

March 15, 2023

The Honorable Matt D. Klein, Chair
The Honorable Judy Seeberger, Vice Chair
Senate Committee on Commerce and Consumer Protection
Minnesota State Capitol
St. Paul, MN 55155

RE: SF 834 (Morrison): Product restrictions and reporting - OPPOSE

Dear Chair Klein, Vice Chair Seeberger & Honorable Committee Members:

The Household and Commercial Products Association (HCPA)¹ appreciates the opportunity to provide testimony to the Committee on Commerce and Consumer Protection regarding Senate File 834. HCPA supports sensible regulation of priority chemicals, however we respectfully oppose SF 834 due to the proposal's overly broad language, redundancy of federal regulations, and far-reaching product restrictions without any authoritative risk evaluation. All of the substances that meet the proposed definition of PFAS are not the same, and individual chemistries have their own unique properties and uses, as well as environmental and health profiles. As written, SF 834 would apply a one-size-fits-all approach to chemical regulation that creates new environmental concerns or even prohibits technologies that are safe for humans and the environment.

Legislation is Redundant of New Federal Requirements

Recently, Congress and the Biden Administration developed enhanced rules for regulating PFAS, including reporting requirements. The EPA has implemented a PFAS Action Plan that has served as a roadmap for the agency's activities addressing the chemical and issues related to contamination. Moreover, HCPA supports the new reporting and record-keeping requirements for PFAS under the Toxic Substances Control Act (TSCA) as amended by the National Defense Authorization Act, and seeks to assist the EPA in gathering that information in an effort to better characterize the sources and quantities of manufactured PFAS in the United States. The federal program includes a requirement for anyone that manufactures or imports, or has manufactured PFAS in any year since 2011, to report uses, production volumes, disposal, exposures, and hazards.

HCPA urges the Legislature to avoid additional state-level reporting requirements that will multiply redundant state mandates, divert state resources, and duplicate the EPA's efforts to identify PFAS

¹ As North America's premier household and commercial products trade association, HCPA represents the interests of entities engaged in the manufacture, formulation, and distribution of trusted and familiar supplies that help our communities create a cleaner and healthier environment. Products that HCPA represents include, but are not limited to, disinfectants that are designed for use against germs and human pathogens in homes and institutional settings; pest management products in homes as well as for lawns and gardens; cleaning products to keep homes and businesses clean and safe from viruses; polishes; aerosol products; and a host of other everyday consumer products.

substances. Last year, the Governor of California vetoed similar legislation in part because the EPA “is currently undergoing rulemaking to require reporting of PFAS.”²

Prohibitions like "Cleaning products" decimate entire product categories and harm the environment

SF 834, handpicks certain product types without a comprehensive scientific review and, as a result, entire product categories will be decimated while creating new environmental challenges. For example, floor maintenance products used in schools, hospitals, and office buildings are designed to remain on the floor for years. They serve an important function to mitigate wear and tear, improve cleanability, and bring no PFAS exposure to pedestrians using the floors. Furthermore, floor finish formulas are optimized to use the minimal amount of fluorosurfactant and reduce the need for more floor product applications. There are no viable alternatives to these products, thus removing them from the market will mean replacing floors more frequently, thereby creating more waste in our landfills.

Some products – in particular concentrated products that require less water – are packaged in containers that are fluorinated to prevent leakage into the environment during shipment and while on the shelf. While manufacturers continue to innovate, packaging alternatives include metal or glass which are heavier and will only increase greenhouse gas emissions in order to transport the products.

Product bans should be subject to rigorous scientific evaluation

In other jurisdictions, chemicals and products of concern undergo a scientific evaluation process with public and stakeholder input in order to consider the real and perceived risks of the products weighed against other environmental benefits the product may hold. The Legislature is not designed or equipped for this kind of rigorous assessment. For example, Washington state recently passed comprehensive legislation to regulate PFAS, however the Legislature empowered the department to make these determinations based on comprehensive and objective evaluations. Indeed, many of the products enumerated in SF 834 are under consideration in states like Washington and California.

PFAS Nomenclature

Perfluoroalkyl and polyfluoroalkyl (PFAS) substances are a large, diverse group of more than 1,000 chemical compounds. PFAS properties vary widely across uses and applications. For this reason, it is important to distinguish between PFAS categories, use, function, exposure, and chemical properties as opposed to treating the substance as a single group. Chemical and structural differences among different types of PFAS may create properties that underline legitimate concerns over potential health and environmental risks associated with some substances—this most certainly does not apply to all PFAS chemicals and applications. For this reason, PFAS should not be considered as a single group or class, especially given it is possible to scientifically define distinct categories of PFAS based on shared properties.

Unintended Consequences

A single-class approach to regulation is not scientifically accurate and can lead to unjustified or unintended product restrictions. For example, HCPA represents the aerosol industry, as this is a common delivery form for many household and commercial products. Aerosol propellants are highly regulated by state and federal governments, and producers have gone to great lengths in recent years to manufacture and innovate more environmentally preferable products, especially reducing global warming potential (GWP). Hydrofluoroolefin (HFO) technology has been recognized for its minimal global warming potential, low to non-flammability, zero ozone depletion, and also quickly degrades in the environment.³ HFOs are a compound consisting of hydrogen, fluorine, and carbon. Some HFOs

² AB-2247 (Bloom -2022)

³ The Intergovernmental Panel on Climate Change:

https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_Chapter08_FINAL.pdf

have a fully fluorinated carbon, which would unfortunately result in these propellants being captured by the bill's definition of PFAS as currently proposed in SF 834. The use of such a broad definition could needlessly impose new requirements on products and technologies deemed safe and environmentally beneficial.

Conclusion

The safety of human health and the environment is a top priority for HCPA and our member companies. HCPA supports efforts to address the release of PFAS into the environment; however, we believe SF 834 is redundant of federal efforts and includes an overly broad definition of PFAS, capturing products that are not persistent, bioaccumulative, toxic, or present any risk to the environment or public. The bill as drafted will also create new environmental concerns for the state. For the reasons outlined above, HCPA respectfully opposes SF 834 and asks the Legislature to consider the points set forth in this letter.

Thank you for your consideration of this request and for your leadership on these issues. I welcome any opportunity to discuss these concerns and can be reached at cfinarelli@thehcpa.org.

Sincerely,



Christopher Finarelli
Director, State Government Relations & Public Policy - Western Region