

January 28, 2025

Kerri Malinowski Farris
Safer Chemicals Program Manager
Maine Department of Environmental Protection
Office of the Commissioner
17 State House Station
Augusta, ME 04333
Via rulecomments.dep@maine.gov

Re: Comments on MDEP Concept Draft Language for the Proposed *Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances* Rule

Dear Ms. Farris,

The International Safety Equipment Association (ISEA) submits these comments for the Maine Department of Environmental Protection's (MDEP) 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) and safety equipment, including high visibility safety apparel, work gloves, head protection and more.

In Maine, PPE and safety equipment protect 512,200 workers across a number of industries, including 47,000 who are public sector workers¹. In the State, this industry sector employs nearly 1,400 individuals and pays \$67.8 million in wages. Companies in this sector also contribute \$30 million in state taxes and add \$213.5 million to Maine's overall economic activity². Nationwide, the industry protects over 125 million workers in the U.S.

Structure of our comments

First, ISEA asks MDEP to include products required to meet standards or requirements of the Occupational Safety and Health Administration (OSHA) as a separate Exemption in Sec. 4. Second, while the definition of "textile article" already appears to exclude them, ISEA asks that MDEP explicitly exempt textile articles that are components of PPE and safety equipment, including in the "textile article" section of Sec.5(C)(7).

Exemptions Request: OSHA and MRSA Title 26³ Should Be Added to the List of Exempt Agencies

ISEA urges that the U.S. Occupational Safety and Health Administration⁴ (OSHA) be separately listed as a federal agency for which items needed for compliance are exempted.

¹ <https://safetyequipment.org/industry-impact/>

² <https://safetyequipment.org/industry-impact/>

³ <https://legislature.maine.gov/statutes/26/title26ch6.pdf> (MRSA Title 26)

⁴ 29 CFR 1910

The proposed *Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances* rule exempts items “regulated by or under the jurisdiction of” the U.S. Food and Drug Administration (FDA) as well as items “...required to meet standards or requirements of the FAA, the National Aeronautics and Space Administration (NASA), the United States Department of Defense (DOD) or the United States Department of Homeland Security (DHS).”

PPE and safety equipment required to be used to be compliant with OSHA regulations are equally important and must also be included in the Exemptions section. OSHA’s workplace safety regulations cover private sector workers in the state, while Maine’s regulations in MRSA Title 26 cover public sector workers. ISEA believes this recommendation is on firm ground because **such items are essential for keeping the State’s workforce safe from occupational hazards.** PPE and safety equipment are “essential for health, safety or the functioning of society⁵.” In fact, workplace fatalities in Maine are steadily increasing. In 2023, Maine saw 27 workplace fatalities⁶, up from 23 workplace fatalities in 2022, which was higher than both 2021 and 2020⁷.

Request: Explicitly Exempt Textile Components of PPE and Safety Equipment

ISEA asks that MDEP explicitly exempt textile articles that are components of PPE and safety equipment **by adding PPE and safety equipment to the other exclusions listed in the “textile article” section of Sec.5(C)(7).** This would create a new subparagraph (c). PPE and safety equipment are required for legal and regulatory compliance and selected to protect workers against specific hazards in the workplace. Such PPE and safety equipment includes high visibility safety apparel needed to keep workers safe from being struck by moving vehicles; garments that are specially designed to keep workers cool when working in conditions above 80°F; head protection, which includes textile suspension system; and more. While the definition of “textile article” already appears to exclude non-consumer textile articles like those used in industrial and fire services PPE, an explicit exception would align with laws in other states.

Other states exempt PPE from their laws to ban PFAS in various products, including Rhode Island, California, New York and Colorado.⁸

RI’s PFAS legislation, signed into law in June 2024, exempts PPE in its “clothing” definition:

“Clothing items intended for regular wear or formal occasions does not include personal protective equipment.”⁹ (emphasis added).

⁵ While this phrase is used to define “currently unavoidable use,” it also recognizes the importance of keeping workers safe as they conduct important jobs that keep the state moving forward.

