



June 15, 2021

The Honorable Paul Tonko
Chairman, Subcommittee on
Environment and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable David McKinley
Ranking Member, Subcommittee on
Environment and Climate Change
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tonko and Ranking Member McKinley:

The American Chemistry Council (ACC)¹ supports a comprehensive approach to managing per- and polyfluoroalkyl substances (PFAS) that will ensure protection of human health and the environment. This includes appropriately managing historical PFAS, while ensuring appropriate, science-based policies and regulations for new PFAS chemistry. For these reasons we oppose H.R. 2467, the PFAS Action Act, because the provisions in this bill, while well intentioned, circumvent and often duplicate the science-based regulatory process being driven federal agencies primarily tasked with managing legacy PFAS and regulating these chemistries in commerce.

Many of the provisions of the PFAS Action Act, such as drinking water standards, effluent limitation guidelines, disposal and destruction guidelines, and comprehensive testing are already underway at the Environmental Protection Agency (EPA) and/or are listed in the Agency's spring 2021 regulatory agenda. Other provisions in H.R. 2467, such as hazardous air pollutant (HAP) designation for PFOA and PFOS, are unnecessary because these substances are no longer in use: manufacturing has been voluntarily phased out in the U.S. and their import is no longer permitted.

The Department of Defense (DoD) is also taking action to remediate its properties. DOD assessed more than 600 installations and has identified 108 that may have potentially used or released PFAS.² The Department has testified that it is specifically authorized under CERCLA Section 104 to take cleanup action to address "pollutants or contaminants" such as PFAS, and is

¹ The business of chemistry is an innovative, \$565 billion enterprise that provides 544,000 skilled jobs, plus another 4.4 million related jobs, that support families and communities across America. The business of chemistry creates the building blocks for 96 percent of all manufactured goods. From life-saving medical devices to air bags and solar cells, from child safety seats to clean drinking water, chemistry is at the heart of our economy.

² <https://www.defense.gov/Explore/News/Article/Article/2550107/official-addresses-dod-efforts-to-clean-up-pfas/>.



taking cleanup actions even though PFAS are not designated as hazardous substances under CERCLA.³ In its 2020 progress report, DoD stated:

If there was drinking water exposure to PFOS/PFOA above EPA’s lifetime Health Advisory (HA) on or off base resulting from DoD activities, the Department proactively initiated short-term actions (e.g., providing bottled water, point of use filters) and long-term actions (e.g., municipal connections, filtration systems) under Federal cleanup law (in this case, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also known as “Superfund”) to address the drinking water exposure. No one – on or off base – is drinking water above EPA’s HA level of 70 parts per trillion where DoD is the known source of PFOS and PFOA. The remaining cleanup efforts are primarily to address PFAS in groundwater. The DoD Components continue to conduct investigations and take action under CERCLA at installations where there are known or suspected releases of PFAS.⁴

Congress has supplemented existing regulatory efforts through targeted actions in the FY2020 and FY2021 National Defense Authorization Act, such as restrictions on firefighting foams, expanded reporting, increased data submissions by PFAS manufacturers to EPA, expanded funding to address emerging contaminants under the State Revolving Fund, and additional monitoring of PFAS by the U.S. Geological Survey.

Taken together, these legislative and regulatory actions present a comprehensive federal approach to PFAS that renders many of the provisions in H.R. 2467 premature, duplicative or even in conflict with ongoing activities. There is certainly a continuing need for targeted Congressional action in this space—for instance, funding for drinking water infrastructure upgrades—and we will continue to work constructively with Congress to develop and pass these measures. However, we urge you to oppose H.R. 2467.

Sincerely,



Chris Jahn
President and CEO

³ Testimony of Ms. Maureen Sullivan, Deputy Assistant Secretary of Defense for Environment, before the House Appropriations Committee, Subcommittee on Military Construction, Veterans Affairs and Related Agencies, March 11, 2020. Available at <https://docs.house.gov/meetings/AP/AP18/20200311/110704/HHRG-116-AP18-Wstate-SullivanM-20200311.pdf>.

⁴ [https://media.defense.gov/2020/Mar/13/2002264440/-1/-1/1/PFAS Task Force Progress Report March 2020.pdf](https://media.defense.gov/2020/Mar/13/2002264440/-1/-1/1/PFAS%20Task%20Force%20Progress%20Report%20March%202020.pdf).