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March 21, 2024

The Honorable Nicole E. Lowen, Chair
and Members
House Committee on Energy and Environmental Protection
Hawaii State Capitol, Room 325
Honolulu, Hawaii 96813

Dear Chair Lowen and Members:

Subject: HCR 212: Urging the Department of Health to Investigate and Implement Policies to Reduce the Importation of Products, Packaging, or Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances into the State

The Honolulu Board of Water Supply (BWS) supports House Concurrent Resolution (HCR) 212.

According to the U.S. Environmental Protection Agency (EPA), PFAS are a category of manufactured chemicals that have been used in industry and consumer products since the 1940s.¹ PFAS are used in water-repellent, stain resistant, non-stick and many other products. It has also been found in firefighting foams used to extinguish fuel fires, wastewater, and landfills. They are water soluble, persistent and do not easily degrade in the environment. They are also linked to several health effects and can leach and contaminate groundwater aquifers used for drinking water.

The Red Hill contamination crisis has led the DOH to work with the U.S. Navy to collect and monitor levels of PFAS. Since the DOH already has begun investigations into PFAS, it should continue the effort to help protect public health by furthering its investigations and implement policies to reduce PFAS exposure to our environment, drinking water, and residents. Chronic exposure to PFAS can lead to health issues and environmental threat.

Thank you for the opportunity to testify in support of HCR 212.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

¹ EPA Finalizes Rule to Require Reporting of PFAS Data to Better Protect Communities from Forever Chemicals. U.S. Environmental Protection Agency, September 28, 2023.



March 18, 2024

To: The Honorable Nicole Lowen, Chair
Members, House Committee on Energy and Environmental Protection

From: Tim Shestek
Senior Director, State Affairs

Re: **HCR 212 / HR 192 – Comments**

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments relative to both HCR 212 and HR 192, resolutions urging the Department of Health to investigate and implement policies to reduce the importation of products, packaging, or materials containing perfluoroalkyl and polyfluoroalkyl (PFAS) substances into the state.

ACC supports a comprehensive approach to managing PFAS substances that helps to ensure protection of human health and the environment. However, the language contained in HCR 212 and HR 192 is extremely broad, especially as it relates to categorizing all PFAS as the same substances with equal hazard and risk profiles. This approach is not scientifically sound and for this reason, we must respectfully oppose HCR 212 and HR 192 as currently drafted.

Background

PFAS are a diverse group of chemistries that provide strength, durability, stability, and resilience. These properties are critical to the reliable and safe function of a broad range of products that are important for industry and consumers. They impart a wide range of performance characteristics that are vital for the manufacture and performance of medical devices, smart phones and laptops, solar panels, electric vehicles, HVAC units, electric appliances, paints and coatings, components of agricultural equipment, telecommunications infrastructure and advanced transportation and aerospace applications to name just a few.

One key type of PFAS in use today is fluoropolymers, a type of specialty material. Fluoropolymer uses include:

- **Automotive:** Gaskets, rings, valves, and hoses in the fuel system; wiring and circuit boards; pull cables; shock absorbers and bushings.
- **Aerospace (military and civilian):** High performance navigation and communication antennae; lubricants for wing flap mechanisms and landing gear; fuel-oxygen separation systems.
- **Clean Energy:** Electric vehicle batteries, hydrogen fuel cells, solar panels, wind turbines, and sheathing for power cables and coatings for electrical wire.
- **Electronics and Electric Appliances:** Computers and other electronic equipment and related components and accessories.
- **Industrial Processes:** Linings for pipes, valves, and tanks to prevent corrosion; gaskets in high temperature, high pressure production processes to contain reactive substances.



- **Medical:** Surgically implanted medical devices (e.g. stents); COVID testing equipment and respirator tubing; catheters and guide wires; transfer and storage bags for biological fluids; personal protective equipment.
- **Semiconductors:** Ultra-low contamination semiconductor manufacturing; wafer etching; chemical piping and storage.

PFAS includes a variety of different chemicals with different properties and characteristics. Therefore, the hazard and risk profiles of various PFAS are different. According to the US EPA, “approximately 600 PFAS are manufactured (including imported) and/or used in the United States.” Among these 600 are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols) and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids and gases are clearly different from one another. The very distinct physical and chemical properties of the three types demonstrate how varied they are and how imposing a “one-size fits all” approach as proposed would be inappropriate.

An illustration of this point can be found in a 2023 Department of Defense report that urged “Congress and the Federal regulatory agencies should avoid taking a broad, purely “structural” approach to restricting or banning PFAS. It is critical that future laws and regulations consider and balance the range of environmental and health risks associated with different individual PFAS, their essentiality to the U.S. economy and society, and the availability of viable alternatives.”¹

Many entities that have explored the possibilities of a class-based approach to regulating these substances have recognized the significant challenges:

- ECOS – the Environmental Council of the States – which represents state and territorial environmental agency leaders, several of whom have implemented regulatory programs in their home states, has said: “Many regulators and subject-matter experts advise against grouping PFAS as an entire class.” (*ECOS. Processes & Considerations for Setting State PFAS Standards (February 2020)*)
- The Vermont Department of Environmental Conservation, which was specifically charged by the legislature to develop a class regulation or to explain why such a regulation wasn’t possible said, “The Review Team spent over a year deliberating, researching, and discussing the potential to regulate PFAS as a Class. After reviewing the current peer-reviewed literature, as well as the available toxicology data for PFAS, the Review Team determined that at the current time it is not feasible to regulate PFAS as a Class.” (<https://dec.vermont.gov/sites/dec/files/PFAS/20180814-PFAS-as-a-Class.pdf>)
- Federal scientists participating in a workshop convened by the National Academies of Science, Engineering, and Medicine (NASEM) to review the federal PFAS research program acknowledged the broad diversity of properties with this group of substances, concluding that “PFAS substances thus present unique challenges for grouping into classes for risk assessment.” *NASEM. Workshop on Federal Government Human Health PFAS Research, October 26-27. Board on Environmental Studies and Toxicology (2020).* <https://www.nap.edu/read/26054/chapter/1>
- In a recently published peer review conducted by a panel of experts, most agreed that all PFAS should not be grouped together for risk assessment purposes. Most experts also agreed that it is inappropriate to assume equal toxicity/potency across the diverse class of PFAS. <https://scipinion.com/panel-findings/risk-assessment-of-pfas/>

ACC looks forward to working with you and the Legislature to ensure that any approach to the management of PFAS is grounded in sound scientific information. Thank you in advance for considering our views. If you have any questions, please do not hesitate to contact me at 916-448-2581 or via email at tim_shestek@americanchemistry.com. You may also contact ACC’s Hawaii based representative Ross Yamasaki at 808-531-4551 or via email at ryamasaki@808cch.com

¹ <https://www.acq.osd.mil/eie/eer/ecc/pfas/docs/reports/Report-on-Critical-PFAS-Substance-Uses.pdf>

HCR-212

Submitted on: 3/21/2024 9:00:02 AM

Testimony for EEP on 3/21/2024 9:31:00 AM

Submitted By	Organization	Testifier Position	Testify
Dave Mulnix	Greenpeace Hawaii	Support	Written Testimony Only

Comments:

SUPPORT!

HCR-212

Submitted on: 3/21/2024 8:56:42 AM

Testimony for EEP on 3/21/2024 9:31:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

SUPPORT!