

Congress of the United States
Washington, DC 20510

October 27, 2017

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

Dear Administrator Pruitt:

We are deeply troubled by reports and an October 21st 2017 New York Times article that described how in spite of objections from scientists and administrators in multiple offices within the Environmental Protection Agency (EPA), political appointees at the agency weakened recent regulations promulgated under the Toxic Substances Control Act (TSCA), our nation's principal chemical safety law. We are concerned that these actions not only ignore Congressional intent but may also deprive Granite Staters of critical information about the risks that chemical materials, particularly perfluorinated compounds, pose to their families' health.

In 2016, Congress passed and President Obama signed the bipartisan Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act), which substantially amended the 1976 TSCA to create a stronger, more effective chemical safety system in the U.S. Pursuant to the Lautenberg Act, the EPA is required to prioritize and evaluate existing chemicals based purely on the risks they pose to human health and the environment. Moreover, when assessing the safety of a chemical, the Lautenberg Act requires that the EPA consider all uses of the chemical, and take steps to especially ensure the protection of vulnerable individuals who are most at risk from these substances.

We are concerned that the "framework rules" issued by EPA on June 22, 2017, which are intended to provide guidance for the implementation of the Lautenberg Act, create opportunities for the agency and challengers of the law to undermine the safety measures clearly directed by Congress.

In particular, we take issue with the reversal of EPA's approach to a chemical substance's "condition of use." While the proposed rules issued by the agency on January 17 and 19, 2017, called for the evaluation of all uses of a chemical, including known, intended and reasonably foreseeable uses, the final framework rules give EPA the discretion to exclude from its analysis certain uses. This change has far-reaching consequences and may limit the agency's evaluation of legacy chemicals including perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). These concerns were expressly brought to the attention to the Office of Chemical Safety and Pollution Protection (OCSPP) in a memorandum from the Office of Water (OW) dated May 30, 2017, as departments within the agency were considering revisions to the proposed regulations.

Once used for a variety of commercial and industrial applications, such as nonstick cookware and firefighting foam, PFOA and PFOS have been associated with birth defects, various forms of cancer and

immune system dysfunction. These materials are no longer sold but they are still present in the environment in New Hampshire and other states. PFOA and PFOS have emerged as a widespread contaminant in drinking water sources in several southern New Hampshire towns and were responsible for the closing of a major water supply well located at the former Pease Air Force Base.

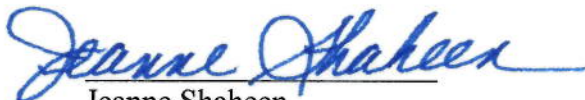
In its memorandum, OW recommended that OCSPP rescind its revisions and instead adopt a "chemical substance-based approach" that would appropriately consider exposure pathways that may lead to drinking, surface and ground water contamination. A similar recommendation was given to OCSPP by the head of EPA's Waste and Chemical Enforcement Division in the Office of Enforcement and Compliance Assurance (OECA). Given the increased detection of PFOA and PFOS in communities across America, it is disturbing that the OCSPP did not adhere to the recommendations of OW and OECA. We share the concerns expressed by OW and OECA that language included in the final framework rules will make it harder to track the health consequences of PFOA and PFOS, and therefore appropriately regulate these harmful materials.

As the lead federal agency tasked with protecting human health and the environment, EPA must reassure Americans that the agency's decisions are in the public's best interest and not a result of industry pressure or political influence. Therefore, we respectfully request answers to the following inquiries:

- Please explain how the "conditions of use" will be determined for PFOA, PFOS and other chemical substances for which there are legacy uses under the framework rules issued on June 22, 2017. If legacy uses of these chemicals will not be included in any risk evaluation EPA conducts for these substances, please describe how the agency will accurately determine whether the chemical substance poses an unreasonable risk.
- Pursuant to the Lautenberg Act, a key criterion for prioritization and risk assessment includes "a consideration of the hazard and exposure potential of a chemical substance or a category of chemical substances (including consideration of...storage near significant sources of drinking water)." Please describe how the framework rules meet this requirement.

We thank you for your attention to this important matter and look forward to your timely response.

Sincerely,



Jeanne Shaheen
United States Senator



Margaret Wood Hassan
United States Senator



Carol Shea-Porter
Member of Congress



Ann McLane Kuster
Member of Congress