# Washington Retail Association (Crystal Leatherman)

Dear Ms. Callaway and the Safer Products Team:

On behalf of Washington Retail Association, we appreciate the opportunity to comment on the proposed rulemaking language for Safer Products Cycle 1.5.

After careful review, we have developed the following feedback that includes areas of concern, questions to help clarify our interpretation of the proposed language, and recommendations to help improve implementation and compliance, address unintended errors, and ensure the rules remain workable for all stakeholders in the supply chain.

1. Administrative Burdens of Reporting Thresholds
The current proposal sets reporting thresholds as low as 50 ppm, which could create a significant administrative burden, particularly for companies managing or part of complex supply chains. Additionally, gathering precise data from suppliers and manufacturers at such low thresholds is labor-intensive and could result in reporting delays or errors, especially where the supply chain is global or opaque. Please consider raising the initial reporting thresholds or developing and implementing a phased approach based on product category and volume. We would also recommend including a 'good faith' provision that protects companies from penalties/fees when they have collected data from suppliers that may have errors beyond their control.

2. Clear Liability and Enforcement Provisions
Retailers should not bear enforcement risk when acting in good faith based on data provided by manufacturers and suppliers. We interpret under the proposed rules, only manufacturers would be subject to penalties, not retailers. Please clarify if this interpretation is correct. If so, this distinction is critical, and we request that it should be made explicit and unambiguous in the final rule text and any related guidance materials.

3. Grace Periods for Compliance and Errors
We request the Department consider adding a grace period for inadvertent noncompliance, especially in early phases of implementation. We believe this would help companies work out supply chain verification processes and adapt without facing immediate penalties for good-faith errors.

4. Extreme Apparel and Currently Unavoidable Uses
Extreme Apparel products are critical for worker and consumer safety in severe weather, and current PFAS-free alternatives are not yet technologically viable or widely available. We recommend removing extreme weather apparel from the ban scheduled for 2027 or to provide flexibility while encouraging innovation, we strongly urge the inclusion of a "currently unavoidable use" exemption process. Similar to frameworks adopted in other states and countries, this mechanism would allow manufacturers to apply for exemptions by demonstrating that no safer and economically feasible alternatives exist.

5. Harmonization with Other Definitions
As noted in the Department's Preliminary Regulatory Analyses (page 17, note 7), the definition of "small manufacturer" appears to vary between federal and state levels. We recommend aligning the

Washington rule with EPA's PFAS reporting criteria but tailored to apply specifically to annual production and PFAS quantities within Washington State, rather than nationwide or global production figures. This would help create more clarity and consistency for affected companies.

6. Confidential Business Information
There should be a provision allowing manufacturers to request confidential treatment of proprietary information, including chemical formulations and supplier relationships. This is standard in other jurisdictions and for protecting trade secrets while still enabling regulatory compliance.

7. Federally Preempted Products
We suggest the Department consider incorporating language similar to California's exemptions for federally preempted products, pending further clarification of what qualifies under that category. This would help avoid duplication of federal requirements and provide regulatory certainty to manufacturers.

8. Clarity on Reporting Timeline
Our interpretation is that for cookware products, reporting would cover products sold from January 1, 2026 through December 31, 2026, with the report itself due by January 31, 2027. This timeline seems reasonable and allows for internal data collection and verification. However, we request that the Department confirm this interpretation in the final rule or supplemental guidance, to ensure consistent understanding across the industry.

We recognize the importance of ensuring transparency and safety related to PFAS-containing products, and we support efforts to take a measured approach toward regulation. Thank you for your consideration of the suggestions above to make implementation more manageable and equitable for all involved.

If you have questions or need additional information regarding our feedback, please do not hesitate to contact me.

Sincerely,

Crystal Leatherman
Director of Local & State Government Affairs