



association  
for contract  
textiles

May 18, 2023

Mark Margerum  
Rulemaking Coordinator  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333

Dear Mr. Margerum:

On behalf of the Association for Contract Textiles (ACT), I am writing to express our association's comments in response to the Posting Draft of Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances.

ACT is a professional not-for-profit trade association comprised of companies involved in the design, development, production, application, and promotion of textiles for commercial interiors in the United States. Our membership includes all major contract textile distributors in North America, as well as furniture manufacturers, weaving mills, fiber/yarn manufacturers, fabric finishers, testing labs, textile designers and others throughout the industry supply chain. We represent a diverse industry that sources textiles both domestically and internationally. For more information about ACT and our membership, see [www.contracttextiles.org](http://www.contracttextiles.org).

Please see our comments below:

1. Section 2, Definitions, D. The draft mentions a commercially available analytical method for determining PFAS in a product and includes a link to EPA-approved methods; however, these EPA methods refer to tests for environmental media and not consumer products. Please confirm which test methods for consumer products can be used to identify PFAS by CAS#.
2. Section 2, Definitions. We have a concern about the definitions of "Person," "Consumer," "Product," "Product Component," and "Offer for sale." For example, since "product" is defined as "an item..., including its product components, that is sold or distributed for personal, residential, commercial, or industrial use, including for making other products," it seems to apply to more than the manufacturer of final consumer product. The current wording is confusing, and depending on final interpretation, notification is likely to be highly duplicative. Tied together, these definitions indicate that any corporation that purchases goods sold by manufacturers and wholesalers, or that offers a product for purchase by consumers, including online sales, will be responsible for reporting this information to the State of Maine.

We believe the intent is for the final consumer product manufacturer/distributor to report—and not for every manufacturer/distributor of product components within a particular supply chain to do so. Upholstery textiles are considered components when sold to and applied by furniture manufacturers. We suggest that DEP add a consumer product definition. We also suggest that notification requirements in Section 3 be limited to final manufacturers of consumer products (not manufacturers of product components) selling directly to end users.

3. Section 3, Notification, A (1). We encourage consideration of whether a company has a phase-out plan for PFAS usage over the next three years as a condition for extension of the notification deadline. Doing so would help the DEP as well as the manufacturers of consumer products: DEP would not have to manage the registration process for products where usage is being eliminated, and manufacturers would not have to spend resources to manage the notifications and supplier communications, etc.

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4. We have reviewed the Interstate Chemical Clearinghouse (ICC) online notification system and have many concerns about that system as it exists today. Product differentiation is not specific enough for a consumer to be able to know which product has PFAS content. For example, an outdoor equipment retailer lists a textile for camping chairs that contains XYZ chemistry, but it does not indicate whether a single specific chair or their entire line of camping chairs contains that chemistry. The information could be insufficient or simply confusing. Either way it makes it difficult for consumers to know they are buying PFAS-free products.

The State of Maine comment timeline does not allow for proper vetting of the ICC or any online notification system. We suggest that DEP talk with the groups that currently use the ICC notification system and talk with users that currently report for these purposes. It is important to consider the requirements of Oregon Toxic-Free Kids Act (TFKA) and/or the Washington State Children's Safe Products Act and to determine how implementation has progressed for these two organizations.

Oregon TFKA has specific limits for specific chemicals and no reporting requirements if below the limit. We strongly believe a reporting limit of 100ppm would be beneficial in order to capture only the intentionally added chemistry, and this limit also aligns with product reporting limits in other legislation and 3rd party certifications, such as California food packaging and cosmetics legislation; GreenScreen for furniture and fabrics requirements; food composting certification; and certification for recycling of items.

5. Section 3, Notification, A. (c). Manufacturers of consumer products are usually product component assemblers. They are not going to be equipped with the information needed to input these data for multiple suppliers of different components. For example, a chair manufacturer will routinely source textiles, foam, wood, metal components, and finishes from several different suppliers. Each component would likely contain different types and levels of PFAS that would be virtually impossible to track and accurately report in aggregation. Complication increases with multifaceted products such as automobiles, which contain more than 1,000 components.

Additionally, the EPA has not clearly identified or assigned a CAS number to all 15,000+ PFAS chemicals; as a result, many product component manufacturers that use PFAS are not knowledgeable regarding the CAS numbers of the PFAS they use.

6. Section 3, Notification, D. We request 90 days to report significant changes. The current 60 and 30 days is not enough time to get test results back and to hire and train new personnel if there is a new contact person for the company.
7. Section 4, Exemptions. There needs to be considerations for products made of recycled content. Over the past 20 years, the contract textile industry has increased its usage of recycled fiber content moving toward a more circular economy. If there is no exemption for recycled content, then it will create more waste. A product that once contained intentionally added PFAS might be recycled into new products. These new products may test positive for fluorine content even though PFAS is not being intentionally added; fluorine can be present from existing recycled content. We request that you consider adding "recycled content materials without intentionally added PFAS content" to the exemption list.
8. Section 8, Certificate of Compliance, A. Please consider changing the wording from "reason to believe that" to "substantial information." In addition, 30 days is not enough time for the consumer product manufacturer to work through their supply chain to identify the specific product component that might be causing the issue, to get it tested, and to produce a test report required by the DEP. We request a 90-day timeframe.

If the company cannot provide the certificate, it is understandable that the company would be restricted from business in Maine. However, we request that you remove the requirement for downstream notification. We also request that you consider posting compliance failures on the same website where PFAS content is reported rather than requiring companies to contact customers and report customer information to the DEP.



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9. Section 2, Definitions, K. We suggest expanding the definition of “Fabric treatment” to clarify that this is an “aftermarket” consumer product and does NOT apply to industrial applications. The intent is to restrict aftermarket products only.

We also suggest the following edits, highlighted:

*(K) Fabric treatment. "Fabric treatment" means an aftermarket consumer product (e.g., product purchased in a container from a hardware store) meant to be applied to fabric or leather to give or enhance one or more characteristics, including but not limited to stain resistance or water resistance. Fabric treatments do not include fabric dyes or protective treatments applied at the industrial level.*

10. In response to your request of October 27th, we are suggesting the following PFAS reporting ranges:

- a. 0-5%
- b. 5-10%
- c. 10-15%
- d. 15-20%
- e. More than 20%

11. Regarding the following FAQ on the Maine DEP web page:

Will the Department publish a list of chemicals that meet the definition of PFAS? The statute requires manufacturers to report the amount of intentionally added PFAS in their products by CAS number. Therefore, the Department interprets that PFAS subject to the reporting requirement of the law are limited to those that have a CAS number.

We recommend that the final rule clearly state reporting of substances is only required in cases where the PFAS used has been assigned a specific CAS number. Also, please confirm that if a PFAS with a CAS number is present, but not intentionally added (contamination/residuals), reporting is not required.

We appreciate the opportunity to comment and your willingness to consider our views in this important and highly complicated matter. The Association for Contract Textiles and our member companies are committed to working with you toward the shared goal of safe, continued, uninterrupted manufacturing to provide products in a manner that protects human health and the environment in accordance with the State of Maine. We thank you for considering the perspectives of all stakeholders, including North American textile producers, furniture manufacturers, and distributors.

Sincerely,

Janan Rabiah  
Executive Director  
Association for Contract Textiles, Inc.