



November 10, 2022

Commissioner Melanie Loyzim  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333

Re: MMTA, NMMA and MRAA Comments Regarding PFAS Reporting Requirement

Dear Commissioner Loyzim,

The small business Maine-based members of the Maine Marine Trades Association (MMTA), along with national colleagues of the National Marine Manufacturers Association (NMMA) and the Marine Retailers Association of the Americas (MRAA), continue to have serious concerns with direction being taken to implement Public Law c. 477, An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution (LD 1503, 130th Legislature) enacted by the Maine Legislature in July 2021.

Maine DEP has been tasked with implementing a requirement in a statute beyond the capabilities and resources of the small marine businesses in our sector. Though the Maine DEP has granted our members of the marine industry a six-month reporting extension, that timeline is still insufficient to address the monumental reporting task our members are faced with.

Our collective associations have participated in the two Maine DEP webinars and the rules need significant clarity for us to be able to properly inform our members regarding compliance. The EPA PFAS Master List includes over 12,000 potential chemicals that would fall within the final reporting requirements. With the reporting deadline soon approaching there has not been a reporting template provided and no clear direction on fees or enforcement provisions, especially if a component or sub-component is going to be allowed to be cross-referenced to reporting by the original manufacturer.

These detailed and technical reporting requirements are extremely overwhelming for small businesses and can be potentially tied to so many global companies thus adding to the complications. This is not just a simple rule for our Maine manufacturers, most of

whom we anticipate do not intentionally add PFAS to their final products. They assemble many complex components (such as engines) that may contain PFAS. This rule is not necessarily a priority for international importers and distributors of all sizes who look at Maine as a miniscule fraction of their business. International manufacturers may not know if their products are eventually sold in Maine when exported to an US-based distributor, or in what quantity.

Most small marine businesses and marine retailers do not have the technical resources or expertise to identify chemicals that may or may not be found in the thousands of parts and accessories found in a boat. They may be able to acquire SDS data on some materials, but calculation of specific quantities and concentrations is not a simple task. To illustrate the challenge for our members, a common 20-foot open bow runabout or small fishing boat can have over a thousand stock keeping units (SKUs). Identifying the chemicals in the parts or components of larger boats with accessories required for galleys, heads, salons, and sleeping quarters is beyond comprehensible. One boat manufacturer informed us that its outboard powered 23-foot runabout has 1,013 distinct SKUs. A 35-foot cabin cruiser produced by the same manufacturer has 2,516 individual SKUs. Many of these accessories and components are often manufactured outside the U.S. Even if these boat builders could acquire this information, they would have to purchase special software and hire additional, dedicated staff to track, monitor, and report this information to the Maine DEP. Furthermore, many boat builders in Maine are small, custom shops. Their boats change with every order and therefore the reporting is not a one-time challenge.

Even with a six-month extension for reporting, we respectfully request that Maine DEP help us by providing training using real examples specific to our industry. We appreciate that there is language that would allow for cross-referencing or cross-linking to reports from other manufacturers, however there is no organizational structure in the statute that requires major manufacturers to report their products first. Without access to reports from manufacturers at the beginning of a supply chain, those at the end of a supply chain can be left out of compliance and having to wait upon the others before they can report. Thus, we are concerned that even if a final rule is available before January 1, 2023, we foresee complications tracing so many foreign-made components that are often assembled in boat building and marine manufacturing.

We would like to provide an example to illustrate the complexity of the rule. There could be PFAS chemicals used in the manufacturing of wire coatings that are incorporated in the manufacturing of marine engines or marine electronics because the wiring components have to survive high heat and temperature situations. A boat builder in Maine would have to determine which wires within a complex boat containing thousands of components and electrical subcomponents might be insulated with a PFAS coating and also report on the quantity of PFAS. Some examples of the components assembled by a boat builder that could include wiring: an engine, a generator, a radar unit, a GPS unit, air conditioning, refrigeration, lighting, radios, pumps, and more. This does not

mean all of those components do contain wire coatings that contain PFAS. It means that they might and therefore every boat builder in Maine would need to check that all the manufacturers of those components have completed their reporting before they can cross-reference each model engine, pump, etc. Under the current draft of the rule, boat builders are considered manufacturers because they put their brand onto a product.

