July 7, 2021

TO THE MEMBERS OF THE UNITED STATES SENATE:

The American Chemistry Council (ACC), the primary trade association representing the business of chemistry,[1] is encouraged to see bipartisan progress toward long-term infrastructure funding. However, we have grave concerns over the inclusion in the Bipartisan Infrastructure Framework of a $13 billion tax on chemicals, critical minerals and metallic elements. Make no mistake, this "pay for" under consideration is a tax on consumers, who would be forced to pay even more for thousands of products that are already at elevated prices due to the pandemic.

The U.S. chemical industry is the foundation for America's manufacturing supply chain, and the 42 chemicals, critical minerals and metallic elements identified for taxation are the building blocks for a variety of vital products, including pharmaceuticals, semiconductors, water treatment and disinfection, solar panels, refrigerants, soaps and detergents, steel, plastics, wood products, copper, cement, glass, pesticides, fungicides, rubber, paint and coatings, batteries, ceramics, textiles, light bulbs, dental fillings, fireworks and consumer electronics.

The tax will also set back the Bipartisan Infrastructure Framework's own goals by making infrastructure components more costly, including clean energy building blocks for renewable energy, advanced coatings, energy efficiency improvement, water delivery and purification and electric vehicle (EV) infrastructure. These new costs will be incurred when the chemistry industry is already facing depressed demand from the COVID-related recession, intensifying foreign competition, and razor-thin margins. These taxes could offset any return on sales to current producers, making these segments non-competitive in the global market.

ACC estimates that the new tax on chemicals, critical minerals and metallic elements would place a $1.21 billion annual tax on producers, which would likely be passed through to consumers as an added cost on their products.[2] It would create conditions conducive to shutdowns for 44 plants producing chemicals, minerals, metals or other materials subject to those taxes while giving an unfair advantage to foreign producers, such as China, not subject to the tax. This after a decade in which American chemistry has been an engine of U.S. economic growth and new jobs due to our investment in new factories and expansions.

Despite being called a "Superfund Tax" or billed as a reinstatement of the "Superfund Tax," this characterization is a misnomer. This new tax on chemicals, critical minerals and metallic elements will not result in faster cleanups for Superfund sites. This is because cleanup dollars are

[1] The business of chemistry is an innovative, $565 billion enterprise that provides 544,000 skilled jobs, plus another 4.4 million related jobs, that support families and communities across America. The business of chemistry creates the building blocks for 96 percent of all manufactured goods. From life-saving medical devices to air bags and solar cells, from child safety seats to clean drinking water, chemistry is at the heart of our economy.

[2] https://www.americanchemistry.com/Analysis-of-Reinstating-Superfund-Taxes-on-Chemicals.pdf.

appropriated annually by Congress, regardless of whether there is new money in the Superfund Trust Fund. Because Congress does not need to pull from the Trust Fund, this money is frequently used for other purposes and has in the past suffered from waste and contractor abuse.[3]

ACC members are responsible for less than 2 percent of the Superfund sites listed on the National Priorities List. By taxing our products to pay to clean up others' pollution, Congress would be forcing consumers to pay more for goods they already pay a premium for, and in some cases, are facing shortages of—everything from groceries and cars to lumber and electronics. The Superfund Tax on chemicals will make nearly all of these items more expensive for consumers, at a time when inflation is already causing belt-tightening across the country with consumer prices rising faster than at any point since 2008.

Congress and the White House have done an admirable job finding bipartisan middle ground on infrastructure. However, as currently drafted the Bipartisan Infrastructure Framework results in new taxes on American consumers, breaking the commitment made to taxpayers by many in Congress. We request that this new tax be removed from the package.

Sincerely,

Chris Jahn
President and CEO

[3] https://www.gao.gov/products/t-rced-92-56.