

**From:** [Deb Neuman](#)  
**To:** [DEP Rule Comments](#)  
**Subject:** Comment on Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances  
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May 19th, 2023

Susan Lessard, Chair  
Maine Board of Environmental Protection  
17 State House Station  
Augusta, Maine 04333

RE: MSCC Written Comments on Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances

Chair Lessard and members of the Board of Environmental Protection,

On behalf of the Bangor Region Chamber of Commerce Board of Directors, I thank you for the opportunity to comment on the draft rule for Chapter 90 - Maine's PFAS reporting law. This law has risen to the top in terms of concerns and questions we have received from our nearly 800 chamber member businesses throughout the 21 community regions we serve. Businesses in every sector and of every size.

We certainly understand the challenges the Department has faced to implement this law and appreciate that you have provided the business community with opportunities to engage in conversation and provide input. We are happy to remain at the "table" as this continues to be addressed. David Dunning, on behalf of the BRCC, testified at the public hearing on April 20th and stressed the concerns we are hearing from businesses and asked the Department to take your time implementing this law, given the potential implications to Maine's economy and the efforts underway in the current legislature to address these concerns.

The law and the draft rules published by the Department will impact nearly every sector of Maine's economy. Some of most concerning rules to our members include the following:

### **Uncertainty**

Our member businesses are concerned about their ability to comply with this law and understanding how the law affects their businesses. We recognize you have been given an enormous task and that is not the fault of the Department. This uncertainty is of big concern to us, and we hope the Board recognizes that. We consistently hear from our members that they need a predictable regulatory environment from the agencies that regulate them.

## **Definition and compliance**

38 M.R.S. §1614 (1)(G) defines a product as “an item manufactured, assembled, packaged or otherwise prepared for sale to consumers, including its product components, sold or distributed for personal, residential, commercial or industrial use, including for use in making other products.” The statute defines “product component” as “an identifiable component of a product, regardless of whether the manufacturer of the product is the manufacturer of the component.”

One of our members, C&L Aviation, uses thousands of parts in their aircraft. These parts are purchased from manufacturers or are used parts taken from other planes. *Will they be required to verify and/or test every nut, bolt, and engine component for PFAS?* Compliance with that requirement would be extremely difficult. *What about used parts?*

In addition, asking a business to ensure that the manufacturer of the parts they purchase complies with Maine’s PFAS laws could potentially impact relationships with manufacturers and negatively affect Maine’s global supply chain if they have no other choice than to stop doing business with Maine companies.

In the case of C&L Aviation, The FAA must approve every product and product component that goes into an aircraft and service and maintenance operations are further limited to manufacturers’ manuals, which dictate what products they may use and how. It is of utmost importance that the Department understands that federally regulated products and product components that may have intentionally added PFAS cannot simply be switched for products that do not.

## **Definition of and testing for PFAS**

*The statute requires any chemical containing at least one fully fluorinated carbon atom, which is a carbon atom on which all the hydrogen substituents have been replaced by fluorine, that is intentionally added to a product be reported to the Department regardless of whether it is found on any list. The statute requires manufacturers to report the amount of intentionally added PFAS in their products by CAS number. Therefore, the Department interprets that PFAS subject to the reporting requirement of the law is limited to those with a CAS number.*

This current definition has created confusion and many questions from our member businesses trying to understand what this means and how it applies to them. Thousands of different chemical compounds fall into this definition. That is impossible to be able to test for and we do not have the lab capacity across the country to do this, nor do we have the ability to test in Maine. So, we will require companies based in Maine to pay for their products to be shipped out of state and tested. The costs associated with that and the time it takes to get results will be incredibly problematic for our businesses.

Furthermore, the rule does not appear to account for the likelihood that a singular product

(an engine for example) may contain hundreds of thousands of product components, requiring an immense effort to identify and report PFAS substances with different CAS registry numbers.

### **Fees**

In addition to the expense businesses will incur to have their products tested for PFAS, companies will be required to pay fees to the Department for product notifications/filings. This is another cost burden to Maine businesses. The fact that a singular product may contain many product components that contain PFAS, would require the payment of fees well in excess of the Department's reasonable administrative costs. The Department should make clear that the fee is for the aggregate product and not for each product component that contains PFAS.

### **Extensions**

We appreciate that the Department has started issuing extensions. We are hearing from our members that every product is different, some are much more complex than others, different industries are more difficult, and they will need more time. We would hope that the Department would take into consideration issuing longer than 6 month extensions for those items that are very complex and will need more time to process or better yet, issue a blanket extension to allow companies to understand the law, how it affects them and what they need to do to comply with the law and reporting requirements.

### **Legislation**

We have been working with policy makers and our partners, the Maine State Chamber, to testify and support bills currently in the legislature that address many of the concerns with this law. We are encouraged by the direction the Environment and Natural Resources committee is taking to understand and address these issues. We will continue to actively engage with these discussions and thank the Department for recognizing that there may be changes to this law that will affect the rulemaking process.

Thank you for the opportunity to provide these comments. If you have any additional questions, please contact me at [deb@bangorregion.com](mailto:deb@bangorregion.com).

Sincerely,

Deb Neuman, President & CEO  
Bangor Region Chamber of Commerce  
Phone: 207.947.0307