



January 11, 2024

Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

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

To Whom It May Concern,

Lac-Mac Limited (Lac-Mac) appreciates the opportunity to provide these comments¹ in response to the Washington State Department of Ecology's ("Ecology") [Cycle 1.5 Draft Regulatory Determinations Report to the Legislature](#) as part of its Safer Products for Washington program.²

Located in Canada, Lac-Mac is North America's leading manufacturer of reusable protective clothing for blood borne pathogen protection (surgical protection), liquid chemical splash protection, flame resistant/ARC protection for utilities, and high-visibility liquid-proof protection. We specialize in quality, high-performance, liquid-proof, breathable personal protective equipment (PPE) products. We sell our products in the United States, including in the state of Washington.

The report provides regulatory determinations for several categories of products containing per-and-polyfluoroalkyl substances (PFAS) known as "priority products," including "apparel and gear," as identified in Ecology's 2021 PFAS Chemical Action Plan. Ecology has preliminarily determined that these products either warrant no action, reporting, or restrictions. If Ecology wants to restrict a priority product, it must confirm that safer alternatives are available and feasible, and that the restriction will either reduce a "significant source" or use of PFAS, or it is necessary to protect the health of sensitive populations or species.³ Ecology is seeking comment on its draft regulatory determinations.

For the "apparel and gear" priority products, Ecology found that there are generally safer and feasible alternatives to PFAS in most types of apparel. Therefore, Ecology proposed 1) reporting requirements for apparel intended for extended use (outdoor apparel designed for outdoor sports experts), shoes, and gear containing PFAS, and 2) a restriction for other types of apparel containing PFAS.

As Ecology develops its rules to address PFAS in apparel and gear, the agency should consider clarifying in its regulations that **PPE products like the products we sell are not covered within the scope of potential restrictions for "apparel and**

¹ Comments have been submitted electronically to: <https://hwtr.ecology.commentinput.com/?id=UguCSsFZD>.

² RCW 70A.350.090(1).

³ RCW 70A.350.040(3).

gear.” PPE is unlike typical “gear”⁴ or “apparel”⁵ because it is equipment worn specifically to minimize exposure to potential hazards in the workplace. PPE is essential for the health, safety and functioning of society and for which PFAS-free alternatives are not reasonably available.⁶ PPE products provide critical protection for workers who are exposed to various physical and chemical hazards in the workplace. Particularly in chemical facilities, utilities, and in healthcare settings, it is vital for safety and public health to ensure the workforce in Washington has continued access to necessary PPE.

Our concern is that without a clear exclusion for PPE from the scope of the “apparel and gear” priority product category, PPE manufacturers like Lac-Mac or other companies will be forced to no longer sell its products in Washington and leave thousands of workplaces with far more limited options for available protective clothing, creating a public health emergency or exposing workers to more risks in the workplace. This is contrary to the intent of Washington’s Safer Products program.

Further, two other states that have enacted restrictions on the sale of PFAS in apparel or textiles, California and New York, have provided specific exclusions for PPE in their statutes:

California Health & Safety Code 108970⁷: The law prohibits the manufacture, sale or distribution of textile articles containing regulated PFAS starting January 1, 2025. The law excludes from the definition of apparel “personal protective equipment.”

New York Env. Chapter 43-B, 37-0121⁸: The law prohibits the sale of apparel containing intentionally-added PFAS starting January 1, 2025. The law excludes from the definition of apparel “professional uniforms that are worn to protect the wearer from health or environmental hazards, including personal protective equipment.”

Therefore, Washington should align with other states and explicitly exclude PPE from the “apparel and gear” category so that essential medical supplies and worker safety garments will continue to be available for employers and workers.

Thank you for the opportunity to comment. Please contact Shelley Petrovskis if you have any questions or if we can provide any additional information that may be helpful.

Sincerely,



Lac-Mac Limited

⁴ Ecology has provided examples of gear being items such as “backpacks, sleeping bags, umbrellas, camping furniture, and climbing rope.”

⁵ Ecology has provided examples of apparel being items such as “shoes, gloves, scarves, hats, dresses, school uniforms, extended use products, menstrual underwear, reusable diapers, rain wear, and athleticwear.”

⁶ Ecology has acknowledged this is the case for Firefighting PPE—that it could not identify safer alternatives. This is also the case for other types of PPE.

⁷https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=3.&chapter=13.5.&article=

⁸<https://www.nysenate.gov/legislation/laws/ENV/37-0121>.