

March 19, 2024

The Honorable Tom Carper
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito:

Thank you for holding tomorrow's hearing entitled "Examining PFAS as Hazardous Substances" and for continuing your engagement on a very complex and challenging issue for communities and companies across the U.S. We support accelerating effective and appropriate cleanup of PFAS in the environment. We believe strongly, however, that applying the joint and several liability regime of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) via the novel listing of PFOA and PFOS as hazardous substances would only delay those efforts. Litigation and cost recovery do not equate to actual cleanup. Moreover, as we have explained in detailed comments, if finalized, such a listing would be unlawful, result in significant costs, impacts, and unintended consequences for both companies and affected communities, and likely have serious adverse implications to other chemistries beyond PFAS.¹

CERCLA is the wrong policy tool to address this issue. [The U.S. Chamber's April 6, 2023 letter](#) to the Committee urged consideration of alternative authorities that would avoid such outcomes. On behalf of coalition members, the Chamber also provided a [cost analysis](#) highlighting the impact of a CERCLA hazardous substance designation on municipal services in representative local communities. For instance, the likely increase in the costs for a household drinking water bill is expected to be as much \$400 annually. These are real and unnecessary impacts on people.

In addition, the cost of cleanup for potentially responsible parties could total over \$17.4 billion for existing non-federal national priority sites alone. Private party cleanup costs at existing non-federal sites could total \$700-\$900 million annually. Despite any existing uncertainties, which are qualitatively and quantitatively discussed in the [Cleanup Cost Analysis](#), these costs are simply too large for EPA to ignore.

Last week, the Chamber of launched the "Essential Chemistry for America" initiative intended to highlight the many societally valuable uses of fluorochemistries, including PFAS, in products American's rely on every day. Not all PFAS are the same. PFOA and PFOS have been out of commerce for more than a decade. By imposing CERCLA liabilities on properties that include PFOA and PFOS, EPA would create a strong disincentive to use many safe and effective fluorochemistries in critical products from airplanes to cars, cellphones, medical devices and

¹ https://www.globalenergyinstitute.org/sites/default/files/2023-02/221107CoalitionComments_CERCLADesignationPFOAPFOS.pdf

emerging technologies that will drive the energy transition. By failing to acknowledge the differences in potential hazards, EPA would restrict or ban the beneficial use of these substances. DoD, for example, recently released a [report of critical uses of PFAS](#), highlighting the complexities and challenges of replacing various PFAS applications. A fact sheet on the Chamber's efforts is attached.

We stand ready to assist you as this issue moves forward.

Sincerely,

Alliance for Chemical Distribution
American Chemistry Council
Airlines for America
Council of Industrial Boiler Owners
Fuel Cell & Hydrogen Energy Association
National Association for Surface Finishing
National Council of Textile Organizations
National Oilseed Processors Association
National Mining Association
North American Meat Institute
PRINTING United Alliance
TRSA – The Linen, Uniform and Facility Services Association
U.S. Chamber of Commerce