



STATE OF WASHINGTON

June 15, 2020

The Honorable Roger Wicker
Chairman
Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Maria Cantwell
Ranking Member
Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Senate Building
Washington, D.C. 20510

Dear Chairman Wicker and Ranking Member Cantwell:

We write to express our grave concerns regarding the nomination of Dr. Nancy Beck to chair the Consumer Product Safety Commission (CPSC) due to her past actions to undermine the public's health. We urge you to vigorously oppose her confirmation.

Over the past 40 years, CPSC has kept people safe across the United States by reducing the unreasonable risk of injuries and deaths from over approximately 10,000 types of products, including baby strollers, cribs, and bath seats, to cigarette lighters and lawn mowers.¹ CPSC has broad authority under the law to ensure consumer product safety, including by restricting toxic chemicals like lead, formaldehyde, asbestos, and fire retardants in consumer products.² Dr. Beck is grossly unfit to chair the CPSC after having worked inside and outside of government to roll back regulations aimed at protecting people from the serious risk of toxic chemicals.³ As someone with a clear record of implementing policies that benefit industry at the expense of consumer protection, Dr. Beck has no place leading an agency whose mission is to protect consumer health and safety from being harmed by the very products they believe are safe to bring in their homes.

Dr. Beck has repeatedly attempted to roll back or water down federal regulation on environmental health while working at the Office of Information and Regulatory Affairs (OIRA) during the Bush Administration, and more recently, at the Office of Chemical Safety and Pollution Prevention in the Environmental Protection Agency (EPA) during the Trump Administration. For example:

- Dr. Beck advocated for the revision of language in federal lead paint regulations to diminish the link to cardiovascular disease in adults.⁴

¹ See David Carpenter, *The Consumer Product Safety Act: A Legal Analysis*, Congressional Research Service, available at <https://fas.org/sgp/crs/misc/R45174.pdf>

² See David Carpenter, *The Consumer Product Safety Act: A Legal Analysis*, Congressional Research Service, available at <https://fas.org/sgp/crs/misc/R45174.pdf>

³ See Eric Lipton, *Why Has the E.P.A. Shifted on Toxic Chemicals? An Industry Insider Helps Call the Shots*, The New York Times, Oct 21, 2017, available at <https://www.nytimes.com/2017/10/21/us/trump-epa-chemicals-regulations.html>

⁴ *Id.*

- She helped slow down efforts to protect drinking water from perchlorate, an ingredient in rocket fuel.⁵
- While at OIRA, she helped draft the 2006 Proposed Risk Assessment Bulletin that would limit how the federal government assesses risks to human health.⁶ The Office of Management and Budget requested the nonpartisan National Academy of Sciences' (NAS) National Research Council to review the guidance and NAS published a report finding the guidance was fundamentally flawed.⁷ Fortunately, OMB did not finalize the draft guidance.⁸
- While at EPA, she attempted to implement flawed concepts of the 2006 Proposed Risk Assessment Bulletin during implementation the Consumer Product Safety Improvement Act of 2016. These proposed regulations were appealed to the Ninth Circuit and reversed, in part on grounds that the EPA's exclusion of legacy uses and associated disposals from the definition of "conditions of use" is unlawful.⁹
- Dr. Beck scaled back several policies curbing federal limits on chemicals, including two powerful solvents linked to neurological defects.¹⁰
- She also pressured EPA to make changes to loosen a potential regulation of PFAS.¹¹

The Committee should be deeply concerned by Dr. Beck's significant connections to the very industry she is supposed to regulate. Dr. Beck worked as a senior policy director at the American Chemistry Council (ACC), a powerful chemical industry lobbying group.¹² ACC has opposed protections against numerous toxic chemicals, including flame retardants.¹³ The CPSC granted a petition to initiate rulemaking on the use of certain flame retardants in four categories of consumer products, including children's products.¹⁴ A number of flame retardants are linked to

⁵ See Majority Staff of the Subcommittee on Investigations and Oversight for the U.S. House of Representatives Committee on Science and Technology, *Nipping IRIS in the Bud: Suppression of Environmental Science by the Bush Administration's Office of Management And Budget*, June 11, 2009, available at <https://www.documentcloud.org/documents/4113586-EPA-and-Toxic-Chemical-Rules.html#document/p94/a382944>

⁶ See Office of Management and Budget, *Proposed Risk Assessment Bulletin*, available at https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/proposed_risk_assessment_bulletin_0109_06.pdf

⁷ See National Research Council. 2007. *Scientific Review of the Proposed Risk Assessment Bulletin from the Office of Management and Budget*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/11811>

⁸ Office of Management and Budget, *Updated Principles for Risk Analysis*, September 19, 2007, available at <https://georgewbush-whitehouse.archives.gov/omb/memoranda/fy2007/m07-24.pdf>

