January 28, 2020

TO: Members of the Health Subcommittee of the Energy and Commerce Committee

On behalf of the American Chemistry Council's Chemical Products and Technology Division (ACC-CPTD), I am writing to provide input on the House's consideration of H.R. 2827, a bill which would prohibit all per- and polyfluoroalkyl substances (PFAS) in any food contact materials (FCM).

The chemical industry supports a comprehensive approach to managing PFAS that helps to ensure protection of human health and the environment. This includes appropriate, science-based policies and regulations for PFAS. Unfortunately, H.R. 2827 takes an extremely broad and non-science-based approach that will have a wide range of unintended consequences and will prevent implementation of effective regulatory policies. Consequently, we oppose H.R. 2827 in its current form.

Regulation or legislation should not group all PFAS together or take a one-size fits all regulatory approach. Furthermore, federal actions should be conducted within or consistent with existing, appropriate federal agencies' regulatory frameworks, allowing the scientific and safety data on specific PFAS to guide public policy. In this case, the PFAS used in food packaging materials are already subject to strict regulation by the U.S. Food and Drug Administration (FDA) and only a small number of PFAS are authorized for use in food contact materials in the U.S.

Safety of food packaging safeguarded by robust and transparent regulation. PFAS used in food packaging are regulated as food additives by FDA. Packaging materials that contact food – including coatings and other chemical components of food wrappers, cartons, containers, etc. – are regulated as "food additives" under Section 201(s) of the Federal Food Drug and Cosmetic Act (FFDCA). FDA uses the term "food contact substance" to describe food additives from packaging materials.

Before a food contact substance can be sold or distributed in commerce it must be reviewed by FDA, and under the statute, FDA can only provide authorization for a food contact substance if the agency concludes that there is sufficient scientific data to demonstrate that the substance is safe for its intended use in packaging.

FDA requires extensive scientific data upfront. In order to demonstrate that a food contact substance is safe for its intended use, FDA requires submission of extensive upfront test data and scientific information regarding:

- The chemical composition of the food contact substance, including all impurities and potential degradation products;
- The levels of impurities that may be released from the food contact substance under intended cooking conditions and the potential dietary concentrations of those substances;
- Toxicity data (and any other relevant health and safety data) on all impurities, degradation products and other components of the food contact substance.

Ongoing safety review and monitoring by FDA. FDA can also withdraw its acceptance of a food contact substance at any time if available data no longer demonstrate that the food contact substance is safe for its intended use. If FDA withdraws its approval, the food contact substance can no longer be distributed in commerce.

Unfortunately, as currently drafted, H.R. 2827 would circumvent these existing, robust regulatory processes currently in place and implemented by FDA, and would also inappropriately group together chemistries with significant differences in physical, chemical, and toxicological properties and uses. We urge members to consider these points as the House deliberates H.R. 2827, and we remain committed to working with Congress as it further considers policies to address PFAS.

Sincerely,

Renée M. Lani
Manager