

September 15, 2026

New Mexico Environment Department
1190 St. Francis Dr. Suite N4050
Santa Fe, NM 87505

RE: Stakeholder Feedback on Exemptions for Products Containing Per- and Polyfluoroalkyl Substances (PFAS) Under the PFAS Protection Act

Dear New Mexico Environment Department,

On behalf of the American Apparel & Footwear Association (AAFA), we write to share our feedback in advance of the New Mexico Environment Department's (NMED) report on the implementation of the Per- and Polyfluoroalkyl Substances (PFAS) Protection Act regarding exemptions for products containing PFAS.

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 1,100 world-famous name brands, AAFA is the trusted public policy and political voice of the apparel and footwear industry, its management and shareholders, its more than 3.6 million U.S. workers, and its contribution of more than \$523 billion in annual U.S. retail sales. AAFA drives progress on three key priorities: Brand Protection; Supply Chain & Sourcing; and Trade, Logistics, & Manufacturing. AAFA approaches this 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. Our members are actively phasing out the avoidable use of intentionally added PFAS and our open-industry [Restricted Substances List](#) has included PFAS as a class of chemicals for over three years.

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. We recommend the adoption of a rule providing that the use of PFAS substances in personal protective equipment (PPE) is a currently unavoidable use (CUU) and that there be an exemption for unintentionally added PFAS in products from the use of recycled content.

Personal Protective Equipment

PPE, including firefighting and medical PPE, is impacted by the ban on intentionally added PFAS in textiles, despite the lack of suitable alternatives. The Washington Department of Ecology, as part of its [regulatory determination](#) regarding the Safer Products for Washington program, “did not identify safer, feasible, and available alternatives [to PFAS].” Given the lack of suitable alternatives, the use of PFAS in PPE to meet necessary performance testing criteria is often required, making their use unavoidable.

NMED should adopt a rule providing that the use of PFAS substances in PPE is a CUU. This aligns with California [A.B. 1817](#). Californian regulation defines “textile articles” as: “textile goods of a type customarily and ordinarily used in households and businesses, and include, but are not limited to, apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, beddings, towels, napkins, and tablecloths.” The Californian definition of apparel clarifies that “personal protective equipment or clothing items for exclusive use by the United States military” are exempt from the restriction A.B. 1817. Several other states, including Colorado, Connecticut, New York, Rhode Island, and Vermont, have similar exemptions.

Recycled Content Exemption

In keeping with NMED’s recently released Circular Economy Plan, which aims to “keep materials and resources in productive use through reuse, recycling, and recovery”, we suggest amending the definition of intentionally added PFAS to state that textile products containing above 100 parts per million (ppm) Total Organic Fluorine (TOF) and made with at least 50 percent recycled content shall not be considered to contain intentionally added PFAS.

Our members are investing significant resources into developing circular supply chains and creating products with materials made with recycled content. To support the scaling of circular textile-to-textile recycling systems, consumers need to return old products, and they do. Our members find that consumers regularly return decades-old products to brands’ take-back programs or textile collection sites. These programs receive both products that were manufactured with intentionally added PFAS and products to which consumers have applied their own PFAS-containing waterproofing sprays and treatments.

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 recycling technologies are unable to consistently minimize legacy PFAS to concentrations below 100 ppm Total Organic Fluorine (TOF), a fact which was recognized in the 2025 proposed [13.5 year derogation](#) for products made with recycled content in the pending EU-wide PFAS ban for consumer products. Per the Apparel and Footwear International RSL Management (AFIRM) Group, who work as an industry collective to maintain a Restricted Substance List for apparel and footwear companies, [“there is currently no economically viable way for sorters/recyclers to know whether, and in what quantity, an incoming product contains PFAS, and, consequently, it is not possible to sort PFAS-containing products away from the recycling stream.”](#) A recycled content

exemption is necessary to enable the industry's transition to more sustainable and circular sourcing and production.

We look forward to continuing to work with NMED 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.

Respectfully,

A handwritten signature in grey ink, appearing to read "Chelsea Murtha", with a long horizontal flourish extending to the right.

Chelsea Murtha
Senior Director, Sustainability
American Apparel & Footwear Association