



January 24, 2023

To: The Honorable Pam Marsh, Chair
Members, Oregon House Committee on Climate, Energy and Environment

From: Tim Shestek
Senior Director, State Affairs

Re: **HB 3043 – OPPOSE**

The American Chemistry Council (ACC) appreciates the opportunity to comment on HB 3043, legislation that would, among other things, grant new authority to the Oregon Health Authority (OHA) to include “a class of chemicals” on the state’s list of high priority chemicals of concern. Chemical and product safety is a top priority for ACC members, and we believe consumers deserve to have confidence that the products they buy are safe for their intended use. Our members invest significant resources in product and environmental stewardship and share a common commitment to advancing the safe and secure management of the products we produce.

ACC is concerned with the general concept of regulating chemicals based on a “class approach.” Any regulation or reporting requirement should consider the significant differences among the many compounds that are part of a chemical family. The current high priority chemicals of concern list consists of 73 chemicals. The addition of “chemical classes” could result in product manufacturers reporting on hundreds, if not thousands of substances simply because a chemical has similar sounding name or structure.

Amending the list of high priority chemicals should only be done after a fact-based evaluation about the nature of these substances, how they differ from each other and what risk, if any these substances may present to human health or the environment. Though the names of chemicals may be similar, the differences in their use, structure, health and environmental profiles make them unique. Attached are two infographics that help further explain this point.

Many entities that have explored the possibilities of a class-based approach 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 National Academy of Sciences stated in 2019 that organohalogen flame retardants (OFRs) “cannot be treated as a single class for hazard assessment.” “The committee found that OFRs cannot be distinguished as a single class from these other chemically similar analogues. In addition, OFRs do not have a common chemical structure or predicted biologic activity and therefore cannot be treated as a single class.” [National Academy of Sciences Concludes Chemicals \(FRs\) Cannot Be Assessed for Hazards as a Single Class, But Can Be Assessed in Subclasses](#)
- 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 also supports comments expressed by the Toy Association, the Juvenile Products Manufacturers Association, and Oregon Business & Industry regarding compliance challenges associated with adding “classes of chemicals” to the reporting list, as well as how this proposed requirement would put Oregon further out of alignment with other state children’s product reporting requirements.

For these reasons, ACC urges you to oppose HB 3043. Should you have any questions, please do not hesitate to contact me at 916-448-2581 or tim_shestek@americanchemistry.com. You may also direct questions to Matt Markee at 503-510-3377 or matt@markee.org. Thank you in advance for considering our comments.