

January 21, 2025

Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Dear Ms. Malinowski Farris,

Thank you for the opportunity to comment on the State of Maine's Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances draft regulations.

The Business and Institutional Furniture Manufacturers Association (BIFMA) and its members worked together to address this important regulation. BIFMA supports over 150 small businesses as well as many mid-size and large businesses impacted by this regulation. We are experiencing a proliferation of PFAS regulations at the state level, all slightly different, creating challenges for our members. In light of the current challenges facing our industry, including supply chain disruptions, economic pressures from increased fees and reporting requirements, and the evolving landscape of complex regulations, we appreciate the opportunity to provide additional written comments for your consideration.

Several comments address reporting requirements that may be applicable in 2032 - the full PFAS ban. For example, furniture containing electronics, motors, and/or other parts may contain intentionally added PFAS for 5 to 10 more years based on current supplier information.

- **Section 3. Notification**

- **CAS level and chemical name reporting A.(d)**

- Comment: Suppliers often will not disclose information due to confidentiality and/or variability in specific chemical added. BIFMA recommends a yes/no in terms of PFAS inclusion.

- **PFAS Concentration B.(e)**

- Comment: Laboratories are making progress in determining concentrations and chemical identification; however, the capabilities are extremely limited, expensive, and vary in quality. Furthermore suppliers may change added PFAS for a variety of reasons (supply, quality, economics) which increases variability. BIFMA recommends a range-based disclosure for upholstered furniture.

- **Single notification C.:** *A manufacturer may submit a single notification to the Department for multiple products if all the products are covered by the same currently unavoidable use determination found in section 9(B).*

- Comment: BIFMA supports this approach as it creates efficient data collection and record keeping.

- **Section 5. Prohibition of the Sale of Products Containing Intentionally Added PFAS.**
 - *C. Except as provided in subsection H and section 9(B), effective January 1, 2026, a person may not sell, offer to for sale or distribute for sale in the state of Main: (9) Upholstered furniture containing intentionally added PFAS.*
 - Comment: Section 5. B. prohibits fabric and fabric treatment containing PFAS by January 1, 2023. BIFMA supports this prohibition as manufacturers control the supply of fabric and fabric treatments on their products. The prohibition of non-fabric components containing PFAS including electronics, gear lubricants, and mechanical parts to reduce friction is exponentially more difficult to meet. These parts are purchased from large industries which furniture manufacturers do not control nor influence given the low purchasing power. Alternatives, if presented by a supplier, must be evaluated to ensure quality and safety standards are met.
 - To date, few if any alternatives are available that meet quality and safety requirements. BIFMA recommends the date to meet this prohibition align with other states and industries. Maine's proposed prohibition of most products by 2032 allows for multiple industries, including those much larger and influential, to implement no intentionally added PFAS alternatives for electronics, gear lubricants, and mechanical components designed to reduce friction. BIFMA recommends this date for non-fabric items within upholstered furniture.
- **Section 6. Fees.**
 - *A. Fee amount.... pay a fee of \$1,500 for each notification submitted. For the purposes of calculating fees, each submission...will be considered a separate notification.*
 - Comment: BIFMA supports the product grouping and notification process which reduces costs and reporting burdens. States are increasingly adding reporting requirements and fees for PFAS, extended product responsibility, and other regulatory requirements. These cost manufacturers in terms of real dollars as well as people costs. BIFMA recommends a lower submission fee of \$500. BIFMA also urges Maine to ensure a level playing field in terms of reporting and costs. Without proper oversight, internet retailers and other businesses may inadvertently or intentionally fail to remit the required fee, potentially due to lack of awareness or other factors. This leads to a competitive disadvantage for those meeting the regulation.

Thank you for the opportunity to provide these comments. BIFMA welcomes the opportunity to discuss this further and provide additional information. Please contact Steve Kooy, BIFMA Technical Director Health and Sustainability, at skooy@bifma.org or +1.616.591.9797.

On behalf of BIFMA,



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