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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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COMMISSIONER

TESTIMONY OF
MELANIE LOYZIM, COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SPEAKING IN SUPPORT OF
L.D. 960 “AN ACT TO REQUIRE REPORTING OF PERFLUOROALKYL AND
POLYFLUOROALKYL SUBSTANCES, PFAS, IN PRODUCTS AND OF DISCHARGES
OF FIREFIGHTING FOAM CONTAINING PFAS ”
PRESENTED BY REP. FAY

BEFORE THE JOINT STANDING COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES

HEARING DATE:
APRIL 5, 2021

Senator Brenner, Representative Tucker, and members of the Joint Standing Committee on Environment and Natural Resources, I am Melanie Loyzim, Commissioner of the Department of Environmental Protection (DEP), providing this testimony in support of L.D. 960.

The Department introduced this legislation last year, but a hearing was not held before the Legislature adjourned. This bill is based on recommendations from the Governor’s PFAS Task Force, which issued its report in January 2020. It contains two reporting requirements: 1) for discharges of aqueous film-forming foam, and 2) for intentional use of PFAS in products sold in Maine. The Department will use the information gathered through these reporting

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requirements to evaluate what limitations may be appropriate and effective to reduce sources of PFAS in our environment.

Section 1 of the bill will utilize DEP's existing oil and hazardous material spill telephone hotline to receive and triage reports of AFFF discharges in addition to the usual array of reports received on the hotline. The Department anticipates that current and future users of AFFF that may trigger this requirement would be fire departments, other emergency response teams, and a small number of industrial facilities. The AFFF Working Group of the PFAS Task Force worked with the State Fire Marshall in 2019 to survey all of those entities to inventory existing stocks of Class B AFFF, and provided them with information regarding potential environmental risks of using foam containing PFAS, and practices for preventing and minimizing releases to the environment. 69 out of 325 entities surveyed reported more than 18,000 gallons of foam in storage. Several states implemented foam take-back programs, where funding was available, but those efforts have stalled lately due to questions about the environmental effects of disposal by incineration and landfilling. Some states have also adopted prohibitions on the use of PFAS-containing foams, and a variety of legislation has been considered at the federal level. At this time, the Department recommends only requiring reporting of discharges because they are already used infrequently, there are no resources to help fire departments dispose of their stocks, and we expect some federal action. If the Legislature wishes to allocate resources to protecting Mainers from PFAS, this is not the first thing we'd ask you to put those resources toward. However, the Department will utilize discharge reports to identify additional locations for PFAS testing, and continue to evaluate if restrictions or other actions are needed.

Section 2 of the bill applies to product manufacturers. There are a wide variety of products that are known to contain PFAS and many more that might, but we do not know which PFAS, in what quantities, manufacturers are intentionally using in their products. This bill requires that information to be reported to DEP, and for DEP to make that information available to the public on our website. Maine has a relatively small population of consumers, but we can use the power of the internet to have a much broader effect. This reporting requirement alone could have a significant effect on future product development due to manufacturers' fear of potential environmental liability in Maine and elsewhere, without the accompanying impacts to Maine businesses and consumers that you often hear about with product prohibitions. This reporting requirement is constructed to be similar to Maine's reporting requirements for toxic chemicals in children's products, so that, like Section 1, the Department can leverage existing resources for implementation. The concept of "intentionally added" is mirrored, for example, after use of that term in Title 38, Section 1691 since 2011. We do anticipate costs for managing a large volume of reported data, and have included a fee provision that also mirrors the toxic chemicals in children's products program so that manufacturers who choose to use these chemicals must also bear the cost for making that information public. There are also a lot of potential details to figure out for implementation, which the bill charges the Department with handling through rulemaking. The Department recognizes that others presenting today may have helpful suggestions to clarify the requirements in this bill, and we are happy to work on such improvements.

Thank you for the opportunity to provide these comments, and I would be happy to answer any questions.