

April 25, 2023



The Honorable Stacy Brenner
The Honorable Lori Gramlich
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

via electronic transmission

RE: Support of LD 1214 (SP 495), An Act to Clarify the Laws to Combat Perfluoroalkyl and Polyfluoroalkyl Substances Contamination

Dear Chair Brenner, Chair Gramlich, and Members of the Joint Committee on Environment and Natural Resources:

The Household and Commercial Products Association (HCPA)¹ respectfully requests your support of LD 1214 (SP 108), which seeks to clarify obligations under Public Law c. 477, *An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution* (LD 1503, 130th Legislature). HCPA is a voluntary, non-profit U.S. trade association representing approximately 240 companies engaged in the manufacture, formulation, distribution, and sale of products for the household, institutional, commercial, and industrial use. HCPA member companies manufacture and/or market products that are impacted by Public Law c. 477, and LD 1214 proposes needed corrections to the existing law.

PFAS Nomenclature

PFAS substances are a large, diverse group of chemical compounds. PFAS properties vary widely and are uses and applications. For this reason, it is important to distinguish between PFAS categories, use, function, and chemical properties as opposed to treating the substance as a single regulatory group. Chemical and structural differences among different types of PFAS may create physical chemical properties that underline legitimate concerns over potential health and environmental risks associated with some substances—this most certainly does not apply to all PFAS chemicals and applications. For this reason, PFAS should not be considered as a single group or class, especially given it is possible to scientifically define distinct categories of PFAS based on shared properties.

The current law takes a class approach to regulation which is not scientifically accurate and will lead to unjustified product restrictions. For example, HCPA represents the aerosol industry, as this is a common delivery form for many household and commercial products. Aerosol propellants are highly regulated by state and federal governments, and producers have gone to great lengths in recent years to manufacture and innovate more environmentally preferable products, especially reducing global warming potential (GWP). Compounds such as hydrofluoroolefins (HFOs) and hydrofluorocarbons (HFCs) consist of hydrogen, fluorine and carbon, but are not persistent, bioaccumulative, or toxic. Some of these technologies play an important role in addressing climate goals. Unfortunately, because some HFOs and HFCs have a fully fluorinated carbon, these propellants and solvents are captured in the current legal definition of PFAS. Aerosol propellants are not and have never been considered a PFAS substance. The use of such a broad definition will needlessly restrict access to products and technologies deemed safe and environmentally beneficial.

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

Implementation Timeline Extension

HCPA is concerned that the current timeline for companies to report is not sufficient, and LD 1214 serves to correct this by providing a one-year extension. As Maine's statutory definition of PFAS is very broad, many of the substances that are captured within the definition have never been viewed or regulated as PFAS. The presence of these substances have not been monitored or otherwise controlled by many that would be subject to the reporting requirements. As a result, companies are going to need to expend significant time and resources working with their supply chains to understand their potential reporting requirements.

In addition, once companies have their information and determine that they do have a reporting requirement, they'll need sufficient time to enter the information the Department of Environmental Protection is requesting for each product. Depending on a company's product portfolio, this has the potential to require significant human resources by companies to provide complete notifications. Therefore, HCPA urges the legislature to extend the notification deadline by at least one-year so that all stakeholders have sufficient time to gather and input their information.

Consideration of Confidential Business Information

Public Law c. 477 does not properly consider that many entities will be requesting information that their suppliers will consider to be a "trade secret" or confidential business information (CBI). For example, the very presence of a specific byproduct and impurity within a formulation can be considered CBI if it might divulge proprietary processes or formulation related information. So that suppliers aren't required to reveal commercial trade secret information to their downstream customers, LD 1214 clarifies information elements for CBI claims. Disclosures to the Department of Environmental Protection needs to be balanced with CBI protection so that innovation within the marketplace can continue, and LD 1214 seeks to strike this balance.

Lastly, we would like to note our support of LD 1273 (Stewart). By exempting products governed under federal law, the state would avoid unintentionally inserting reporting measures that may interfere with long-standing federal regulation. LD 1273 serves to clarify product scope in the law and avoid disruptions in the marketplace, therefore, we urge committee support of this bill as well.

The safety of human health and the environment is a top priority for HCPA and our member companies. HCPA supports efforts to address the release of PFAS into the environment; however, we believe Public Law c. 477 would benefit from refinements to mitigate possible unforeseen consequences within the supply chain. For the reasons outlined above, HCPA respectfully requests your support of LD 1214 (SP 495), and take into consideration the points set forth in this letter.

Respectfully Submitted,

Michelle L. Kopa

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Director, State Government Relations & Public Policy - Eastern Region