⁹ Concerned Scientists *Safer Chemicals, Healthy Families v. U.S. Env'tl. Prot. Agency*, 943 F.3d 397 (9th Cir. 2019)

¹⁰ See Todd Frankel and Juliet Eilperin, *Trump may appoint former chemical industry executive to lead Consumer Product Safety Commission*, The Washington Post, December 10, 2019, available at <https://www.washingtonpost.com/business/2019/12/10/white-house-considering-former-chemical-industry-executive-lead-consumer-product-safety-commission/>

¹¹ See Senator Carper's letter to Administrator Andrew Wheeler, dated April 17, 2020, available at https://www.epw.senate.gov/public/_cache/files/c/1/c15a8ced-03b1-4a46-bb05-aba15d10e36e/DC527687B68D0EF6DDE2A93C26A6D6FC-04-17-20-tc-pfas-snur-letter-to-wheeler.pdf

¹² See Frankel and Eilperin, December 10, 2019

¹³ See American Chemistry Council, *NASEM Report Confirms Organohalogen Flame Retardant Cannot Be Assessed for Hazards as a Single Class*, May 15, 2019, available at <https://www.americanchemistry.com/Media/PressReleasesTranscripts/ACC-news-releases/NASEM-Report-Confirms-Organohalogen-Flame-Retardants-Cannot-Be-Assessed-for-Hazards-as-a-Single-Class.html>

¹⁴ See U.S. Consumer Product Safety Commission webpage on flame retardants, available at <https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/flame-retardants>

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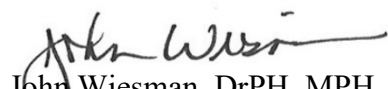
thyroid disruption, cancer, and learning deficits.¹⁵ If Dr. Beck were appointed chair of CPSC, we firmly believe she would fail to put the health of the American public before industry interests.

Additionally, Dr. Beck has a record of ignoring the advice of scientific advisors and interfering with the development of evidence-based policy. According to press reports, she was involved in the shelving of the Centers for Disease Control and Prevention (CDC) coronavirus guidance while on detail with NEC.¹⁶ Timely national guidance from scientific experts at CDC would have been instrumental in helping states, territories, and local health officials develop guidance on how to safely reopen communities. As state officials charged with protecting the public health, we were deeply troubled to learn Dr. Beck was involved in this matter. CPSC needs leadership that uses the advice of scientific experts to help guide policy.

Finally, we have serious concerns that Dr. Beck's appointment could lead to CPSC action to preempt our robust state laws.¹⁷ Washington State has a number of state laws that protect children from mercury, lead, flame retardants, PFAS, and other chemicals and that offer robust consumer and environmental protection.¹⁸ Because the chemicals in consumer products can be released into the environment during product use and disposal, safer consumer products are important for pollution prevention. Based on Dr. Beck's history of advocating for the national chemical industry, which frequently takes positions against state-based regulations, we have reason to believe she would support rolling back our important consumer protections through federal preemption.

For the reasons stated above, we urge you to oppose Dr. Nancy Beck's confirmation as chair of the Consumer Product Safety Commission. Her record makes clear that she will fail to put the health and safety of Americans first. If you have any questions, please contact the Director of Governor Inslee's Washington, D.C. office, Casey Katims, at Casey.Katims@gov.wa.gov.

Sincerely,


John Wiesman, DrPH, MPH
Secretary
Washington State Department of Health


Laura Watson
Director
Washington State Department of Ecology

¹⁵ [Washington State Department of Ecology, Children's Safe Products Reporting Rule Rationale for Reporting List of Chemicals of High Concern to Children 2011-2017, Publication Number 18-04-025, dated November 2018, available at https://fortress.wa.gov/ecy/publications/SummaryPages/1804025](https://fortress.wa.gov/ecy/publications/SummaryPages/1804025)

¹⁶ See Jason Dearen and Michael Biesecker, *Emails: Trump nominee involved in shelving CDC virus guide*, Associated Press, May 13, 2020, available at <https://www.post-gazette.com/news/nation/2020/05/13/Emails-Trump-nominee-involved-in-shelving-CDC-virus-guide/stories/202005130139>

¹⁶ See Jason Dearen and Michael Biesecker, *Emails: Trump nominee involved in shelving CDC virus guide*, Associated Press, May 13, 2020, available at <https://www.post-gazette.com/news/nation/2020/05/13/Emails-Trump-nominee-involved-in-shelving-CDC-virus-guide/stories/202005130139>

¹⁷ See David Carpenter, *The Consumer Product Safety Act: A Legal Analysis*, Congressional Research Service, available at <https://fas.org/spp/crs/misc/R45174.pdf>

¹⁸ See chapters 70.95M, 70.280, 70.365 of the Revised Code of Washington available at <https://app.leg.wa.gov/rcw/>