

June 2, 2022

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

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

The Honorable James Inhofe
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

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

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

The undersigned associations strongly urge you not to include provisions in National Defense Authorization Act for Fiscal Year 2023 (FY 23 NDAA) that would circumvent the existing regulatory process for PFAS. This includes provisions that would further restrict the procurement of PFAS-containing products and call for imposition of disposal and incineration restrictions by the Department of Defense (DoD) that could prevent effective cleanups and hamper timely protection of human health. We also oppose legislative mandates on Environmental Protection Agency (EPA) effluent guidelines that bypass established regulatory processes.

It is important to note that a wide procurement ban on PFAS would have significant and likely catastrophic downstream effects on acquisition and sustainment, particularly with respect to some Acquisition Categories (ACAT I and II) programs and depot-level maintenance of aircraft and ground vehicles. The supply chains would be severely affected and create long-term sustainment issues across DoD agencies.

PFAS are a very broad class of more 5,000 chemistries that make possible a wide variety of everyday 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.

In addition, recent inflationary pressures on American consumers and businesses, eliminating or limiting the available uses of societally valuable products and associated supply chains containing PFAS without due understanding of public health, environmental, and economic impacts is contrary to sound public policy and could have serious unintended consequences.

Sen. Tom Carper, Chairman of the Senate Committee on Environment and Public Works has publicly committed to considering 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 do the same and defer to this legislative process.

DoD, EPA, and other relevant agencies should retain their historical authority to study and determine how to regulate PFAS chemistries in commerce and the environment, deploying the full expertise of career scientists and other professionals. The PFAS Council through its work on the EPA's PFAS Roadmap is just over six months into its implementation. There remain many serious questions about the need for proposals aired in previous National Defense Authorization Acts and the implications for EPA's efforts. Some provisions that have been enacted into law, including procurement restrictions, have not even become effective yet. The committees should defer any additional action until the full results of their work and that of the EPA, DoD, and other agencies have been completed (e.g., EPA effluent guidelines).

We remain fully committed to working with legislators, regulators, and all stakeholders to establish 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 23 NDAA that would circumvent the regulatory process, including provisions that would ban procurement and incineration and mandate EPA effluent guidelines.

Sincerely,

American Apparel & Footwear Association
American Chemistry Council
American Coatings Association
American Forest & Paper Association
American Petroleum Institute
Aerospace Industries Association
Council of Industrial Boiler Owners
Flexible Packaging Association
Fluid Sealing Association
National Association of Printing Ink Manufacturers
National Association for Surface Finishing
National Council of Textile Organizations
National Mining Association
National Oilseed Processors Association
Plastics Industry Association
PRINTING United Alliance
TRSA – The Linen, Uniform and Facility Services Association
U.S. Chamber of Commerce

cc: Members of the Senate and House Committees on Armed Services