

March 28, 2024

Honorable Members of the Vermont House Human Services Committee:

On behalf of the American Apparel & Footwear Association (AAFA), thank you for the opportunity to provide comments on **S. 25 - An act relating to regulating cosmetic and menstrual products containing certain chemicals and chemical classes and textiles and athletic turf fields containing perfluoroalkyl and polyfluoroalkyl substances.**

AAFA is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, which compete in the global market. Representing more than 1,000 world famous name brands, including several brands and retailers in Vermont, AAFA is the trusted public policy and political voice of the apparel and footwear industry, its management and shareholders, its more than three million U.S. workers, and its contribution of \$470 billion in annual U.S. retail sales. AAFA approaches all of its work through the lens of purpose-driven leadership in a manner that supports each member's ability to build and sustain inclusive and diverse cultures, meet and advance ESG goals, and draw upon the latest technology.

With our members engaged in the production and sale of clothing and footwear, we are on the front lines of product safety. It is our members who design and execute the quality and compliance programs that stitch product safety into every garment and shoe we make. In fact, many of our members have already announced their intentions to phase out the avoidable use of intentionally added PFAS and our open-industry [Restricted Substances List](#) included PFAS as a class of chemicals for more than a year.

AAFA and our members are proud advocates for regulatory requirements that can effectively protect human health and the environment. Regulation plays a critical role in furthering our industry's efforts. But only if regulations are designed properly, serve their purpose, and are properly enforced. That is why we recently launched the [THREADS Sustainability and Social Responsibility Protocol](#). We believe that the *THREADS Protocol* will speed up the development of policies that are effective and catalyze meaningful progress. *THREADS* calls for policies that are:

- **Transparently Developed and Enforced**
- **Harmonized Across Jurisdictions and Industries**
- **Realistic in Terms of Timelines**
- **Enforceable**
- **Adjustable**
- **Designed for Success**
- **Science-Based**

Although many of our members routinely exceed regulatory requirements and are already in the process of phasing out the use of avoidable, intentionally added PFAS in their products, we respectfully request amendment language that better aligns the legislation with the *THREADS Protocol*.

We respectfully request that the Committee consider amendments that provide additional time to allow for the sale of existing inventory, in order to avoid adverse and unintended environmental impacts. Even though the industry is actively working on phase out, we now know that millions of units of inventory that have already been manufactured will still be in circulation come January 2025. **Creating a sell through provision until January 1, 2028 for products manufactured *before* January 1, 2025 would allow those preexisting products to be sold off and avoid a wave of products being immediately sent for disposal, where the PFAS will migrate into the environment.** This additional time would avoid the creation of unnecessary textile waste while preferred disposal methods that could mitigate environmental impacts are developed and scaled. Colorado, for one, has recognized this concern and [adjusted](#) their proposed phase out requirement for intentionally added PFAS in textiles accordingly.

Additionally, over the past year it has come to our attention that PFAS can persist in recycled textiles. Members are investing significant resources into textile recycling technologies and creating product with next generation materials made with recycled content. To support scaling of circular textile-to-textile recycling systems, consumers need to return old product, and they do. Members are finding consumers regularly return decades-old product to brands' take-back programs or textile collection sites. This means textile products containing PFAS are entering recycling streams and will continue to do so for years after PFAS have been phased out. At present, available technologies are [unable](#) to consistently minimize legacy PFAS to concentrations below the strict thresholds proposed in VT S.25. Left unaltered, these thresholds will jeopardize the industry's transition to more sustainable, circular sourcing and production.

It is important to note that these thresholds, when established in California, were created to delineate between intentionally added and non-intentionally added PFAS in **new** products. It is understood that a result of less than 100ppm total organic fluorine indicates the PFAS was not intentionally added, because PFAS at that level would not have any practical effect (e.g. it would not provide water resistance or stain resistance). Unfortunately, the testing thresholds are not fit for purpose when determining intentional addition in products made of recycled materials. **The issue of legacy PFAS in recycled textiles could be addressed by one or more of the following options:**

- A exemption for PFAS not intentionally added to recycled textiles. Legacy PFAS in recycled textiles are expected to gradually decrease over time since these substances will no longer be applied to virgin materials used to make regenerated textiles upon disposal.
- A higher limit threshold for PFAS in recycled textiles, e.g., 100 ppm total organic fluorine, instead of the final 50 ppm limit on total organic fluorine included under CA AB 1817 and proposed under VT S.25.
- A longer transition period for recycled textiles to meet the same limits on total organic fluorine applied to virgin materials (textile recyclers are requesting a 12-year transition period under the REACH PFAS restriction proposal in Europe).

Finally, **we want to stress the importance of maintaining an exemption for personal protective equipment (PPE)**. PPE is often subject to federal standards, such as Occupational Health and Safety Administration (OSHA) or Food and Drug Administration (FDA) that at present still require the use of PFAS – making its use unavoidable. Because of this, PPE has been clearly exempted in California and other jurisdictions that have or are seeking to prohibit the use of intentionally added PFAS in products. Maintaining that exemption creates harmonization and consistency for manufacturers and PPE buyers.

We look forward to continuing to work with Vermont on the regulation of substances in consumer products for the benefit of consumer product safety and public health. In the meantime, our members continue to design and execute the quality and compliance programs that emphasize product safety for every individual who steps into our apparel and footwear products.

Thank you for your consideration of these requests.

Sincerely,



Chelsea Murtha
Senior Director, Sustainability
American Apparel & Footwear Association