

September 2, 2025

Kerri Malinowski Farris
Department of Environmental Protection
17 State House Station
Augusta, ME 04333
Sent via email: pfasproducts@maine.gov

**RE: Chapter 90 - Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances
Currently Unavoidable Uses**

Dear Ms. Farris:

On behalf of the Maine State Chamber of Commerce and our network of more than 5,000 employers, thank you for the opportunity to provide comments on the Chapter 90 draft rule regarding Currently Unavoidable Use (CUU) determinations.

We commend the Department of Environmental Protection (Department) for its careful evaluation of the CUU petitions submitted in accordance with Chapter 90, and we comment in support of its recommendations to grant CUU determinations for two specific components, as well as to encourage the Board of Environmental Protection (Board) to extend approval to additional requests that the Department received but did not request the Board to approve.

Specifically, the Chamber supports the Department's recommendation to approve CUU determinations for container vented capliners and internal cartridge valves for liquid cleaner containers. We believe both components fall within the statutory definition of a CUU, under 38 M.R.S. §1614(1)(B), as they meet the standard under the following uses:

- PFAS is essential for the health, safety, or functioning of society;
- There are no safer alternatives available; and
- The use is necessary for the operation of the product.

First, internal cartridge valves for liquid cleaner containers are critical to ensuring controlled dispensing of cleaning and disinfecting products that are required in hospitals, nursing facilities, food processing plants, and other public health settings. Without this component, disinfectant containers cannot function as intended – creating potential health hazards from overdosing of the compounds contained in cleaning product containers. To our knowledge, there are no materials – other than PFAS – that provide the necessary chemical reliability required for these valves to perform as intended.

Container vented capliners are also necessary, and alternatives to those containing PFAS are still being researched and not available currently. The vented capliners provide for the safe transportation and storage of regulated liquids – preventing leakage and allowing for venting. This function is particularly vital for chemical cleaners, sanitizers, and other regulated substances used in workplaces across Maine. A failure of this component would increase consumer safety risk.

Both components illustrate uses where PFAS is not added superfluously, but rather for the safe functioning of these products.

In addition to supporting the Department's recommendations for the previously mentioned product components containing intentionally added PFAS, the Chamber encourages the Board to extend CUU determinations to internal product components and cookware containing Polytetrafluoroethylene (PTFE).

We encourage the Board to grant a CUU determination for internal electrical and mechanical components as they are not intended to come into direct contact with consumers and therefore, present negligible exposure risk. PFAS use in many of these components is necessary to ensure the safe functioning of the products by providing electrical insulation, heat and wear resistance, and durability over the life of the equipment.

In both cases, PFAS is used internally – in a manner consistent with the statutory CUU criteria. Importantly, these uses mirror the approach taken in other jurisdictions. For instance, Minnesota's 2025 PFAS prohibitions restrict certain product categories but do not extend to internal components.

If Maine prohibits the sale of products containing PFAS in internal components that are otherwise allowed in other states, Maine risks becoming a regulatory outlier. Such divergence would have significant implications for supply chains, product availability, and the competitiveness of Maine's economy. National manufacturers are unlikely to redesign products solely for Maine's market, resulting in either reduced product availability for Maine consumers or increased costs for Maine businesses.

The Chamber also encourages the Board to extend a CUU determination for cookware containing Polytetrafluoroethylene (PTFE), which is used extensively in restaurants, hospitals, and hotels among other commercial kitchens. To our knowledge, no alternatives provide the same level of durability and functionality as those used with PTFE-coatings. Furthermore, prohibiting the use of these chemical compounds in cookware would add to increasing costs of operating for Maine businesses who would need to change over their kitchen cookware.

In addition to the components and categories addressed above, the Chamber would like to raise two procedural concerns that we believe should be addressed.

First, the Chamber strongly recommends that the rule establish a clearly outlined appeals process for petitioners to submit an amended CUU petition when the Department finds that a submission lacks sufficient supporting evidence. Without a defined opportunity to amend or appeal, a single gap in information — whether due to data limitations or ongoing research — could unnecessarily disqualify an otherwise legitimate CUU request leaving businesses without regulatory certainty. Establishing a well-defined process for appeal will encourage petitioners to continue refining their submissions, providing the Department with more complete data sets over time, and enhancing regulatory fairness by ensuring that determinations are based on the best available information.

The Chamber also urges the Board to include in the rule a streamlined process for renewing a CUU determination. For businesses planning product design, manufacturing, and supply chain operations, predictability in timelines is critical. By allowing renewals to focus only on substantive changes — such as the development of viable alternatives, new risk assessments, or updated data — the Department can ensure that resources are directed toward evaluating meaningful new information while maintaining regulatory continuity for businesses that have already demonstrated compliance with CUU standards.

In closing, the Chamber urges the Board to:

- Approve the Department's recommended CUU determinations for internal cartridge valves for liquid cleaner containers and container vented capliners;
- Extend CUU approval to internal electrical and mechanical components – consistent with the approach taken by other states such as Minnesota, as well as to cookware containing PTFE; and
- To adopt a clearly defined appeal process for CUU petitions and to streamline renewal procedures for previously approved determinations.

The Chamber believes that by doing so it will ensure that Maine's policies continue to protect public health and the environment while also maintaining regulatory consistency with other jurisdictions; prevents Maine from becoming an outlier; and ensures that businesses can continue to operate and sell products in Maine without prohibitive burdens.

Thank you for your consideration of these comments. We appreciate the Department and the Board's ongoing efforts as it relates to products containing PFAS.

Sincerely,

Ashley Luszczki
Government Relations Specialist
Maine State Chamber of Commerce