July 24, 2018

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Acting Administrator Wheeler:

As you may recall, each of us was centrally involved in the negotiations that led to the 2016 reform of the Toxic Substances Control Act (TSCA), which passed with overwhelming bipartisan support. Among the key reforms was a substantial strengthening of TSCA’s provisions governing EPA’s review of new chemical substances prior to allowing them into commerce.

While in the months after passage EPA began to implement these provisions in a manner we believe was faithful to both the letter and spirit of the law, beginning in the middle of last year EPA signaled it would change course by narrowing the scope of its new chemical reviews and the requisite risk determinations in a manner that deviated from the statute.

Press reports now indicate that EPA is on the verge of making even more sweeping, weakening changes to its reviews of new chemicals.¹ Unlike with the draft framework EPA proposed late last year, which was made available and vetted through a public meeting and public comment, in this case we understand EPA plans to move forward without public notice and without describing in writing the changes it is making and how they are justified under reformed TSCA.

We write now to raise our serious concern about EPA’s intentions, and to request that your staff brief our offices about the planned changes prior to moving to implement them. Passage of the TSCA reforms was intended to bolster public confidence in our chemical safety system by enhancing EPA’s authorities, better ensuring the safety of chemicals both entering and in commerce while improving the transparency of EPA decision-making. Such enhancements were also critical to providing greater regulatory certainty to industry and greater EPA accountability to all stakeholders.

We appreciate that there has been frustration on all sides over EPA’s implementation of the new provisions of section 5 of TSCA, and that EPA needs to balance the competing objectives of conducting both timely and robust reviews of new chemicals.

¹ Bloomberg Environment, “New Chemicals Could Enter Market Sooner Under Plan Eyed by EPA,” July 17, 2018
We look forward to your prompt attention and response to this request. Thank you.

Sincerely,

Tom Udall  
United States Senator

Thomas R. Carper  
United States Senator

Sheldon Whitehouse  
United States Senator

Edward J. Markey  
United States Senator

Cory A. Booker  
United States Senator

Jeffrey A. Merkley  
United States Senator