If manufacturers at the start of the supply chain have not completed their reporting OR if they refuse to comply with sharing proprietary information with Maine DEP, then boat builders would need to disassemble every component and subcomponent that they install (thousands of them) and send them out to a laboratory for third party testing. The Department's website states that a list of laboratories will not be provided, and we have concerns that these sorts of laboratories will be overwhelmed with testing. There is no way to anticipate or budget how long the testing will take, what it will cost to ship the items for testing, and what the actual testing costs will be. This process could create backlogs that take months to complete, could put a massive financial strain on Maine businesses, plus waste perfectly good components because they must be sent away for testing. Plus, the pandemic-related supply chain challenges for marine manufacturers and dealers have not yet completely resolved and they may have difficulty acquiring extra components to sacrifice for testing.

Maine boat builders would be forced to focus on selling their products outside of Maine and some national brands may drop their dealerships in Maine due to these challenging requirements. As a reminder, not all our boat builders and boat dealers sell only recreational boats. Many boats and components in boats are considered "critical use" products used by Maine law enforcement, government agencies, public safety, transportation for island residents, and support commercial fisheries and sea farming. These are critical use articles that are necessary for critical use activities.

MMTA, MRAA and NMMA strongly urge the Maine DEP to consider either one of two recommendations supported by Maine small marine businesses as a reasonable pathway to achieving both the intent of the legislation and compliance.

With the hundreds of small marine boat builders and marine retail businesses located in Maine and the potentially thousands that sell into Maine, there may be, with sufficient time, an opportunity for the Maine DEP to work with the local and national marine trade associations to identify certain marine products that contain PFAS chemicals above a threshold limit. Marine manufacturers and marine retailers are not chemists and requiring reporting beyond a basic level will only result in limited, bad or no data.

Preferably, we believe that the Maine DEP should exempt installers of components in boats and rather place the reporting burden on those manufacturers who directly add PFAS chemicals to their products. The USEPA has exempted boats defined as motor vehicles in the PIP 3:1 regulation. In addition, EPA during the PFAS SBREFA process recognized that boat builders who are small business manufacturers that install articles

do not currently have the knowledge or capability of determining and thus reporting the PFAS chemicals in components.

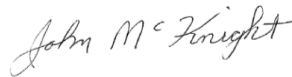
In closing we would like to summarize that this situation could be likened to an iceberg, where the rule appears to be simple on the surface, but the implications are massive and deep. As you are likely aware, even the environmentally focused State of California had a PFAS reporting bill vetoed by their governor recently because the program was anticipated to be too massive and costly, even for their large state. Instead, they are phasing in certain prohibitions over several years and looking to the EPA to help develop a PFAS reporting program using their more extensive infrastructure and capabilities.

We need the Maine DEP to work with the marine industry to streamline a process that achieves the intent of the legislation and allows marine manufacturers and retailers to continue to operate in Maine. We have already reached out to the Maine DEP Small Business Ombudsman requesting help with our compliance. We do not anticipate large quantities of PFAS in our products, but we understand the desire to identify both where they are found and where they are not found. We also understand the desire to phase out their use if at all possible. But we need your help and sufficient time on this matter in order to avoid significant hardship to Maine marine businesses and all the critical users who rely on us.

Respectfully submitted,



Stacey Keefer  
Executive Director  
Maine Marine Trades Association



John McKnight  
Senior Vice President EH&S  
National Marine Manufacturers Association



Chad Tokowicz  
Government Relations Manager  
Marine Retailers Association of the Americas