



January 28, 2025

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

Re: Comments on Proposed Chapter 90: Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)

Dear Commissioner, Loyzim

The Window and Door Manufacturers Association (WDMA) appreciates the opportunity to provide comments on the proposed Chapter 90 rule governing products containing perfluoroalkyl and polyfluoroalkyl substances (PFAS). Our members manufacture high-performance windows, doors, and skylights for residential and commercial applications across the United States and internationally. We are committed to sustainability and environmental stewardship while delivering durable, efficient building products contributing to community well-being.

WDMA recognizes the urgency of addressing PFAS use and is committed to partnering with the Department of Environmental Protection (DEP) to achieve these critical environmental goals. However, several aspects of the proposed rule present challenges that could hinder compliance or create unintended burdens. We respectfully submit the following recommendations for your consideration:

Request for a Categorical Exemption for Building Products

Included in the authorizing legislation for the proposed rule is a reference to “architectural fabric structures” as a “textile article.” The proposed rule, however, includes a clarifying definition for building products “intrinsic to the design and construction of buildings.”

While we understand the intent of the clarification, it warrants asking whether products that serve a very important purpose -- the health, safety, and welfare of building occupants -- should be exempt from the rule provided there is no alternative available to replace PFAS ingredients. Windows, doors, and skylights fall within this scope as they are essential to a building’s structural integrity, energy performance, and human health.

WDMA respectfully requests that DEP extend the exemption of products outlined in Section 4 to include windows, doors, and skylights. These building products are required to meet building codes and are considered critical components for any building enclosure, provided there is no

feasible alternative that meets performance requirements.

Clarification of Currently Unavoidable Use (CUU) Determinations

The CUU framework outlined in Section 9 is essential to addressing PFAS use in critical applications. To ensure consistency and usability, we recommend more precise criteria defining "essential for health, safety, or the functioning of society" and more detailed guidance for determining when alternatives are "reasonably available." Strengthening the precision of these provisions will help manufacturers navigate compliance effectively.

Protections for Proprietary Information

The requirement to submit detailed notifications, including the exact chemical identity (CAS numbers) and concentration of PFAS in products, places a substantial burden on manufacturers, particularly when PFAS is present in components supplied by third-party vendors. Further, the requirements to supply confidential business information of manufacturers and their suppliers require greater structure and clarity.

Collecting and storing data and information that could put manufacturers at a competitive disadvantage or compromise intellectual property protections should compel the DEP to confirm what security protections will be in place to protect against theft, loss, or unauthorized access.

Reporting Requirements

The proposed product attribute, ingredient, and lifecycle reporting requirements will pose significant challenges for manufacturers of windows, doors, and skylights. They rely on complex supply chains to supply many of the components for the finished product. Further, the longevity of the typical product, and the lack of end user data available to the manufacturer, will certainly prove to make some requirements practically impossible to collect over time. To mitigate these issues, we suggest:

- Provide the option utilizing aggregated industry data, rather than individual manufacturer data, to provide the needed insight.
- Focusing data collection on products posing the highest environmental risks
- Simplifying the requirements for data from suppliers of components used in the manufacture of finished products.

Fee Structure Recommendations

To ensure fairness and encourage innovation, we recommend the following fee adjustments:

- We believe that companies should be charged on a per-volume basis to ensure fairness in cost distribution.
- Minimize fees for updates reflecting reductions or eliminations of PFAS use to incentivize innovation and compliance.
- Allocate fees to support research into safer alternatives and promote long-term environmental and economic benefits.

WDMA commends the Department's efforts to address the environmental impacts of PFAS while recognizing the importance of practical implementation. The above recommendations provide a balanced approach to achieving these goals.

We look forward to continued collaboration and stand ready to support the Department in advancing this critical initiative. Should you have any questions or require additional information, please do not hesitate to contact Michael Pierce at mpierce@wdma.com.

Sincerely,

A handwritten signature in black ink, reading "John H. Crosby IV". The signature is fluid and cursive, with the "IV" at the end being particularly prominent.

John Crosby

President and CEO

Window and Door Manufacturers Association