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Testimony of Representative Daniel Ankeles presenting

LD 400, Resolve, Directing the Department of Public Safety, Office of the State Fire Marshal to Compile a Statewide Inventory of Aqueous Film-forming Foam Concentrate

LD 222, An Act to Establish a Take-back and Disposal Program for Firefighting and Fire-suppressing Foam to Which Perfluoroalkyl and Polyfluoroalkyl Substances Have Been Added

LD 407, An Act to Prohibit the Use of Aqueous Film-forming Foam at the Former Brunswick Naval Air Station

Before the Joint Standing Committee on Environment and Natural Resources

Senator Tepler, Representative Doudera, and fellow distinguished members of the Joint Standing Committee on Environment and Natural Resources Committee, thank you for the opportunity to testify. I am Representative Dan Ankeles, and I serve House District 100, which is a central portion of Brunswick that includes our downtown, Bowdoin College, the former naval airbase, Mere Point, Maquoit Bay and the Mere Brook Watershed. It's an honor to bring you three bills as part of package responding to the August 19 toxic firefighting foam spill that took place on the former Brunswick Naval Air Station: **LD 400, Resolve, Directing the Department of Public Safety, Office of the State Fire Marshal to Compile a Statewide Inventory of Aqueous Film-forming Foam Concentrate, LD 222, An Act to Establish a Take-back and Disposal Program for Firefighting and Fire-suppressing Foam to Which Perfluoroalkyl and Polyfluoroalkyl Substances Have Been Added, and LD 407, An Act to Prohibit the Use of Aqueous Film-forming Foam at the Former Brunswick Naval Air Station.**

By now, it's a familiar story to many, but for the sake of the public record and for clarity, I'm going to start with a little bit of background before explaining why I chose these three particular pieces of legislation, how each bill fits into our state-level response, and why it's important that we pass all three of these bills together and make them a committee priority for our friends on the Appropriations Committee.

On August 19, 2024, Hangar 4, a Navy property managed by the Midcoast Regional Redevelopment Authority (MRRA) experienced a fault in its fire suppression system, triggering the release of 1,450 gallons of toxic Class B Aqueous Film Forming Foam (AFFF) mixed with

50,000 gallons of water right in the middle of the fastest-growing commercial and residential part of Brunswick.

It was the worst spill of its kind in Maine's history. The foam got into the ground water, the stormwater system, the sewer system, environmentally sensitive watersheds, Harpswell Cove, which is a part of the working waterfront that was finally getting ready to come back online after a long closure, and the Androscoggin River, which we've been spending decades trying to clean up. It also entered people's workplaces, including a BIW facility where employees were present. It was bubbling up from grates and blowing across Brunswick, landing as people walked their dogs, went to the nearby recreation center or took their kids to the playground. During the initial information deficit, it wasn't at all clear how the air quality was affected, and I was hearing from families who didn't even know if they could run their window air conditioning unit as their kids slept nearby.

The only silver lining in the moment was that the foam did not enter Brunswick's public drinking water system, which covers all the homes on the former airbase. Unfortunately, the hydrology and geology of the area caused the spill to travel south-southeast, leaving residents along the Coombs Road and on Prince's Point Road - both served by Representative Golek - in a very precarious position because of the fact that those residents get their drinking water from private wells. I expect some of them will be telling you their stories today, but just know they've had a difficult time since August.

Just a quick word about AFFF. First, let's get it out in the open that it's quite effective at what it's designed to do: put out fires. The Navy trained with this stuff for years, and it's been used across Maine as well. The Class B version of AFFF, which is what these bills are about, contains the PFAS family of chemicals. They are nicknamed "Forever Chemicals" because they take very long to break down naturally, and human technology isn't much better at forcing the issue.

Exposure to the PFAS chemicals contained in AFFF are associated with lower birth weights, reduced effectiveness of vaccines, bone irregularities, higher cholesterol and multiple types of cancer. Please believe me when I say you would not want high concentrations of this stuff spilling in your community.

Shortly after the spill, there was a major press conference not far from where the discharge occurred. Department of Environmental Protection Commissioner Melanie Loyzim did an excellent job managing the questions from reporters, and at one point she explained that she did not have legislative authority to conduct a statewide inventory of all the AFFF remaining in the state, nor did she have the authority to put together any kind of collection and disposal program. And that was the moment I understood what the legislative response should look like. Taking those two actions - over and above requiring the removal of AFFF from our own community through LD 407 - would be how we make sure that this experience is never repeated in any corner of Maine.

LD 400 is the first essential step in a statewide response. I developed the language with both Commissioner Loyzim and Chief Esler of the State Fire Marshal's Office. It directs the Fire Marshal's office to conduct an inventory of AFFF in both the private and public sector. The

public sector portion is voluntary and would take place over the course of a single year. We do it that way to avoid the logistical complications of a mandate. You may hear from the Fire Marshal that he is expecting more than 90% compliance. The private sector piece is mandatory, but those private entities are given two years to self report with the help of some outreach from the Fire Marshal's office.

In terms of the fiscal impact, all it takes for this full statewide inventory is a single limited-period position within the Fire Marshall's office. That breaks down to roughly \$86 thousand dollars in FY 26 and \$86 thousand dollars in FY 27.

