



December 16, 2022

Mark Margerum
Office of the Commissioner
Maine Department of Environmental Protection
17 State House Station, Augusta, ME 04333
Mark.T.Margerum@maine.gov

Mr. Margerum:

Recreation Vehicle Industry Association, Inc. (RV Industry Association), on behalf of its member companies listed in the attachment to this letter, requests that the Maine Department of Environmental Protection (Maine DEP) exercise its authority under 38 M.R.S.A. § 1614(3) to extend the reporting deadline scheduled to go into effect on January 1, 2023, for the notification by manufacturers of products for sale in the State of Maine containing intentionally added PFAS. The 2023 reporting deadline will have a major impact on products and companies who are based in Maine, do business in Maine, or sell products into the Maine marketplace. We also request that Maine DEP clarify as soon as possible the definition of “carpet or rug” to make clear that floor coverings for or inside of recreation vehicles (“RVs”) are not included.

We make these two requests in light of the following mitigating factors:

1. The law went into effect more than one year ago, in July of 2021; however, Maine DEP has not yet officially begun the rulemaking required under the law that will direct members of the regulated community on how to comply. The delay in rulemaking, compounded by the difficulty of obtaining the necessary information from the global supply chain in an already stressed marketplace, make it difficult for the regulated community to prepare to comply and to meet the fast-approaching reporting deadline.
2. The administrative process and notification system that the regulated community will utilize to provide required information has not yet been publicized or explained. We are aware that Maine DEP is currently working with the Interstate Chemicals Clearinghouse to develop the data management system that will house the hundreds of thousands of reports that Maine DEP will receive under the current reporting requirements. However, the system development process is still in its preliminary requirements phase and has not yet even reached the stage of beta testing. RV Industry Association believes that initial reporting timeframes should center around the availability of the final data management system. Moreover, the data management system will need to be adapted or modified over time to conform to the aforementioned regulations.
3. Maine DEP has yet to clarify many of the reporting requirements that will influence how the RV industry collects the necessary data. For example, under 38 M.R.S.A. § 1614(2), a manufacturer may supply the required information for a category or type of product rather than for each individual product. In the RV industry, this could mean the difference between reporting an entire RV versus the thousands of parts that make up the RV. While the statute speaks to obtaining the approval of the department for this approach, no process for requesting this has been developed.
4. Similarly, no official clarification on how carpeting in vehicles (including RVs) is not intended to be included in the definition of “carpets or rugs” for the PFAS ban starting in 2023 has been

published as of yet. A prompt clarification of the definition of carpets and rugs will allow manufacturers to develop their compliance plans; otherwise, RV manufacturers may have to develop plans to potentially cease sales of RVs or replacement mats in Maine.

5. Manufacturers that are acting in good faith and trying to develop compliance plans are experiencing difficulty with suppliers whose products are protected as intellectual property. Suppliers will not provide original equipment manufacturers (OEMs) with that information unless the suppliers are legally ensured that their intellectual property is protected, and that OEMs will not need to provide it to comply with Maine PFAS reporting. Not only does this issue need to be addressed in rulemaking that has not yet officially commenced, but Maine DEP also must ensure that any proprietary information provided does not make it into the public domain.

The waiver and extension provision found at 38 M.R.S.A. § 1614(3) was added to the law so that if Maine DEP determined that manufacturers need more time to comply with notification requirements, it can grant an extension. Given that there is no reporting system available, no officially proposed or final rule, and great uncertainty regarding reporting requirements, the regulated community needs more time to properly report.

Therefore, at this time and pursuant to 38 M.R.S.A. § 1614(3), RV Industry Association requests a notification deadline extension of 24 months (two years) after the date on which the final data reporting system and final rule become available. Unlike some of the corporate entities who have received extensions to date, we manufacture highly complex consumer goods, containing thousands of individual parts and utilizing several tiers of suppliers. This reality leads to particular challenges for us in information-gathering, which potentially could take years. We also request that Maine DEP clarify as soon as possible the definition of “carpet or rug” to make clear that floor coverings for or inside of vehicles are not included.

Sincerely,



Michael Ochs
RV Industry Association

CC: Melanie Loyzim, Commissioner - melanie.loyzim@maine.gov
Blazka Zgec - Blazka.Zgec@maine.gov

Attachment: List of Members