



Alliance for Telomer Chemistry Stewardship

February 7, 2022

To House Health & Government Operations Committee:

The Alliance for Telomer Chemistry Stewardship (ATCS), a group of the American Chemistry Council (ACC) is submitting this written testimony to you as members of this Committee to underscore the overreaching and unintended consequences that HB 275 creates as written. While the author of the legislation intends to regulate PFAS, what is clearly not understood is how vast and wide ranging these chemicals and their uses are. As an example, the broad definition of PFAS contained in HB 275 will have widespread unintended consequences, and as written the definition includes hundreds, if not thousands, of DIFFERENT chemistries. The definition should focus on the specific chemistries of concern. HB 275 is an overly broad set of legislation that creates a patch work of regulations that negatively impact the people of Maryland and the businesses that rely on these products

ATCS is a global organization that advocates on behalf of C6 fluorotelomer-based products. Our members are leading manufacturers of fluorotelomer based products in North America, Europe, and Japan. Our mission is to promote the responsible production, use, and management of fluorotelomer based products, while also advocating for a sound science- and risk-based approach to regulation. Fluorotelomer-based products are versatile chemistries with wetting and spreading features, as well as unique properties that repel water, oil and stains. These unique characteristics make fluorotelomers a critical component of first responder gear, medical garments, paints and coatings, upholstery, class B firefighting foam, among other uses that families and businesses across the world rely on.

Of particular concern, HB 275 rewrites a fluorinated firefighting foam bill that was just passed in the last session. This legislation already created many protections for Marylanders and for our environment, creating standards for treatment and containment as well as bans on certain usage. Fluorinated firefighting foams are the most effective suppressant for flammable liquid fires occurring in many military, industrial, and aviation situations. Limiting use to emergency situations addresses the vast majority of pollution concerns and will save lives in the rare instances where fluorinated foams are necessary.

As it relates to the disposal of fluorinated foams in HB 275, the EPA is currently reviewing disposal guidelines for fluorinated foams and is planning to release guidance later this year. Maryland's own study would be duplicative and costly to the state. Incineration (high-temperature thermal destruction) is a recognized best-available technology for treating and disposing of certain chemicals and wastes. The Department of Defense recently testified to the House Subcommittee on Readiness that a ban on incineration would cause the Department to cease current cleanup and that incineration is recognized as best available technology for managing and safely destroying the specific Department material. This language would prevent utilizing best available technology to manage and remediate priority PFAS substances – essentially undermining all existing clean-up efforts.

To underscore how broad HB 275 is, the legislation also seeks to undertake further regulation of food packaging materials when industry is already phasing out use of PFAS in food packaging by the end of 2023. Because of recent increased attention to the family of PFAS and the use of certain PFAS chemistries in food packaging, FDA has undertaken a reassessment of these applications (see <https://www.fda.gov/food/chemicals/and-polyfluoroalkyl-substances-pfas>). In connection with this reassessment, manufacturers of the majority of PFAS products used in fiber-based food packaging agreed to a voluntary phase-out leading to the discontinuation of sales these products for use in food packaging as of January 1, 2024. Creating a potentially redundant, duplicative, or differing patchwork of regulation is unnecessarily costly and confusing for Maryland businesses and consumers.

As reflected in its announcement of this agreement, FDA concluded that this phase-out period is needed to avoid unnecessary food supply chain and market disruptions. Recently, the McDonald's Corporation has even further announced that it will cease food sales with packaging containing PFAS by the end of 2025. Shifting the time table from what is outlined by the FDA on not only manufacturers in Maryland but as well as the numerous restaurants in the state would be unnecessary.

As ATCS, we would recommend:

- A clear definition of PFAS while underling the different class of chemistries within it,
- Restoring the bi-partisan fluorinated firefighting foam regulations put in place two legislative sessions ago while allowing use in emergency Class B fire situations,
- Allow destruction of AFFF using pollution control measures, and
- Aligning the food packaging sunset timeline with the FDA, to end December 31st, 2023.

We look forward to the opportunity to provide much needed scientific input on these critical issues and chemistries within HB 275. As written, this legislation creates an unnecessary patchwork of regulation and timetables that would misalign Maryland, causing unintended consequences for families across the state.

Sincerely,

Shawn Swearingen
Director, Alliance for Telomer Chemistry Stewardship