



April 13, 2022

Representative Lisa Cutter
200 E Colfax, Room 307
Denver, CO 80203

RE: HB 22-1345 as introduced 3/28/22

OPPOSE

Dear Representative Cutter:

The undersigned organizations must respectfully take an **OPPOSE** position on HB 22-1345, legislation that would impose broad reporting requirements on manufacturers of all products containing PFAS sold in Colorado, ban the sale of products containing PFAS in a variety of product categories and establish a future regulatory scheme to ban additional product categories containing PFAS.

PFAS, or fluorotechnology, are a diverse group of chemistries characterized by the strong bond between fluorine and carbon. Because of this strong bond, PFAS provides products with strength, durability, stability, and resilience. **These properties are critical to the reliable and safe function of a broad range of products that are important for Colorado businesses and consumers, such as smart phones, tablets, and telecommunications systems; aircraft; solar panels and turbines critical to alternative energy development; semiconductor manufacturing; medical devices and technology such as MRI imaging devices and pacemakers; COVID vaccines and test kits; lithium batteries, including those for electric vehicles; and engine wiring, fuel lines and sensors.** In fact, PFAS are critical to our nation's supply chain resiliency.

Collectively, we support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the environmental and health profiles of these substances.

One-Size-Fits-All Approach is Neither Accurate, nor Appropriate

It is important to note that all PFAS chemistries are not the same. Individual chemistries have their own unique properties and uses, as well as environmental and health profiles. According to the EPA, “approximately 600 PFAS are manufactured (including imported) and/or used in the United States.”¹ Among these 600 are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols) and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids and gases are clearly different from one another.

As written, HB 22-1345 would apply a one-size-fits-all approach to chemical regulation that is neither scientifically accurate, nor appropriate.

Overly Broad Reporting Requirements

The proposed reporting requirements are too broad. We have several concerns with them, including:

- Overly broad definition of PFAS which does not consider differing health/safety profiles, uses or potential for exposure.
- Overlap and redundancy with new PFAS reporting requirements being developed by EPA.
- Lack of clarity on how this information will be presented to the public to ensure information is presented in an unbiased, scientifically sound manner that does not cause unnecessary concern.
- Lack of any confidential business information/trade secret protections.

EPA Adding of PFAS to Toxic Release Inventory and TSCA Reporting

Recently, Congress and the Biden Administration authorized significant legislation with new rules regulating PFAS.² Subsequently, under the Toxic Release Inventory (TRI) program, EPA required that companies or federal facilities that release 100 or more pounds of 179 identified PFAS substances must collect and publicly report information on the amount that is released into the air, water, or land, and the quantities managed through disposal, energy recovery, recycling or treatment. Additionally, EPA has a rulemaking underway under Section 8 of the Toxic Substances Control Act (TSCA) that would require those who manufacture (or import) any identified PFAS to report information regarding PFAS uses, disposal, exposures, hazards and production volumes.³

Our members adhere to strict reporting requirements under our federal regulatory system, including EPA’s TRI program. The notification requirement for all products in HB 22-1345 would result in a patchwork of different federal and state obligations that would be confusing to Colorado businesses and consumers alike and undermine confidence in our regulatory system.

Future Expansive Regulatory Framework

In addition to the nine product categories HB22-1345 proposes to ban by January 1, 2024, **this legislation could eventually ban thousands of products from being sold or distributed in Colorado.** This could have far-reaching negative consequences for nearly every sector of the economy, including aerospace, automotive, alternative energy, healthcare, building and construction, electronics, pharmaceuticals, and agriculture. This is an unprecedented approach for Colorado to take on this important class of chemistry.

¹ <https://www.govinfo.gov/content/pkg/FR-2019-12-04/pdf/2019-26034.pdf>

² S.1790 - National Defense Authorization Act for Fiscal Year 2020

³ <https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0549-0001>

Given that multiple industries depend on high performance PFAS, **this legislation could undermine effective product design, and in some cases, overall product safety and efficacy for a broad range of products - including applications listed above that are important for public safety and public health.** Further, it could adversely impact uses of this technology that are important for our society's broader sustainability objectives, including support for alternative energy and greenhouse gas reduction efforts.

The proposed framework lacks sufficient guardrails to guide future rulemakings on designated priority product categories. Moreover, additional criteria and process considerations are lacking that would guide identification and prioritization of potential priority products.

State Procurement Implications

As previously noted, the broad scope of this legislation, if applied to the State's procurement policy as currently proposed, could prohibit the purchase of critical products, including products with key uses that are necessary for public health, public safety and sustainability. Such prohibitions could fundamentally undermine the state's procurement of essential items, including electric vehicles, solar panels, medicines and vaccines.

For these reasons, we must respectfully oppose HB22-1345. Thank you in advance for considering our views. Should you have any questions, please contact Lindsay Stovall at 916-448-2581.

Sincerely,

Alliance for Automotive Innovation
American Chemistry Council
American Coke and Coal Chemicals Institute
American Fuel and Petrochemical Manufacturers
Association of Equipment Manufacturers
Association of Home Appliance Manufacturers
Household Commercial Products Association
Flexible Packaging Association
Fluid Sealing Association
National Association of Chemical Distributors
National Council of Textile Organizations
Outdoor Power Equipment Institute