



Remarks of Chris Kilgour, CEO, C&L Aviation Group
In Support of Meaningful Reform to the PFAS Reporting Law
April 26, 2023

Senator Brenner, Representative Gramlich, members of the Committee, my name is Chris Kilgour. I live in Hampden and am the CEO of C&L Aviation Group. C&L is a global aviation services and aftermarket-support provider for regional and corporate aircraft. 60% of our business is selling aircraft parts, the majority of which are from aircraft being decommissioned; 40% of our business is repairing and refurbishing aircraft.

In 2010 we decided to relocate our international company headquarters to Bangor, where we operate out of a 200,000 square-foot facility at the Bangor International Airport. We employ more than 250 people, including 200 in Maine. Last year our gross revenue was approximately \$100 million, 99% of which came from out of state. 80% of our operations occur here in Maine and we have a proven record of dedication to our community. We provide a full-tuition college scholarship for a Bangor-area high school senior and have an apprenticeship program that provides on-the-job training in Bangor. We also have hosted a plane-pull to support Big Brothers Big Sisters of Mid-Maine youth mentoring programs, among other efforts.

As a Maine-based company, C&L fully supports the State's effort to reduce harmful contaminants in Maine and hopes that our comments assist the Legislature in crafting a law governing PFAS in products that achieves that goal. However, it would be functionally impossible for our company to comply with the PFAS reporting law as currently written. An individual aircraft has approximately 400,000 parts and we work on 10 different types of aircraft. Many of our suppliers are located outside of Maine and likely unaware of Maine's statutory notification requirement for both our parts and theirs.

In addition to the impossible challenge of collecting this information, the Federal Aviation Administration (FAA) and the aircraft manufacturer designate what parts can be installed on a specific aircraft. When a manufacturer produces an aircraft, it provides a manual that lists every part that goes into that aircraft. In order to ensure the highest level of safety, this manual is then approved by the FAA and given permission to fly. Service and maintenance operations such as ours are limited to manufacturers' manuals that dictate what parts we may use and how. We have no ability to switch parts if a supplier cannot provide us with information as to the presence or absence of PFAS in that part. Because this federal regime mandates what parts may be utilized on aircraft, the FAA effectively "governs the presence of PFAS" in aircraft.

LD 1214 is a step in the right direction for right-sizing the PFAS reporting requirement for Maine businesses. But the changes proposed are not sufficient to assist our business. For that reason, we would propose one of two additional amendments to address the impossibility of our current reporting burden.

Clarifying language regarding federal preemption

The current law includes preemption for a "product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority." (38 MRSA § 1614 (4)(A)). As a practical matter, the direct and detailed oversight by the FAA of the parts used in aerospace repair preempts any state's authority to regulate in this area.

Nevertheless, the Department of Environmental Protection (DEP) has interpreted the language to require that the relevant federal law must “explicitly preempt” the Maine law for the preemption to apply. We would submit that this interpretation is unusually narrow, and facially incorrect. The federal government does regulate the presence of PFAS in aerospace parts, even without explicitly referencing PFAS in the enabling statute or in the FAA’s regulatory language.

The DEP’s interpretation of Maine’s PFAS law creates a clear conflict for us. We cannot comply with both federal regulation (dictating what parts are available) and the state’s regulation (banning certain parts). Further, the ban on the sale of parts where the reporting requirements cannot be met would result in Maine dictating what parts are and are not available in the aviation industry.

Accordingly, we would recommend that language regarding federal preemption be amended to clarify that the federal law or federal regulation need not explicitly reference the presence of PFAS in order to preempt state authority.

Requiring a determination of “currently unavoidable use” before any prohibition of products for failure to provide notice

The current law permits an exemption for currently unavoidable uses of PFAS – namely those uses that are “essential for health, safety or the functioning of society and for which alternatives are not reasonably available.” (38 MRS § 1614(1)(B)). These products should be exempt from the notification requirement and should not be held to the same burden as those that are not essential for the functioning of society.

Yet, the law requires the manufacturers of these products report now, simply because major substantive rulemaking deeming their use of PFAS as unavoidable hasn’t occurred. Manufacturers of essential products should not have to go through the burdensome process of testing for and collecting information about PFAS to comply with notification requirements when their products, ultimately, will be exempted.

Accordingly, the Legislature should direct the DEP to determine immediately the essential products for which no alternative is available, and grant extensions until final adoption of its rule making such determination. Once the DEP has determined the products that, if unavailable, would result in a significant increase in negative healthcare outcomes, an inability to mitigate significant risks to human health or the environment, or significantly interrupt the daily functions on which society relies, then it can properly implement and apply the law to those products where the use of PFAS is avoidable.

C&L reiterates its support for the Legislature’s efforts to obtain information on intentionally added PFAS in parts sold in Maine. These efforts should be meaningful for our citizens and manageable for the regulated community. Compliance with the law as presently drafted will be unattainable for our business because we are fundamentally unable to collect the information required. Even if we were able to collect this information, we are bound by federal regulatory regimes that prevent the substitution of parts we use to repair aircraft and the parts we sell from aircraft.

Maine represents a very small market for global manufacturers. When the costs for compliance with Maine law become more expensive than the opportunity to sell products in Maine, most manufacturing operations will have no choice but to move operations outside the State. This outcome is likely not what the Legislature intended, and certainly not what our company intends given our existing investment in Maine.

Thank you for the opportunity to testify.