



NEII

NATIONAL ELEVATOR INDUSTRY, INC.

SETTING STANDARDS IN MOTION

May 19, 2023

The Honorable Melanie Loyzim
Commissioner
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

Dear Commissioner Loyzim:

The National Elevator Industry, Inc. (NEII) is the leading trade association for companies that manufacture, install, and maintain elevators, escalators, moving walks, and other building transportation products. NEII members collectively represent over eighty-five percent of the work hours in the building transportation industry and the Association represents several companies that do business in the State of Maine. NEII submits the following comments regarding a proposed new rule (Chapter 90) pursuant to 38 M.R.S. §1614 and the notification requirements and sales prohibitions for new products and product components containing intentionally-added perfluoroalkyl and polyfluoroalkyl substances (PFAS) contained therein.

As the Department of Environmental Protection (DEP) is aware, PFAS chemicals may be present in a wide array of commercial and industrial articles and components, including ones critical to the building transportation industry, that provide, among other properties, corrosion prevention, mechanical wear reduction, coating and insulation in wiring and electrical components, and flame retardance. These articles and components are integral to the safe and effective operation of building transportation systems. Thousands of parts and articles contribute to the safe and effective operation of a building transportation system. NEII member companies source these items from a complex global supply chain at multiple tiers. In order to determine the exact amount of PFAS, in the terms required by law, including laboratory analysis, member companies require further additional time to survey thoroughly their respective supply chains.

Previous Extension of Time to Report and Related Matters

These conditions, integral to the industry, prompted NEII to seek, pursuant to 38 M.R.S. §1614(3), an extension of time on behalf of specified manufacturing members of the Association for the submission of any notification until six months after the effective date of the Department's finally adopted rule. The extension of time was subsequently granted by DEP. NEII and its member companies note the continuing complexity in addressing the notification requirements of the statute even as further clarified and defined in Chapter 90 as proposed.

NEII further notes the continuing lack of capacity and testing infrastructure to enable manufacturers that provide products and product components in the State of Maine to complete assessments in a timely, complete, and accurate manner. NEII also takes note of recent action by the Committee on Environment and Natural Resources of the Maine Legislature to defer notification and reporting requirements to

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January 1, 2025. NEII supports these efforts and encourages the Department to maintain its support for further extension. We concur with the Committee and the Department on the need for additional time for manufacturers to obtain the data and other information necessary to meet statutory obligations. This remains a particular challenge for manufacturers, like the building transportation industry, with complex global supply chains with suppliers at multiple tiers.

Need for Additional Clarification in Rulemaking

The Department, in its support for a further deferral of notification and reporting requirements, has made clear that additional time will be necessary to incorporate additional amendments that may be made to 38 M.R.S. §1614. NEII concurs with the Department in this judgment. Moreover, NEII encourages DEP to consider additional provisions in any final rule concerning Chapter 90 that would further define the specific process for identifying a PFAS that would qualify as a “currently unavoidable use”. The proposed Chapter 90, as well as the underlying statute, provide no criteria nor a defined process by which the Department would determine by rulemaking those PFAS that are essential for health, safety, or the functioning of society and for which alternatives are not reasonably available. Additional clarification on how the Department intends to make those determinations, the criteria to be utilized, the factors to be evaluated, and any prioritization of products, articles, or components for consideration prior to further proposed rulemaking would be welcome.

NEII appreciates the consideration of the Department in addressing the concerns of the building transportation industry. NEII staff and member companies are available to provide any additional information as needed. We look forward to collaborating further with the Department on future rulemaking in this important environmental policy area.

Sincerely,



Philip W. Grone
Vice President, Government Affairs