of asbestos, failure to consider numerous sources of exposure, including drinking water and building materials, and refusing to consider many of the harms caused by asbestos including cancers of the larynx, ovary, stomach and colorectum, as well as asbestosis. The evaluation continues to exclude so-called “legacy” uses of asbestos, contrary to a federal court order.

### *Conclusion*

Ms. Beck’s wholly unsatisfactory answers at her hearing regarding important questions about her role in downplaying the damaging effects of PFAS, claims about suppressing CDC guidance, and continued ambiguity about where she sits in the structure of the Executive Office of the President confirm our original opposition to Beck’s nomination.

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<sup>12</sup> Public Citizen, DELAY AND SECRECY: HOW SECTION 6(B) OF THE CONSUMER PRODUCT SAFETY ACT KEEPS CONSUMERS IN THE DARK, *available at* <https://www.citizen.org/article/delay-and-secrecy/> (last visited Dec. 19, 2019) and Rachel Rabkin Peachman, *When Recalls Fail*, CONSUMER REPORTS (Oct. 31, 2019), <https://www.consumerreports.org/recalls/when-recalls-fail/>.

<sup>13</sup> All Things Considered, *How a Stroller Company Avoided a Recall with the Help from the CPSC*, NPR (April 3, 2019), <https://www.npr.org/2019/04/03/709573914/how-a-stroller-company-avoided-a-recall-with-help-from-the-chair-of-the-cpsc>.

After examining her very troubling track record, only briefly summarized here, there is no reason to doubt that if confirmed, Nancy Beck would continue to block and oppose needed safety standards, but with even more power to do so. Confirming her into a position of such public trust where she would slow down, weaken, or thwart safety standards will be to the lasting detriment of families and communities across the country. We urge you to make clear that you stand with our families, our children, and our first responders and oppose Nancy Beck's nomination. With questions, please contact: Eve Gartner, at [egartner@earthjustice.org](mailto:egartner@earthjustice.org), Remington A. Gregg, at [rgregg@citizen.org](mailto:rgregg@citizen.org), Daniel Rosenberg, at [drosenberg@nrdc.org](mailto:drosenberg@nrdc.org), Pamitha Weerasinghe, at [pweerasinghe@ucsusa.org](mailto:pweerasinghe@ucsusa.org), and Rachel Weintraub, at [rweintraub@consumerfed.org](mailto:rweintraub@consumerfed.org).

Sincerely,

AFL-CIO  
Alaska Community Action on Toxics  
American Association for Justice  
AKPIRG (Alaska)  
Arizona PIRG  
Asbestos Disease Awareness Organization  
Blue Ridge Environmental Defense League  
Blue Ridge Environmental Defense League (Rabun Gap Chapter)  
Breast Cancer Action  
Breast Cancer Prevention Partners  
CALPIRG  
Cancer Prevention and Treatment Fund  
Center for Biological Diversity  
Center for Economic Justice  
Center for Environmental Health  
Center for Environmental Policy and Management  
Center for Justice & Democracy  
Center for Science in the Public Interest  
Chapel Hill Organization for Clean Energy  
Charlie's House  
Chicago Consumer Coalition  
Citizens Action Coalition  
Citizens' Environmental Coalition  
Clean and Healthy New York  
Clean Production Action  
Clean Water Action  
Collaborative on Health and the Environment  
Columbia Consumer Education Council

Coming Clean  
Consumer Action  
Consumer Advocates Against Reverse Mortgage Abuse  
Consumer Assistance Council, Inc.  
Consumer Federation of California  
Consumer Federation of America  
Consumers for Auto Reliability and Safety  
CoPIRG (Colorado)  
ConnPIRG  
Data for Justice  
Earthjustice  
Earthworks  
Ecology Center  
Empire State Consumer Project  
Endangered Species Coalition  
Environmental Defense Fund  
Environmental Health Strategy Center  
Environmental Working Group  
Farmworker Association of Florida  
Florida PIRG  
Florida Silver Haired Legislature Inc  
Food & Water Action  
Georgia PIRG  
Green Inside and Out  
Green Science Policy Institute  
HarperSmiles  
Healthy Babies Bright Futures  
Illinois PIRG  
Institute for Agriculture and Trade Policy  
International Center For Technology Assessment  
International Union, UAW  
Iowa PIRG  
KidsAndCars.org  
Kids In Danger  
League of Conservation Voters  
Maryland PIRG  
Massachusetts Breast Cancer Coalition  
MASSPIRG  
Meghan's Hope  
Mid-Pinellas Coalition of Neighborhood Associations

Moms Clean Air Force  
MoPIRG (Missouri)  
NC Child  
NCPIRG  
NHPIRG  
NJPIRG  
NMPIRG  
National Consumers League  
National Employment Law Project  
National PFAS Contamination Coalition  
National Women's Health Network  
Natural Resources Defense Council  
New York Public Interest Research Group (NYPIRG)  
NC Conservation Network  
Nontoxic Certified  
Ohio PIRG  
Oregon Environmental Council  
OSPIRG (Oregon)  
Parents Against Tip-Overs  
PennPIRG  
PIRGIM (Michigan)  
Public Citizen  
Protect All Children's Environment  
RIPIRG  
Safer Chemicals Healthy Families  
Safer States  
SC Appleseed legal Justice Center  
Shanes Foundation  
TexPIRG  
The One Less Foundation  
Toxic-Free Future  
Toxic Free NC  
Union of Concerned Scientists  
Union Veterans Council  
UPSTREAM  
U.S. Public Interest Research Group  
Virginia Citizens Consumer Council  
WashPIRG  
WE ACT  
WISPIRG (Wisconsin)

Women's Voices for the Earth  
Vermont Conservation Voters  
Zero Waste Washington

cc: Members of the United States Senate