



April 26, 2021

Representative Josiah Patkotak
Chair
House Resources Committee
120 4th Street
Juneau, AK 99801

Re: House Bill No. 171, PFAS Use & Remediation, Fire/Water Safety

Chairman Patkotak:

The American Chemistry Council (ACC) appreciates the opportunity to comment on House Bill 171 relating to per- and polyfluoroalkyl substances (PFAS). Although there are some provisions in the bill that we do support, ACC is concerned about the provisions in Section 340 that would –

- establish drinking water limits for several PFAS without appropriate opportunity for stakeholder involvement, and
- require the Department to identify the responsible party or parties when those limits are exceeded.

Section 340 also would require responsible parties to provide blood testing even though there is no appropriate basis for interpreting the significance of the test results. In addition, Section 350 would unnecessarily restrict the use of firefighting foams for high hazard (Class B) fires outside of the oil and gas industry and require the state to get ahead of federal efforts to identify effective fluorine-free foams that are currently underway.

As the Committee is likely aware, the US Environmental Protection Agency (EPA) established Health Advisories of 70 parts per trillion (ppt) for two of the substances listed in HB 171 – perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) – in 2016. EPA recently announced that it would establish national drinking water standards for these two substances. While we recognize that creation of such national standards takes time, the 2016 Health Advisories provide useful guidance in assessing drinking water exposures to state residents. In a survey of public drinking water systems in the state conducted between 2013 and 2015, EPA reported no detections of PFOA, PFOS, or four other PFAS – all of which are listed in HB 171. While EPA has since refined its analytical techniques to detect lower levels of



these substances, the limits of the 2015 analysis were below the Health Advisory levels of 70 ppt for PFOA and PFOS.

In seeking to assign responsibility for releases of PFAS near a water supply, the proposal will likely result in significant unintended consequences. Although Section 345 would exempt releases of aqueous film forming foam (AFFF) to extinguish fires in a residence or motor vehicle, it does not exempt the use of AFFF for testing or training by local fire departments. Nor does the proposal exempt publicly owned landfills that may have released PFAS or wastewater treatment plants that have provided biosolids containing PFAS for agriculture. Farmers who have applied those biosolids on their land also are potentially liable under the bill. These activities have been identified as contributing to PFAS levels in groundwater elsewhere in the country. This is particularly relevant given the extremely low levels that have been proposed for some of the substances.

While we strongly support efforts to ensure Alaskan residents have access to clean drinking water, we believe that such efforts should have their foundation in strong, science-based regulatory processes that provide for public input. We also suggest that assigning responsibility for sources of PFAS can be very complicated – particularly if the definition for “clean” is set at such low levels.

While Section 350 would permit the use of AFFF containing PFAS in the oil and gas sector, it would unnecessarily restrict emergency use of these foams in other applications. As you may be aware, considerable efforts are being made by multiple federal agencies to explore effective fluorine-free alternatives. Thus far, these efforts have identified several significant challenges – both in the effectiveness of the alternatives and the incompatibility of the equipment required for their deployment. In this regard, the provisions outlined in Section 350 run counter to, and fail to account for, the learnings of these federal efforts.

Given these concerns, ACC cannot support the current version of HB 171 but looks forward to working with the Committee and the bill sponsors to develop legislation that can make meaningful progress in addressing the PFAS issue. We have supported legislation in other states to restrict the use of AFFF for testing and training which has historically represented most of the environmental release of PFAS from foam use. Such training and equipment testing can be managed appropriately without the use of fluorinated foam while still enabling its use where needed to address crucial, high-hazard fires

ACC also supports the management of unutilized PFAS-containing AFFF as suggested in Section 350 of the proposal. This collected material can be safely and effectively destroyed through thermal treatment under appropriate conditions, as acknowledged in Section 355 of the bill. EPA recently released interim guidance on the destruction of PFAS materials that provides information on the safe operation of thermal treatment facilities. In a recent analysis



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at a permitted cement kiln in Cohoes, New York that had treated PFAS-containing foam, moreover, the state Department of Environmental Conservation found no evidence of PFAS contamination of soil or surface water resulting from the destruction of AFFF at the facility.

Please feel free to contact me at srisotto@americanchemistry.com or at (202) 249-6727 if you have questions on the information provided above or would like to explore amendments to the current proposal.

Sincerely,

Steve Risotto

Stephen P. Risotto
Senior Director

