Manufacturer Frequently Asked Questions (FAQs) Associated with the PFAS Protection Act and 20.13.2 NMAC

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Contents

Introduction 1

General 1

What is the PFAS Protection Act? 1

What are the requirements for manufacturers in the PFAS Protection Act and 20.13.2 NMAC? 1

How does New Mexico define "intentionally added" with respect to PFAS in products? ... 2

Reporting 3

What is the reporting requirement for PFAS? 3

Who can submit a required report? 3

Where can a manufacturer (or other reporter) register and report the required information? 3

When must manufacturers submit a required report? 3

What information must be included in the required report? 4

What if the information for a report is already publicly available? 4

What information must be included in a reporting waiver request? 4

What if a waiver request is not granted? 4

What if the information needed for a report is not available by the due date? 4

What if a reporting extension is not granted? 4

What if there are changes to the product after the report is submitted? 4

Will NMED notify manufacturers that the information they have submitted is accepted? 5

Is there a fee associated with reporting? 5

Labeling 5

What is the PFAS label and what is its purpose? 5

Who is responsible for labeling products that contain intentionally added PFAS? 6

What products need to be labeled, and how does a manufacturer know if they need to label a product? 6

When do products need to be labeled? 6

If a company manufactures component parts with intentionally added PFAS that it sells to other manufacturers that sell products in New Mexico, how can it comply with the labeling requirements? 6

What does the label need to look like (e.g., size, color)? 7

Where can a manufacturer get example artwork for the PFAS label? 7

Does the label go on the product, product packaging, or both? 7

What if a manufacturer's product is too small for the label to be applied directly to the product? 8

Is the label required for internet or catalog purchases? 8

Does a manufacturer or retailer need to include the PFAS label in print, internet, or broadcast advertisements? 8
If a manufacturer's product is a complex durable good where only internal components include PFAS, does it still require a label? 8
Where is the PFAS label required to be included for complex durable goods? 9
If a manufacturer's complex durable good does not have an associated specification sheet, what are alternative consumer-facing documents that can be labeled? 9
Are electronic methods such as a QR code or link to a website to display labels sufficient? 9
Are any product categories exempt from labeling? 9
The only PFAS in a manufacturer's product is a fluoropolymer and is therefore exempt from reporting. Does the product still require a label? 10
Are label waivers available, and how does a manufacturer request one? 10
If a manufacturer's product already includes a label to meet PFAS requirements from another state, does it also need to include the New Mexico PFAS label? 11
Currently Unavoidable Uses (CUUs) 11
What is a Currently Unavoidable Use (CUU)? 11
Who can submit a CUU proposal? 11
Where should the CUU proposal be submitted? 11
How many CUU proposals must be submitted if a company manufacturers products in multiple product categories? 12
What is the deadline for CUU proposals related to the January 1, 2027 phase-out? 12
When is the earliest a CUU proposal may be submitted? 12
When is the latest a CUU proposal may be submitted? 12
What happens to CUU proposals submitted by the deadline for January 1, 2027 phase-outs? 12
What information must be included in a CUU proposal? 12
What justification must be provided for PFAS use? 12
What information must be included in the PFAS alternatives assessment? 13
Must the proposal list other regulations affecting the product? 13
Must the proposal identify comparable products available in other jurisdictions? 13
Is the proposal required to explain why alternatives used elsewhere may not work in New Mexico? 13
What health and environmental information must be included in the CUU proposal? 13
What if the required information is unavailable? 13
Will NMED consider CUU determinations from other states? 13
How long is a CUU determination in effect, and can it be renewed? 13
Is there a fee associated with a CUU proposal? 14

Enforcement 14
How are reporting requirements enforced? 14
What happens if a manufacturer does not report by January 1, 2027? 14
What are the penalties for manufacturers who do not report products that contain intentionally added PFAS and continue to sell products in New Mexico? 14
How is labeling of products enforced? Where can products suspected of being inadequately labeled be reported? 15
What are the penalties for manufacturers who do not label products that contain intentionally added PFAS? 15
When is a manufacturer required to test a product to determine whether PFAS are intentionally added? 15

Introduction

The New Mexico Environment Department (NMED) developed these responses to frequently asked questions (FAQs) to assist manufacturers in understanding requirements associated with the Per- and Poly-Fluoroalkyl Substances (PFAS) Protection Act and Title 20, Chapter 13, Part 2 of the New Mexico Administrative Code (20.13.2 NMAC). Additional resources on reporting are available at NMED's New Mexico PFAS Reporting System (NMPRS). This information is for general purposes only and is not legal advice.

General

What is the PFAS Protection Act?

The *Per- and Poly-Fluoroalkyl Substances (PFAS) Protection Act*, passed as House Bill 212 in the 2025 Legislative Session, phases out products in the state with intentionally added PFAS by prohibiting the sale or distribution of these products in New Mexico. It requires manufacturers to report information about intentionally added PFAS in products for sale in New Mexico and label products to indicate the presence of intentionally added PFAS.

Rules and requirements associated with the PFAS Protection Act are included within Title 20, Chapter 13, Part 2 of the New Mexico Administrative Code (20.13.2 NMAC).

What are the requirements for manufacturers in the PFAS Protection Act and 20.13.2 NMAC?

