



# AmericanCoatings

ASSOCIATION<sup>SM</sup>

March 3, 2024

Chairman Delegate Luke Clippinger  
Maryland House of Representatives  
Judiciary Committee

Chairwoman Joseline Pena-Melnyk  
Maryland House of Representatives  
Health and Government Operations Committee

**RE: HB 1112 – Oppose**

Submitted via e-mail to: Peter.Strohmeier@house.mn.gov and Kara.Josephson@senate.mn  
Submitted on April 30, 2023, prior to 12:00 pm Central Time, on or around 8:00 am.

Dear Chair Representative Hansen and Senate and House Conferees:

The American Coatings Association (“ACA”)<sup>1</sup> appreciates the opportunity to comment in opposition to HF 1112. The Association’s membership represents 90% of the U.S. paint and coatings industry, including downstream users of chemicals who manufacture end-use formulated products such as paints, coatings, sealants and adhesives. ACA appreciates the committee’s willingness to interact with stakeholders during this process.

PFAS encompasses a variety of fluorinated chemistries with very distinct physical and chemical properties, used in a variety of products. PFAS or fluorinated chemistries are generally known to be persistent, due to carbon-fluorine bonds, but have varying properties for toxicity and bioaccumulation. Generally, persistence alone is not an indicator of risk or potential for harm. Scientists consider persistence as one factor with toxicity and potential to bioaccumulate. Because of these varying characteristics, Maryland’s adoption of a broad PFAS definition inevitably captures a diverse range of chemicals that are not harmful to human health or the environment, and that are not causing contamination in the state. ACA encourages the State of Maryland to focus any legislative restrictions on

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<sup>1</sup> ACA is a voluntary, non-profit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services. ACA’s membership represents over 90 percent of the total domestic production of paints and coatings in the country.

those fluorinated chemistries that are associated with contamination and individual exposure in Maryland, rather than enacting broad liability and a ban.

Fluoropolymers are one example of a type of fluorinated chemistry that should be excluded from a definition of PFAS. Fluoropolymers are considered “polymers of low concern” (PLC) recognized by several regulators, since they are chemically stable, non-toxic, non-bioavailable, non-water soluble and non-mobile.<sup>2</sup>

The sweeping ban in HB 1112 affects a broad range of products, many of which have a critical function for society and/or pose no human health or environmental risk, due to PFAS content. These include building and construction products that provide protection of critical infrastructure and residential homes. Coatings are also used for protection of water infrastructure. Some coatings also retard the spread of industrial fires on buildings. The bill would also affect a lightly fluorinated solvent, excluded from EPA’s definition of PFAS, used to maintain low levels of VOCs (Volatile Organic Compounds) in coatings. VOC emissions in general are associated with photochemical smog in urban areas. The paint industry has been a leader in minimizing VOC emissions from its products.

The liability provisions of HB 1112 unnecessarily establish a framework for nuisance lawsuits, that would be without merit due to the benign nature of the types of chemistries at issue. Here again, we emphasize the importance of focusing legislation on those types of PFAS associated with contamination and subsequent health effects.

ACA is in opposition to HB 1112 due to the lack of a clear public benefit while it establishes barriers to access products that provide benefits to the public. If the legislature would like to address fluorinated chemicals (including PFAS), ACA recommends that this committee develop targeted legislation to address those chemicals associated with contamination in the state, identified by CAS number.

Sincerely,

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<sup>2</sup> Additional resources from U.S. Department of Energy, Washington Department of Ecology and Canadian Department of Environment and Health explain these conclusions. These resources are listed below:

- DoE (Department of Energy) recently concluded that fluoropolymers are distinct from non-polymeric PFAS chemicals in its report, *Assessment of Fluoropolymer Production and Use with Analysis of Alternative Replacement Materials* (published January 2024), available online at: [Assessment of Fluoropolymer Production and Use With Analysis of Alternative Replacement Materials \(Technical Report\) | OSTI.GOV](https://www.oeri.gov/assessments/fluoropolymer-production-and-use-with-analysis-of-alternative-replacement-materials-technical-report)
- Washington Department of Ecology, *Per- and Polyfluoroalkyl Substances Chemical Action Plan*, p. 97, Sept. 2022 revision of original publication from April 4, 2021, available online at: <https://apps.ecology.wa.gov/publications/documents/2104048.pdf>.
- Executive Summary in the Canadian Gazette, July 2024: <https://www.gazette.gc.ca/rp-pr/p1/2024/2024-07-13/html/notice-avis-eng.html#ne3>.