

01/22/2024

Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: Draft Regulatory Determinations Report to the Legislature: Safer Products for Washington Cycle 1.5 Implementation Phase 3

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to provide comments to the Washington State Department of Ecology (Ecology) regarding the Proposed Rule: “Safer Products Restrictions and Reporting” (“Safer Products Rule” or “Proposed Rule”).

NMMA is the trade association for the U.S. recreational boating industry, representing nearly 1,500 marine businesses, including recreational boat, marine engine, and accessory manufacturers. Our members are often U.S.-based small businesses, many of which are family owned. NMMA members collectively manufacture more than 85 percent of the marine products sold in the U.S. Furthermore, the recreational boating industry has a \$230 billion impact on the nation’s economy and in communities across the country, with nearly 700,000 American jobs across 35,000 U.S.-based marine businesses.¹ In Washington State, recreational boating drives \$8.1 billion dollars toward the economy, supports over 23,000 jobs, and 1,300 marine related businesses.

NMMA has serious concerns with the intent of restricting certain apparel and gear while requiring reporting for items identified as ‘extended use’.

The proposed text mentions several examples of apparel including gear:

Examples of apparel include athleticwear, reusable diapers, menstrual underwear, rain wear, school uniforms, dresses, hats, scarves, gloves, and shoes. Gear includes nonclothing items that are used for a particular purpose, such as backpacks, sleeping bags, umbrellas, camping furniture, and climbing rope.

The proposal goes on to explain that except for ‘extended use products’ that are specifically not marketed to the public, all apparel items that utilize any quantity of PFAS will be restricted.

Life jackets, also referred to as personal flotation devices (PFDs), throwable boat cushions, and boating survival gear are mandated by the United States Coast Guard and the International Maritime Organization (IMO) to meet certain performance requirements under harsh conditions. These products have a very long useful life and must remain intact and functional under robust

¹ <https://www.bea.gov/news/2022/outdoor-recreation-satellite-account-us-and-states-2021>.

conditions. The U.S. Coast Guard has statutory authority under Title 46, U.S. Code, Sections 3306(a) and (b), 4102(b), 4302(a) and (c), and 4502(a) and (c)(2)(B), to prescribe regulations for the design, construction, performance, testing, carriage, use, and inspection of lifesaving equipment on commercial and recreational vessels.

The following items are examples of life saving gear that are certified and mandated by the U.S. Coast Guard:



Figure 1. Examples of PFD types certified by the United States Coast Guard for specific applications. These devices are required by law to be present in recreational boats for each passenger aboard.



Figure 2. Additional PFDs for use in safety of life at sea (SOLAS) survival applications². Please note not all examples are shown.

Similar to seat belts in automobiles, PFDs are life-saving items that must be certified and relied upon in unexpected harsh conditions and must be stored onboard the vessel or worn during operation.

NMMA strongly urges that these critical life saving devices be exempted from restrictions and reporting requirements and differentiated from apparel.

Recreational marine vessels serve and support many critical functions including those for government agencies, including the military; law enforcement, first responders, and public safety; food and agriculture, including commercial fishing and sea farming; energy; transportation and logistics, including for commuting and for island residents; public works and infrastructure support services; critical manufacturing; defense industrial base; and conservation.³ Often, the health, safety, and the functioning of society depends on NMMA member products for which alternatives are not reasonably available.

The diverse community of boat builders have unique challenges. Generally, the marine vessel supply chain is simultaneously global and many tiers deep, but predominantly comprised of small businesses with limited resources and capabilities for the emerging and numerous burdens of chemical regulations. These companies have unique challenges in obtaining chemical

² International Maritime Organization: International Convention for the Safety of Life at Sea (SOLAS), 1974 - The International Life-Saving Appliance (LSA) Code gives specific technical requirements for LSAs and is mandatory under Regulation 34, which states that all life-saving appliances and arrangements shall comply with the applicable requirements of the LSA Code.

³ Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 2.0 (March 28, 2020).

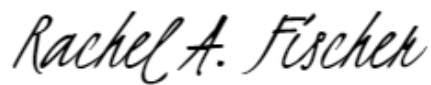
information across the numerous components used in recreational boats. We urge Ecology to ensure recreational marine vessels are explicitly mentioned in the definition of other motorized vehicles already afforded exemptions under the Rule. Finally, we request that critical life-saving devices known as personal flotation devices (PFDs) mandated and regulated by the United States Coast Guard and the International Maritime Organization (IMO) be exempt from restrictions and reporting requirements and clearly differentiated from apparel.

Please do not hesitate to reach out to NMMA for further information.

Sincerely,



Jeff R. Wasil
Sr. Director - Environmental, Health, and Safety
National Marine Manufacturers Association
202-737-9762
jwasil@nmma.org



Rachel Fischer
Western Policy and Engagement Manager
National Marine Manufacturers
Association
(202) 737-9766
rfischer@nmma.org