

**MFPC Testimony in Opposition to
LD 960 An Act To require Reporting of Perflouroalkyl and
Polyflouroakyl Substances, PFAS, in Products and Discharges of
Firefighting Foam Containing PFAS**

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Patrick Strauch, Executive Director, Maine Forest Products Council

Senator Brenner, Representative Tucker and distinguished members of the Environment and Natural Resource Committee. I am Patrick Strauch from Exeter, Maine and the Executive Director of the Maine Forest Products Council (MFPC).

I am here representing Maine's forest product manufacturers who together with the logging and landowner sectors represent over 8 billion dollars in economic contribution to the state's economy, and over 33,000 direct and indirect jobs.

The Council is in principle supportive of reporting on the presence of certain PFAS compounds used in the manufacturing process but we have several questions about the language proposed in Section 3 of the bill.

PFAS TASK FORCE REPORT

To provide context for the discussion on identifying PFAS, the following excerpt from the Maine PFAS Task Force, January 2020 is provided:

Identifying and Reducing Uses of PFAS

A majority of Task Force members (8) recommend that the State require manufacturers to report the intentional use of PFAS of concern in consumer products, and to require the use of safer alternatives when they are available. The State should also discourage non-essential uses of PFAS in Maine by requiring those uses to be phased out. Legislation should be introduced to require this where authority does not already exist. One member recommends requiring manufacturers to report the use of PFOA and PFOS, specifically, when they are intentionally added to consumer products.

One Task Force member recommends that existing authorities granted to DEP and wastewater treatment plant operators should be used to the greatest extent possible to identify and control commercial or industrial PFAS discharges to sewer systems.

Task Force members disagreed about whether reporting requirements and restrictions on PFAS uses should apply to the entire family of PFAS compounds, or to individual PFAS due to differences in toxicity. Some members recommended utilizing federal review and approval processes to determine which PFAS should be allowed in food contact products, and recommended aligning with federal requirements for reporting to the Toxics Release Inventory (TRI).

The Task Force unanimously supports the recommendations of the Firefighting Foam workgroup (included in Appendix E) with the addition that existing alternatives to fluorinated foam have already been shown to be effective for many scenarios and should be rapidly deployed everywhere appropriate.

As expressed in the task force discussions, unless reporting is focused on PFAS chemicals of concern (as we are doing with the drinking water standard) and aligned with federal reporting requirements, Maine manufacturers will be subject to varying standards when selling products to national customers.

Section 3. Products Containing PFAS

There are a series of questions generated by the language in the bill that we would request clarification on from the Department of Environmental Protection:

- One of the challenges manufacturers are experiencing is that purchased additives not regulated by the federal government but subject to a variety of state disclosure provisions lack uniform interpretation. For example: a vendor in one state delivered materials claiming no chemicals of concern were in the formulation, but the sending states criteria for reporting had a de minimis definition at the parts per million level. In the absence of standards how will Maine regulators govern standards for a variety of PFAS compounds with varying degrees of analytical precision?
- An additional challenge not contemplated in these reporting guidelines is illustrated by the insecticide treatment of over 2 million acres in eastern Massachusetts. Traces of PFAS found on the ground have been linked to the fluorinated containers containing the insecticide. A formulation of an additive may be PFAS free, but do we need to certify containers as well?
- Maine manufacturers are often making products that are sold to national manufacturers located out of state. Are these products to be included in

the inventory of “Final Products?” There needs to more discussion on the chain of custody for reporting materials to ensure clear interpretation of the standards.

- Does reporting fall to the manufacturer or the vendor who sells to the end user?
- This provision is unclear “Intentionally added PFAS, including any degradation by-products of those PFAS.” Since we are proposing PFAS as a broad class of chemicals there may be insufficient analytical capability to assure capturing degradation by-products.
- PFAS one fully fluorinated carbon atom – this is an extensive list that may exceed current analytical methodology.
- 4. Exemptions: relationship to the Reduction in Toxins Packaging Act. How do products covered under this provision qualify for an exemption?
- The January 1, 2023 deadline seems challenging.

Summary:

We would be glad to work with DEP staff to determine appropriate process and realistic objectives.

Thank you