

June 8, 2023

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Mike Rogers
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Reed and Rogers and Ranking Members Wicker and Smith:

The undersigned associations strongly urge you not to include provisions in the National Defense Authorization Act for Fiscal Year 2024 (FY 24 NDAA) that would circumvent the existing **legal and regulatory processes for per- and polyfluoroalkyl substances (PFAS)**.

PFAS are a very broad class of chemistries that make possible a wide variety of everyday, ubiquitous products, including semiconductors, cellphones, textiles, renewable energy, and medical devices that virtually all Americans use every day. All PFAS are not the same. Each individual PFAS has its own unique properties, uses, and environmental profile. Accordingly, Congress should not mandate a blanket approach to PFAS when considering legislation. In addition, due to the varying characteristics of the cleanups that might be necessary, Congress should ensure that DoD, states, and PRPs have a full toolbox of cleanup technologies and should avoid creating improper biases against any cleanup technology through legislation.

The following are several issues for which we urge you to oppose inclusion of language or amendments:

- **Restrictions on procurement of PFAS-containing products and technologies.** Broad bans rarely work. Wide procurement bans on PFAS would have significant and likely catastrophic downstream effects on acquisition and sustainment. Supply chains would be severely affected and could create long-term sustainment issues across Department of Defense (DoD) agencies. Restrictions are also premature: the DoD has yet to submit the report on critical uses required under last year's NDAA. That report should inform any future actions regarding procurement.
- **Restrictions on disposal and incineration.** End of life issues for PFAS present significant challenges for communities, companies, and landowners – especially as EPA's proposals for hazardous substance designation under CERCLA and hazardous waste under RCRA play out. Lack of clarity and flexibility to address possible waste streams could delay cleanups and hamper timely protection of human health and the environment. EPA is expected to issue updated interim guidance on disposal and destruction by December 2023.

- **Legislative mandates on EPA effluent guidelines (ELG) that bypass established regulatory processes.** Various sectors are already engaging EPA to comply with the monitoring and data needs that will dictate whether and how EPA will proceed.

Sens. Tom Carper and Shelley Moore Capito, Chairman and Ranking Member of the Senate Committee on Environment and Public Works (respectively), have publicly committed to consider consensus PFAS legislation in some fashion. Our coalition as a whole and many of our individual members have been actively engaged with EPW on such legislation. We encourage you to collaborate with EPW and consider the following priorities as the NDAA and EPW processes moves forward:

- **Definition.** The Chamber and our partners propose using the consensus-based definition developed in the Delaware legislation that was enacted late last year. According to the new Delaware law, “PFAS” means non-polymeric Perfluoroalkyl and Polyfluoroalkyl substances that are a group of man-made chemicals that contain at least two fully fluorinated carbon atoms, excluding gases and volatile liquids. “PFAS” includes PFOA and PFOS.
- **Destruction pilot.** As EPA continues work on the disposal and destruction guidance, DoD can advance technologies on addressing PFAS end-of-life issues by authorizing a pilot project to prove appropriate destruction solutions.
- **Innovation.** The Chamber and our partners propose launching a federal interagency research, development, and deployment program coordinated by the White House Office of Science and Technology Policy (OSTP) and centered at EPA, DoD, and Department of Energy national laboratories to test and pilot various PFAS disposal and destruction and water treatment technologies.
- **Moonshot for development of alternatives that do not have similar environmental properties.** The Chamber and our partners propose establishing a national prize competition at EPA for research, development, and deployment of alternative chemistries and other technologies that could replace certain PFAS in various sectors and products. This could begin with transitioning for Aqueous Film Forming Foam (AFFF), containing legacy PFAS in coordination and cooperation with DoD and identifying replacements for PFAS utilized in products that have direct contact with consumers.

We remain fully committed to working with legislators, regulators, and all stakeholders to establish science and risk-based approaches that will accelerate cleanup and enable the protection of human health and the environment. More research and collaboration are needed on potential alternatives and other possible challenges. We support safe, innovative, and sustainable technologies and products that provide essential benefits to consumers, while protecting human health and the environment. Product safety provides the foundation of consumer trust, and our member companies devote significant resources toward this effort.

We urge you to oppose amendments and language in the FY 24 NDAA that would circumvent **established, science-based regulatory processes**, including provisions that would ban procurement and incineration and mandate EPA effluent guidelines.

Sincerely,

Alliance for Automotive Innovation
American Apparel & Footwear Association
American Chemistry Council
American Forest & Paper Association
American Fuel and Petrochemical Manufacturers
American Petroleum Institute
Council of Industrial Boiler Owners
Consumer Technology Association
Fluid Sealing Association
National Association for Surface Finishing
National Council of Textile Organizations
National Oilseed Processors Association
National Association of Chemical Distributors
National Mining Association
Plastics Industry Association
PRINTING United Alliance
U.S. Chamber of Commerce