⁶ <https://www.bls.gov/charts/census-of-fatal-occupational-injuries/state-fatal-work-injuries-map.htm>

⁷ <https://www.bls.gov/iif/state-data/fatal-occupational-injuries-in-maine-2020.htm>

⁸ PPE exemption text in Colorado’s PFAS bill, HB 22-1345 is found in the definition of textiles: “Textile” does not include textiles used in medical, professional, or industrial settings.”

⁹ RI bill 2024 – S 2152; Ch. 18.18, Sec. 23-18.18-3.Definitions ([link to RI PFAS bill](#))

A California law that went into effect earlier this year also exempts PPE,¹⁰ and a recent New York law addressing PFAS in apparel exempts “professional uniforms that are worn to protect the wearer from health or environmental hazards, including personal protective equipment.”¹¹

ISEA recommends Maine base its definition of PPE on RI’s established definition of PPE to align the proposed new Sec. 5(C)(7)(c) exemption:

Personal Protective Equipment means equipment used to minimize exposure to hazards that cause serious workplace injuries and illnesses that may result from contact with chemical, radiological, physical, biological, electrical, mechanical, or other workplace or professional hazards.

ISEA recommends the following definition of safety equipment:

Safety Equipment means “equipment used or intended to identify, evaluate, or provide alerts to hazardous atmospheres.”

Both of ISEA’s recommendations would make certain workers in Maine will not be without critical protective items, while PPE manufacturers work with their suppliers to understand where PFAS may be present and work to identify and implement alternatives where feasible.

In Maine, approximately 1,800 individuals are employed directly in Maine's logging industry.¹² These 1,800 workers support another 3,800, who support the logging industry. This industry is well known to be among the most hazardous¹³. Loggers use a wide range of PPE and safety equipment, from high visibility shirts and vests, to hearing protection, gloves, chaps and protective footwear. A 2021 study “showed the industry facing mounting challenges including rampant inflation, worker shortages, declining profits and more.”¹⁴ An abrupt change in the PPE these workers use would add an unwelcome burden to a critical industry already facing economic stress. In addition, Maine’s proposed rule is a medium-range phase-out, during which PPE and safety equipment manufacturers will have time to evaluate where PFAS may be present in their products and work to identify feasible alternatives, as noted above.

Maine’s agricultural economy is also facing high production costs, including labor and other inputs.¹⁵ Similarly, an abrupt change to the PPE and safety equipment that keeps Maine’s agriculture workforce safe from occupational hazards would be an unnecessary additional stressor.

¹⁰ California Code, Health and Safety Code - HSC § 108970 (a)(1) and (f).

¹¹ NY Environmental Conservation (ENV) CHAPTER 43-B, ARTICLE 37, TITLE 1, § 37-0121 (4)(b)(i).

¹² [Professional Logging Contractors: “Economic impact study...” March, 2023](#)

¹³ “Logging is hazardous work” BLS; Compensation and Working Conditions Winter 1998,

¹⁴ [Professional Logging Contractors: “Logging and Trucking in Maine- 2021 Economic Contribution,” 2023](#)

¹⁵ Maine Agricultural Overview, Sept. 2023. ([link](#))

In Appendix I, ISEA includes examples of PPE and other safety equipment required by OSHA and the Federal Highway Administration to keep workers safe from occupational hazards.

In conclusion, ISEA believes exemptions for PPE and safety equipment make sense. These exemptions will allow the State's workers to remain protected from workplace hazards without abrupt changes to supply.

Thank you for your attention to these comments. I can be reached at cmackey@safetysupply.org if you or your colleagues have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cam Mackey', with a stylized flourish at the end.

Cam Mackey
President & CEO
International Safety Equipment Association

Appendix I

Examples of 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
- Head protection 29 CFR 1910.135
- Respiratory protection 29 CFR 1910.134
- Portable gas detection 29 CFR 1910.146
- Firefighter PPE 29 CFR 1910.156

Respiratory Protection (29 FR 1910.134) covers:

- Filtering Facepiece 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

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

Examples of PPE required to be provided to employees as per Federal Highway Administration regulations include:

High visibility safety apparel meeting ANSI/ISEA107-2015 and ANSI/ISEA 107-2020 are required by Federal Highway Administration's Manual of Uniform Control Devices:

[Sec. 6C.05](#) – requires compliance with ANSI/ISEA107-2015

[Sec. 7D.05](#)– requires compliance with ANSI/ISEA107-2020