



Slingshot

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Testimony on Chapter 90 Rulemaking
Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances
Board of Environmental Protection
Dana Colihan, Co-Executive Director | January 24th, 2025

Dear Chair Lessard and members of the Board of Environmental Protection,

Slingshot is submitting comments in support of the draft Chapter 90 rules and we urge the BEP to avoid weakening any of the requirements.

Whether your community is facing polluted water from sludge spreading, an AFFF spill, or a leaking landfill, you deserve to know the facts, make your voice heard, and create the changes you want to see. Slingshot is an environmental health and justice organization, working alongside communities most impacted by environmental threats to take aim at polluters and build community power.

We are currently facing one of the largest contamination crises of our time—with communities around the country discovering daily that their water is polluted with per and polyfluoroalkyl substances or PFAS. PFAS are a toxic, man-made class of chemicals, commonly known as “forever chemicals,” which were created by chemical companies for things like non-stick coating or fire fighting foam. However, PFAS have been linked to serious health impacts like kidney cancer, reduced immune system function, thyroid disease, liver damage, and more.

We co-facilitate the National PFAS Contamination Coalition, which is composed of 42 community groups from across the country, including Maine, that are directly impacted by PFAS. The coalition is fighting for a world where people are not exposed to any PFAS, where there is justice for the victims of PFAS exposure, and where laws and regulations prevent contamination disasters like this from happening again. From this work, we have witnessed the harm PFAS have on our bodies, families, and environment.

We need to do everything in our power to stop PFAS exposure and turn off the tap of contamination. We shouldn't have PFAS in our products, we shouldn't have PFAS in our water, and we shouldn't have PFAS in our bodies.

In many ways, Maine has been a leader in taking steps to tackle the PFAS contamination crisis. Maintaining strong requirements for “currently unavoidable use(s)” is critical to ensuring that we do everything in our power to prevent exposure to PFAS.

For decades, companies like 3M and Dupont knew about the serious dangers of these chemicals, but covered up the health impacts from the public, regulators, and even their own employees. We are now collectively paying the price.

We need to ensure that industry doesn't shirk responsibility or weaken these rules, because there is a real human cost to negligence. It is time to put people over profit and stop preventable exposure.

This is why we are asking the BEP to ensure the strengthening or tightening of language in a few key areas:

1. In the **currently unavoidable use** section [A(3)(b)] – *“the required specific characteristic or combination of characteristics that necessitate the use of PFAS chemicals”* – it is critical to go beyond just asking industry for the characteristics that necessitate the use of PFAS. The intent of the law is to ensure that these chemicals are used only when absolutely essential, given their danger to human health and their propensity to accumulate over time. Thus, we need to require industry to provide clear information as to why this characteristic is necessary for the products' function for the health, safety, or functioning of society.
2. Under section A(4)(e) – (*“comparison of the known risks to human health and the environment between PFAS and the materials identified in Subsection a”*.) – There needs to be clear criteria laid out for completing such an assessment, or we will only see information or studies presenting an industry slant.
3. We need tighter and clearer definitions for certain terms, including:
 - a. **Reasonably available.** The draft definition states that a PFAS alternative is “reasonably available” if *“readily available in sufficient quantity and at a comparable cost to PFAS.”* This definition creates a significant loophole, and fails to create the kind of imperative necessary to change corporate behavior. The root of the PFAS contamination crisis is that companies have been allowed to externalize the massive cost to society of these products: costs to the health care of people sickened by exposure; costs to farmers whose land is contaminated by PFAS-containing sludge; costs to water providers to filter out and attempt to destroy and dispose of PFAS; and costs to homeowners whose well water is no longer safe to drink, not to mention costs to taxpayers. Where there is a firm imperative, science and business will come together to find alternatives. Without a firm imperative, polluters will continue to choose chemicals that are the lowest cost to them, ignoring the cost to their neighbors' and consumers' health and financial well being. A tight definition of “reasonably available” – that does not focus on the cost or ‘comparable’ cost – is essential to creating a firm imperative for companies to use safer alternatives.

- b. Commercially available analytical method.** Industry should not be allowed to test their own materials. They should be required to use a third party laboratory.
- c. Chemically-formulated.** We need to more clearly include or account for instances where substances are formulated or manufactured by adding PFAS even if it does not *chemically* change the natural substance. For example, covering a carpet with stain-resistant PFAS does not change the chemical composition of the carpet itself, but it absolutely introduces PFAS chemicals into people's homes where children play.
- d. Cosolvent.** "In small amounts" does not need to be specified in the definition. Cosolvents can be used in a wide range of concentrations.

We appreciate the hard work that has gone into the drafting of these rules, we support the draft, and urge the BEP to avoid weakening any of the requirements – especially related to the requirements for the currently unavoidable use. Thank you for taking our recommendations into consideration and taking action to protect Mainers and the environment.