

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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May 21, 2019

The Honorable John Barrasso
Chairman
Committee on Environment and
Public Works
United States Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment and
Public Works
United States Senate
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

The U.S. Chamber of Commerce appreciates the Committee holding the hearing, “Examining Legislation to Address the Risks Associated with Per- and Polyfluoroalkyl Substances (PFAS).” The Chamber is committed to proactively working with legislators, regulators, and all stakeholders to establish risk-based standards that protect human health and the environment. While well-intentioned, the legislation to be considered at the hearing should be improved to more appropriately address issues related to PFAS.

S. 638, the “PFAS Action Act,” would require the Administrator of the U.S. Environmental Protection Agency (EPA) to designate all PFAS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or Superfund, within one year.

EPA should retain its important authority to study the effects of potentially hazardous substances and to ascertain whether they should be designated as hazardous under CERCLA. The Superfund program has a strong track record of dealing with hazardous substances. EPA’s career scientists have the requisite expertise to examine PFAS, and decisions on these substances should not be a political question addressed by Congress.

As currently drafted, S. 638 would have significant unintended consequences that could lead to the reopening of an innumerable amount of remediated sites. This has the potential to overwhelm the Superfund program, undermine the progress that has been made on the highest-risk sites, and create unnecessary economic burdens on stakeholders, including small businesses, which may otherwise not be able to afford the direct costs associated with such widespread remediation efforts.

S. 1507, the “PFAS Release Disclosure Act,” would amend operation of the Emergency Planning and Community Right-to-Know Act of 1986 to require the reporting by industrial and federal facilities of certain PFAS releases via the Toxics Release Inventory (TRI). The TRI database serves as a centralized collection of mandatorily-reported information pertaining to

releases of toxic chemical emissions, toxic chemicals placed in certain land disposals, as well as those managed through recycling energy recovery and treatment.

To be considered a toxic chemical subject to the TRI, EPA must find the chemical is known to cause or can reasonably be expected to cause “significant adverse acute human health effects” or a significant adverse environmental effect or is reasonably anticipated to cause cancer or other chronic health effects. Currently, no PFAS are subject to TRI reporting requirements.

This legislation would be substantially improved by targeting those PFAS that are of the highest priority based on *actual* risk, using existing regulatory processes to address both current and future issues. Any legislative action should respect the formal rulemaking processes and scientific approaches that serve as the foundation of environmental statutes.

S. 1507, as currently drafted, would add the two PFAS of greatest concern, PFOA and PFOS (including their associated salts), to the TRI, as well as a number of other PFAS or groups of PFAS subject to certain current or future regulatory processes provided for in the Toxic Substances Control Act. While initially limited in scope, the number of PFAS that could ultimately be subject to future TRI reporting requirements under this bill has the potential to reach well into the thousands.

S. 1507 would also reduce the TRI reporting threshold of 25,000 pounds for chemical manufacturers and processors and 10,000 pounds for chemical users to 100 pounds for all stakeholders. Although stakeholders would likely be better served by retaining the original threshold for reporting requirements, the bill would allow EPA to reexamine the lowered threshold every five years, based on the best available science and data. Notably, S. 1507 would also provide important protections for confidential business information.

We look forward to working with you on this important matter as the legislative process continues.

Sincerely,



Neil L. Bradley

cc: Members of the Senate Committee on Environment and Public Works