LD 222 is one of the most important product stewardship efforts we can undertake as a state. It directs the Department of Environmental Protection (DEP) to develop an AFFF take-back program similar to existing programs in New Hampshire and Colorado. It would come online by July of 2027, hopefully with the inventory complete or mostly complete. It is an opt-in program that would be made free and available to the public sector, the private sector and everything in between.

Under the bill, the DEP would have wide latitude in creating the program, which means they can design the parameters for what transportation, storage and destruction look like. I've said this in other venues, but one issue that came up with Brunswick is that when Clean Harbors came in and removed as much spilled foam as they were able, it ended up getting sent to low-income communities in both Arkansas and somewhere in Ontario, where it was presumably incinerated. We know now that incineration can actually end up harming the communities where that activity takes place, which is why giving DEP the flexibility on something like destruction method is important.

One of the reasons we need to do this take-back program ourselves and not force manufacturers to take it back - which I think we once tried to do - is that most of the manufacturers of AFFF are no longer operating, which has made any sort of mandatory recall far less effective.

Now, why would a public or private entity want to opt in to a program like this? First, because of the toxicity of Class B foam. With plenty of effective PFAS-free alternatives out there, including ever more sophisticated water-based systems, a transition away from Class B AFFF is becoming more and more viable. And, given the nature of PFAS, the foam is incredibly hard to remove from firefighting gear, increasing the likelihood that firefighters could suffer the kind of long-term exposure to PFAS that can lead to serious health problems. The other thing I think you might hear, and there are likely experts in the room who can explain this better, is that Class B AFFF is corrosive to firefighting equipment, which makes it less of an attractive option to use when fighting fires, especially when it's property tax dollars that pay for that equipment.

Let's talk about cost for a moment. The DEP estimates the cost of taking-back and processing AFFF is \$100 per gallon. The Department also estimates that roughly 50,000 gallons remain somewhere out there in our state, but, again, we won't know for sure or have a breakdown of that data unless we inventory it. But using that estimate, the fiscal note provides for a one-time cost of \$5 million in FY27, which is the department making sure they don't underestimate the amount

of AFFF remaining. However, unlike in the inventory bill, I do not believe this bill requires any additional head count, permanent or limited-period.

So what is the money actually paying for? This take-back program would be contracted, possibly to the same company that serviced New Hampshire. The DEP is well familiar with them. The contractor would perform collection and tracking from one of the designated AFFF drop-off points the DEP would set up throughout the state. They would provide proper Comprehensive Environmental Response, Compensation and Reliability Act (CERCLA) certification to any entity that avails itself of the take-back program. And, ultimately, they would be responsible for the foam's safe destruction. The Department can elaborate on this sequence.

LD 407 is very specific to Brunswick Landing. It simply says that by the end of the calendar year, the Midcoast Regional Redevelopment Authority needs to get rid of its remaining AFFF, which it still has in significant quantities in at least two hangers that it owns.

Thanks to the hard work of all parties involved, but especially the Brunswick Town Council, town staff and the Brunswick Fire Department, which have done heroic work and advocacy over the last six months, we have gotten to a place where transitioning quickly away from AFFF is far more feasible. A recently completed analysis showed that with some minor modifications that MRRA is already making, the AFFF systems can all be safely turned off without violating any state or federal fire safety regulations.

The next step is getting all remaining foam out of Brunswick, something my community desperately wants as soon as possible. Even though Hangers 5 and 6 have more sophisticated mechanisms to prevent accidental discharges than Hangar 4 did, we've still experienced significant problems in Hangar 6, leading to significant additional PFAS pollution going into the Androscoggin. That's why most of the co-sponsors of this particular bill serve districts that border the lower-Androscoggin. There is a whole backstory about Hangars 5 and 6 involving MRRA, the Navy, local environmental monitoring organizations, and more. I'll leave that to others to tell, especially because it risks my testimony descending into finger pointing. And today is not about that - it's about looking forward.

These bills constitute a modest but thoughtful response to AFFF in Maine. Together, they address a local crisis, gather data statewide and set up the infrastructure necessary to act on that data. It does this in a way that is not heavy-handed, respects the timelines of the different stakeholders and does not place an unreasonable strain on the taxpayers of Maine, especially when you consider the monetary value of prevention for both families and the government.

One important note about what I just said above. I understand the Office of the Fire Marshall will be nominally in opposition to LD 222 on the grounds that Chief Esler wants to ensure the inventory is completed before the take-back program is up and running. I actually agree with him and tried to sequence the deadlines in each of the bills accordingly - with the program being ready to launch upon the completion of the public sector portion of the inventory.

What I don't want to happen is to see the inventory completed with no legislative infrastructure in place to act on it. If the committee shares the Chief's concerns, I am certainly open to

adjusting the dates or to adding a clause to LD 222 directly linking the timing to the completion of the inventory. Anything to avoid having to wait at least two years and then starting all over again from scratch. That would be a devastating outcome after all that has gone into this process over the last several months.

I'm here before you today to ensure that our response to one community's tragedy isn't just a wasteful shrug. I'm here to insist that we make the best possible use of what happened to Brunswick in service to the towns that you and all of our other colleagues represent. Together, we can all rally around the notion that our constituents, the land they live on, the water they drink and derive a living from, and the air they breathe should not be exposed to poison - at least not if we can help it.

I am happy to answer questions, knowing there are AFFF and PFAS experts also here to speak to you today. Thank you for your consideration, and thank you especially for truly hearing what the people of Brunswick have had to go through over the last six months. I very much look forward to passing these bills together as a team.