

Maine Department of Environmental Protection  
Spills & Site Cleanup  
17 State House Station  
Augusta, Maine 04333-0017  
[PFASproducts@Maine.gov](mailto:PFASproducts@Maine.gov)

## Re: PFAS in Products

To Whom it May Concern:

The Association of Equipment Manufacturers (AEM)<sup>1</sup> appreciates the opportunity to comment on the Maine Department of Environmental Protection (MDEP), *Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances*<sup>2</sup> hereafter referred to as the proposed rule. We look forward to sharing the expertise and technical knowledge of our industry sectors. We believe it is critically important when developing regulations, that the interest of all stakeholders be considered and understood.

The off-road equipment manufacturing industry understands the value and importance of using sound science to inform future policymaking decisions. AEM strives to be a key stakeholder in these policymaking discussions. To ensure that new rules meet their objectives with accurate and complete data, AEM wants to support MDEP's approach as well as make a request that MDEP take into consideration the following point:

1. MDEP harmonize their refrigerant requirements and restrictions under the PFAS in Products program to those of the EPA SNAP program.

### **Restrictions on the Use of PFAS in Maine:**

On December 20, 2024, MDEP released their Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances proposed rule. Under Section 5F of this rule, MDEP states:

*The prohibition of this subsection does not apply to any such products sold, offered for sale or distributed for sale in used condition or to parts and other servicing needs for cooling, heating, ventilation, air conditioning or refrigeration equipment, including refrigerants used in servicing such equipment as long as the refrigerant is listed as acceptable, acceptable subject to use conditions or acceptable subject to narrowed use limits by*

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<sup>1</sup> AEM is the North American-based international trade group representing heavy-duty nonroad equipment manufacturers and suppliers with more than 1,000 member companies and over 200 product lines in the construction, agriculture, mining, forestry and utility industries. The equipment manufacturing industry in the United States supports 2.8 million jobs and contributes roughly \$288 billion to the economy every year. Our industries remain a critical part of the U.S. economy and represent 12 percent of all manufacturing jobs in the United States. Our members develop and produce a multitude of technologies in a wide range of products, components, and systems that ensure heavy-duty nonroad equipment remains safe and efficient, while at the same time reducing carbon emissions and environmental hazards. Finished products have a life cycle measured in decades and are designed for professional recycling of the entire product at the end of life. Additionally, our industry sectors strive to develop climate friendly propulsion systems and support robust environmental stewardship programs around the world.

<sup>2</sup> <https://www.maine.gov/dep/rules/index.html#13139124>

*the EPA pursuant to the Significant New Alternatives Program at 42 U.S.C. 82(G), as long as the refrigerant, foam, or aerosol propellant is sold, offered for sale or distributed for sale for the use for which it is listed pursuant to that program.*

This paragraph permits manufacturers to service existing equipment in the field with refrigerants that may contain PFAS chemicals.

Under a recent Federal Rule, as of October 24, 2023, EPA promulgated their Final Rule<sup>3</sup> to restrict the use of certain hydrofluorocarbons in specific sectors or subsectors. The Final Rule established a Global Warming Potential (GWP) limit of 150 for refrigerants manufactured, distributed, or exported for use in motor vehicle air conditioning systems in nonroad vehicles, with a compliance date of January 1<sup>st</sup>, 2028. This restriction would apply to all products, except for those products sold or distributed, or in existence in the nonroad sector prior to December 27, 2020.

The established restriction limit of 150 GWP would effectively forbid the use of certain refrigerants, such as HFC-134a, in the nonroad sector but does allow for manufacturers to use low GWP refrigerant alternatives, like HFO-1234yf, or blends of different refrigerants to meet the new requirement. However, in practice the only realistic refrigerant that allows Original Equipment Manufacturers (OEM) to meet the requirements of the rule is HFO-1234yf.

The Proposed Rule, on the other hand, bans the use of all PFAS substances used in new heating and air conditioning equipment, and the refrigerant chemicals themselves, by 2040. This creates a unique standard for manufacturers to meet when looking to sell or service new equipment in Maine. Off-road equipment requires an efficient and operational heating and air conditioning system, not only for the comfort of the operator, but also for meeting health and safety requirements promulgated by OSHA.

At this point in time, there are no known substances that can adequately replace HFO-1234yf for use in off-road equipment. This risks the longevity of the entire off-road equipment sector in Maine. The EPA's SNAP program is a robust and well-known standard for assessing the viability and availability of refrigerants used in different sectors. This ensures manufacturers can meet environmental goals, while at the same time mitigate risks to industry. The SNAP program also ensures a harmonization of requirements across the United States.

For these reasons, AEM requests that MDEP harmonize their own requirements under the PFAS in Products program to those of the EPA SNAP program.

AEM Appreciates your consideration of these comments.

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<sup>3</sup> <https://www.federalregister.gov/documents/2023/10/24/2023-22529/phasedown-of-hydrofluorocarbons-restrictions-on-the-use-of-certain-hydrofluorocarbons-under-the>

Please feel free to contact Jason Malcore, AEM's Senior Director, Safety & Product Leadership at [Jmalcore@aem.org](mailto:Jmalcore@aem.org) if you have any questions or require any further information.

Best Regards,

A handwritten signature in black ink, appearing to read 'Jason Malcore', with a long horizontal flourish extending to the right.

Jason Malcore  
Senior Director, Safety & Product Leadership  
Association of Equipment Manufacturers (AEM)