

July 25, 2023

The Honorable Gary Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Rand Paul
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Peters and Ranking Member Paul:

The undersigned organizations oppose S. 2283, the “PFAS-Free Procurement Act of 2023,” and we urge you to withdraw this bill from consideration at the Homeland & Government Affairs Committee’s (the “Committee”) business meeting scheduled for July 26, 2023. This legislation, which was just introduced on July 12, 2023, involves serious and complex issues that require more education, deliberation, and engagement among all stakeholders.

The business community has been actively engaged with the Congress, the executive branch, and the states on matters relating to PFAS for many years. We support accelerating the cleanup of PFAS pollution and appropriate actions to address PFOA and PFOS based on sound science and effective risk management. In so doing, it is important to understand that not all PFAS are the same, as many of these chemistries have very different physical and chemical risk characteristics.

We respectfully urge you to carefully consider the following key issues:

- **A consensus, consistent definition in federal policy is needed.** While we appreciate the committee narrowing the scope of the bill, a consensus definition that applies across federal agencies distinguishing among these substances, including by whether EPA or any other government agency has identified them as posing any kind of human health or environmental risk, is needed.

The Senate Environment and Public Works (EPW) Committee recently released a bipartisan discussion draft of PFAS legislation that would provide a working definition of “PFAS” for certain regulatory purposes. In our comments on that legislation, we noted (and endorsed as an appropriate approach) that the EPW proposed definition recognizes, among other things, that there are some PFAS, such as fluoropolymers, that are of low concern, and do not merit significant regulatory attention. We also suggested in our comments that EPW follow the definition of PFAS enacted in Delaware and West Virginia and therefore exclude f-gases, which are essential to meeting our responsibilities under the Kigali Amendment to the Montreal Protocol to phasedown HFCs. Should S. 2283 advance at some point in the 118th Congress, we respectfully urge that your committee should take a similar approach.

- **Product bans are not effective policy.** Section 3 of S. 2283 would require executive agencies to “prioritize the procurement of products, where available, that do not contain PFAS.” Durable federal policy should recognize the many important uses of PFAS that

yield significant societal benefits without any risk to human health or the environment, and, in many instances, for which non-PFAS substitutes are not currently available. Such uses include aviation, aerospace and defense, automotive, industrial safety, medical devices, pharmaceuticals, semiconductors and other electronics, batteries used in electric vehicles and renewable energy storage, and clean energy. Many of these uses of PFAS are critical to U.S. national security and are important contributors to meeting our ambitious climate and infrastructure goals.

- **There are practical implementation challenges.** Even for the seemingly innocuous categories of products referenced in the proposal, their role in various value chains for other products, and the broad reach of everyday uses by federal agencies, give rise to complications for attempts to replace PFAS-containing products in these categories. The research and development activities that would be facilitated by the bipartisan EPW draft bill should be completed prior to any changes in procurement policies and practices. Fluorochemicals can be present unintentionally; therefore, policies should also focus on intentional introduction, rather than the presence of PFAS in products.

Therefore, we respectfully urge you to withdraw S. 2283 from your business meeting and to work with stakeholders to find a bipartisan solution to any federal procurement issues that need to be addressed.

Sincerely,

American Chemistry Council
American Coatings Association
American Forest & Paper Association
American Petroleum Institute
Association of Equipment Manufacturers
Council of Industrial Boiler Owners
Fluid Sealing Association
National Association of Chemical
Distributors

National Association of Manufacturers
National Association for Surface Finishing
National Council of Textile Organizations
National Mining Association
National Oilseed Processors Association
Plastics Industry Association
PRINTING United Alliance
Sustainable PFAS Action Network
U.S. Chamber of Commerce

Cc: Senate Homeland Security & Government Affairs Committee members