



May 19, 2023

Mark Margerum  
17 State House Station  
Augusta ME, 04333-0017

Re: Comments on Proposed PFAS in Products Rule

Dear Mr. Margerum,

The International Safety Equipment Association (ISEA) is pleased to submit this comment to the proposed PFAS in Products rule. ISEA is the association for companies that design, test, manufacture and supply a wide range of personal protective equipment (PPE), including protective equipment, respiratory protective devices, hard hats and more.

We offer two themes of comments. First, on the concept draft, and second specific comments on fire fighter turn-out gear.

First, many small manufacturers, who rely on larger companies for component parts or mixtures, are unlikely to be able to receive PFAS ingredient information from such suppliers. This process is also likely to be repeated a number of times throughout the supply chain. ISEA requests that if a manufacturer makes a good-faith effort to obtain this information, but does not receive such information, that such an effort be accepted by the Department as reasonable and constitute a waiver from Sec. 3 “Notification.”

Second, ISEA believes PPE should be waived from the proposed PFAS in Product Program rule, because such items are required by the U.S. Occupational Safety and Health Administration (OSHA), Subpart I – Personal Protective Equipment (29 CFR 1910.132 – 1910.140). PPE is essential to keeping the nation’s workforce safe. Maine, and the nation, needs its workforce to be protected from hazards at work to have a healthful, safe workforce, who, in turn, help society to function. Appendix 1 lists the PPE OSHA requires employers to provide to employees.

ISEA requests an exemption especially for firefighting PPE to include turn-out gear. Turn-out gear is the term used to describe the coats and pants fire fighters wear to protect themselves from heat, flame and moisture exposures.

In fact, OSHA’s regulation at 29 CFR 1910.156(e)(3)(ii), which covers fire brigades, industrial fire departments and private or contractual type fire departments, makes clear all fire fighters must

be provided with fire-resistive coats and protective trousers meeting “National Fire Protection Association (NFPA) standard NFPA No. 1971-1975<sup>1</sup>, "Protective Clothing for Structural Fire Fighting"..."

NFPA 1971 includes a number of test methods to assess and demonstrate moisture barrier effectiveness for Turn-Out Gear. For example, NFPA 1971-2018 (the current version), calls for the moisture barrier for turn-out gear to be tested using the test methods found in ASTM F903, *Standard Test Method for Resistance of Protective Clothing to Penetration by Liquids*. This testing regime assures the highest level of protection for the wearer. In fact, ASTM F903 Sec. 4.2 notes “For most procedures, the observation of visible liquid penetration is indicated as a failing result.”

NFPA 1971 Sec. 8.27.4.2, which covers liquid penetration resistance tests, calls for ASTM F903’s test methods to be used, where the liquid challenge agents are:

- Aqueous Film-Forming Foam
- Battery Acid
- Fire-resistant hydraulic fluid
- Surrogate gasoline (Fuel H)
- Meaningful chlorinating chemical containing at least 65%-free chlorine.
- Automobile antifreeze fluid

As noted above, the test protocols in ASTM F903 and NFPA 1971-2018 state “one or more test failures of any specimen against any liquid shall constitute failure of the material.”

Currently, moisture barrier materials, which include PFAS, are the only means of passing this robust moisture barrier test.

ISEA believes turn-out gear should be exempted by the new regulation as it is a “currently unavoidable use” of PFAS because it is required to provide a key safety factor in firefighting personal protective equipment (PPE). In addition, the services fire fighters provide are essential for the functioning of society.

### Request for Exemption

ISEA asks the Department to determine that firefighting Turn-Out Gear is essential for health, safety or the functioning of society. Alternatives for the moisture barrier materials, which are essential to Turn-Out Gear’s key functions, are not reasonably available.

While alternatives to PFAS for rugs, carpets and firefighting foams, there are no suitable alternatives for the materials that are needed to pass the moisture barrier tests in the standards noted above.

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<sup>1</sup> The most recent version of the standard is NFPA 1971-2018. While OSHA references to an older version, the referenced document, NFPA-1971, drives compliance.

ISEA further requests that firefighting Turn-Out Gear be exempted from the requirements of the proposed rule based on Section 7(A)(2), which state the Department may exempt a product if it determines that the use of PFAS in the product is a currently unavoidable use. As noted above, ISEA believes that is the case.

Please feel free to contact me at 703-795-6064 or at [dglucksman@safetyequipment.org](mailto:dglucksman@safetyequipment.org) if you have any questions about these comments.

Sincerely,

Daniel I. Glucksman  
Senior Director for Policy

Appendix I – PPE Required to be provided to employees as per OSHA regulations

Hand protection 29 CFR 1910.132  
Safety eyewear 29 CFR 1910.133  
Fall protection. 29 CFR 1910.140  
Hard hats 29 CFR 1910.135

Respiratory protection 29 CFR 1910.134

Disposable respirators  
Elastomeric Half-Mask Respirators  
Full facepiece respirators  
Powered air purifying respirators  
Tight fitting  
Loose fitting  
Self-contained breathing apparatus  
Industrial 29 CFR 1910.156  
Firefighting 29 CFR 1910.156

NFPA requirements under OSHA

Turn-out gear waterproof tests

Flammability tests

PFAS coating only method commercially  
available for turn-out gear to pass these two  
tests

NOTE - OSHA requires all respirators used at work to be certified by the National Institute for Occupational Safety and Health (NIOSH)