



Chair Sheldon, members of the Environment & Energy Committee, thank you for the opportunity to testify today. My name is Andrew Bemus with the Sustainable PFAS Action Network. SPAN a coalition of PFAS users and producers that are committed to sustainable, risk-based PFAS management. Our members advocate for responsible policies that assure long-term human health and environmental protection while recognizing the critical need for certain PFAS materials as a contributor to US economic growth and competitiveness.

We are here to suggest sensible and credible changes to the draft PFAS bill currently before the Committee, that is based on a draft released by DEC last fall. Managing PFAS is a complex issue and we appreciate the Committee hosting a hearing to begin to think through the needed elements of legislation. There are aspects of the draft which SPAN can be supportive of, such as the initial focus on consumer products. However, SPAN encourages a risk-based approach to PFAS management in Vermont, and would suggest several changes to the legislation to make it more effective and manageable.

The definition of PFAS used in the draft is far too broad, and will encompass compounds and products that the bill is not intended to address. While the “one carbon atom” definition has been used in other states, it has only rarely been used for bills with as potentially broad implications as the current draft. Two states have used this definition for class-wide PFAS bills: Maine and Minnesota. Both of these states have had significant implementation issues that have caused delays, confusion, and overly burdensome policies. Last year, Maine greatly scaled back their PFAS program, and Minnesota is currently considering significant changes. SPAN would also suggest retaining the language stating that the secretary may adopt exemptions to the definition of PFAS if certain chemicals are not toxicologically similar to chemicals defined as PFAS.

In the fall, DEC released a draft bill that contained the definition of PFAS being used by EPA to implement their reporting rules pursuant to the Toxic Substances Control Act. SPAN would strongly recommend the Committee use this definition of PFAS. EPA has stated that this definition contains about 800 commercially-active compounds, which will allow Vermont to target their PFAS program to the most commercially-active PFAS. New Hampshire adopted this definition in consumer product legislation last year.

SPAN would also recommend a more targeted definition of “intentionally-added.” The definition currently in the draft is far too broad, and suggests that the legislation intends to impose regulations beyond the stated scope. While the bill is initially focused on consumer products, the definition of “intentionally-added” would encompass manufacturing processes going beyond the concern of the use of PFAS in the actual product. SPAN would suggest the

continued use of the definition that passed in S.25 last year: *“Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.*

SPAN also strongly suggests the inclusion of an “essential use” exemption process. While the bill focuses on an initial list of consumer products, some of the bans, such as the one on fluorine-treated containers, may encompass additional products that should be considered for an essential use exemption. Leaving “essential use” considerations out of the bill eliminates the Department’s discretion to recognize that a product with PFAS may be necessary for the health, safety, or functioning of society and therefore should not be subject to the ban.

SPAN was encouraged by some of the changes made by the Committee from previous drafts, such as a reconsideration of the total ban on consumer products with PFAS, and the implementation timeline based on actions in other states. However, the bill still contains a great deal of ambiguity, and uses very broad definitions that would create duplicative and burdensome regulatory requirements, for both policymakers and manufacturers in Vermont.

SPAN encourages the further consideration of these critical issues, and looks forward to our continuing dialogue with the bill sponsor and committee. Thank you for the opportunity to testify, and please contact SPAN with any further comments or questions.