



**Via Email**

rulecomments.dep@maine.gov

Mark.T.Margerum@Maine.Gov

**Re:** Comment on Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)

Chair Lessard, members of the Board of Environmental Protection, and Mr. Margerum:

Twin Rivers Paper Company (Twin Rivers) in Madawaska, Maine, thanks you for the opportunity to submit these comments on the Maine Department of Environmental Protection's (Department's) proposed Chapter 90 rule: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances.

Twin Rivers is an integrated specialty paper manufacturer producing more than half a million tons of paper per year for the publishing, label, technical and packaging sectors. We opened our Madawaska facility in 1925, which currently employs 452 people, at which we operate 4 paper machines with a capacity of 341,000 tpy. As a longtime corporate resident of this great state, we have a proven commitment to environmental sustainability and compliance. One of our core business priorities is to protect our people and enhance our communities by minimizing our environmental impact. In fact, Twin Rivers was the world's first lumber manufacturer to be certified to Sustainable Forestry Initiative® fiber sourcing program standards and all of our paper is certified to those standards.

Accordingly, Twin Rivers fully supports the Department's effort to reduce PFAS in Maine and is committed to working with the state to adopt a rule that achieves this goal. However, the proposed Chapter 90 rule as presently drafted does not provide the clarity needed to effectively implement the requirements of 38 MRSA § 1614 and instead will result in a barrage of untimely and often unreliable information that will be difficult for the Department to interpret. In other words, as presently drafted, the proposed rule will not give the Department an accurate assessment of the amount of PFAS entering the state, for the following reasons.

First, as the Department is already well aware, the information it seeks in Section 3 is not readily available to most manufacturers in Maine. In fact, collecting such information from a complex supply chain that may not even be aware of Maine's requirements is a time-consuming and costly exercise. For this reason, the Department has already granted over 2,500 extensions of the January 1, 2023 notification deadline, including to Twin Rivers.

Second, the type of information sought in Section 3 is without limit. As of today, there are more than 12,000 chemicals that may fit the State's broad definition of PFAS, the vast majority of which lack currently available test methods to accurately identify and quantify PFAS amounts. EPA itself has acknowledged, on its "PFAS Analytical Methods Development and Sampling Research" website, that it is still developing validated analytical methods for drinking water; groundwater; surface water; wastewater; and solids, "which may eventually become standard methods or research methods."

Because of this vast number of chemicals subject to the rule but concurrent dearth of available analytic test methods, the Chapter 90 rule should make explicit those chemicals to which it applies and those testing methods that are available to manufacturers.

Third, Chapter 90 must be revised to provide a blanket extension of the January 1, 2023 notification deadline, to both manufacturers and to entities throughout the supply chain. As currently drafted, the proposed rule does not clarify the foundational issue of who is to report to the Department. The statute could be construed to require every entity (suppliers, manufacturers of bulk ingredients, and manufacturers of finished product alike) that makes a product or product component that is sold or distributed in Maine to notify the Department if the product has PFAS content, which will result in duplication of information for the Department to sort through, inaccuracies, regulatory uncertainty for manufacturers as to whether their suppliers have reported to the Department, and excessive fees. Not only must these issues be worked out through rulemaking, but entities like Twin Rivers require additional time to conduct internal due diligence based on the final regulatory guidance to determine which, if any, of our products are subject to the notification requirement, and to ensure accurate compliance with same. A transition period for all regulated entities established by rule would allow for a full and accurate query of complex supply chains, internal due diligence, and development of a reporting procedure. Continuing to submit and review additional reporting extension requests places a burden on time and resources of the Department and the regulated community.

In sum, the Department has made a valiant effort over the last year to draft rules to implement the requirements of 38 MRS § 1614, but it is not quite there yet. Twin Rivers urges you not to adopt the proposed Chapter 90 but to instead craft a rule that recognizes the realities of supply chain information, the breadth of PFAS chemicals, the lack of methods to test for the majority of those chemicals, and the absence of a reasonable period of time for manufacturers to gather and develop full and accurate information to provide to the Department. We look forward to continuing to work with the Department to shape such a rule.

Sincerely,

Elizabeth M. Frazier  
On behalf of the Twin Rivers Paper Company