The PFAS Protection Act and 20.13.2 NMAC require the following of manufacturers:

- **Product prohibitions.** Manufacturers must remove from sale or distribution in New Mexico any consumer products containing intentionally added PFAS that fall within certain product categories. These include:
    - By January 1, 2027:
        - Cookware
        - Food packaging
        - Dental floss
        - Juvenile products
        - Firefighting foam
    - By January 1, 2028:
        - Carpets and rugs
        - Cleaning products
        - Cosmetics
        - Fabric treatments

        - Feminine hygiene products
        - Textiles
        - Textile furnishings
        - Ski wax
        - Upholstered furniture
    - By January 1, 2032:
        - Any other product containing intentionally added PFAS unless the product is exempt under 20.13.2.10 NMAC or is granted a Currently Unavoidable Use (CUU) designation under 20.13.2.11 NMAC.
- **Reporting.** By January 1, 2027, manufacturers must report information to NMED regarding consumer products containing intentionally added PFAS sold in New Mexico, unless exempt according to 20.13.2.10 NMAC or the product is granted a CUU designation. The required information includes a brief description of the product, product identifying information, the purpose for which PFAS is used in the product, the concentration of each PFAS within the product, the name and address of the manufacturer and associated point of contact, and any additional information requested by NMED. The manufacturer must also pay fees to NMED associated with reporting. Manufacturers must submit this information to NMED through its New Mexico PFAS Reporting System (NMPRS). [Note: A manufacturer may not sell or distribute any product in New Mexico that contains intentionally added PFAS after January 1, 2028, unless it has fulfilled reporting requirements.]
- **Labeling.** By January 1, 2027, manufacturers must affix a label to any consumer product sold in New Mexico containing intentionally added PFAS, unless that product falls within one of a few product categories that are exempt from labeling. The label must be visible before purchase. The label must be included for online and catalog sales where customers from New Mexico are unable to observe the product or product packaging prior to purchase.
- **Testing.** If there is reasonable suspicion that a product sold in New Mexico contains intentionally added PFAS but has not met the associated reporting and/or labeling requirements, NMED can test or require a manufacturer to test that product to determine the presence and concentration of PFAS in the product using commercially available analytical methods.

How does New Mexico define "intentionally added" with respect to PFAS in products?

The PFAS Protection Act states that "'intentionally added' means a per- or poly-fluoroalkyl substance deliberately added or used during the manufacture of a product where the continued presence, at any level or concentration, of the per- or poly-fluoroalkyl substance is desired or expected in the final product or one of the product's components."

Manufacturers are required to submit a report for each product sold or distributed in New Mexico that contains intentionally added PFAS. Manufacturers of products that have a currently unavoidable use (CUU)

designation under 20.13.2.11 NMAC or are otherwise exempt under 20.13.2.10 NMAC are not required to submit a report.

Any consumer product for sale or distribution in New Mexico that contains intentionally added PFAS must be labeled according to 20.13.2.13 NMAC, unless that product falls within one of a few product categories that are exempt from labeling.

Reporting

What is the reporting requirement for PFAS?

Manufacturers are required to submit a report for each product sold or distributed in New Mexico that contains intentionally added PFAS. Manufacturers of products that have a currently unavoidable use (CUU) designation under 20.13.2.11 NMAC or are otherwise exempt under 20.13.2.10 NMAC are not required to submit a report.

Who can submit a required report?

Individual manufacturers, groups reporting on behalf of manufacturers, or trade organizations representing manufacturers may submit reports. A trade organization may submit a report if the following requirements are met:

- The reporting manufacturer or trade organization must notify any other manufacturer that is a party to the agreement that the reporting manufacturer or trade organization has fulfilled the reporting requirements;
- All manufacturers must maintain documentation of a reporting responsibility;
- All manufacturers must execute the agreement and must provide the documentation to the department upon request; and
- All manufacturers must verify that the data submitted on their behalf is accurate and complete.

Where can a manufacturer (or other reporter) register and report the required information?

Manufacturers must submit this information to NMED through its New Mexico PFAS Reporting System (NMPRS). How-to videos are available to support manufacturers through the reporting process.

When must manufacturers submit a required report?

On or before January 1, 2027, a manufacturer of a product sold, offered for sale, distributed, or distributed for sale in the state, directly or indirectly or through intermediaries, that contains an intentionally added PFAS must submit a required report.

What information must be included in the required report?

A brief description of the product and any UPC/SKU codes associated with the product are required. In addition, the chemical name and Chemical Abstracts Service Registry Number (CASRN) of the PFAS, its purpose in the product, and the amount in the product are required. Documentation verifying the analytical methods used to determine the amount of PFAS in the product must also be submitted. A detailed list of required information is found at 20.13.2.12 NMAC.

What if the information for a report is already publicly available?

A waiver for all or some of the information required in a report may be requested by manufacturers for multiple products or a product category, if that information is already publicly available. Waiver requests must be submitted at least 30 days before the reporting due date of January 1, 2027 (i.e., no later than December 2, 2026).

What information must be included in a reporting waiver request?

The waiver request must include contact information for the manufacturer, description of the product or component for which the waiver is requested, and a list of items for which the manufacturer requests the waiver.

What if a waiver request is not granted?

Reports are due within 30 days after a waiver request is denied or by January 1, 2027, whichever is later.

What if the information needed for a report is not available by the due date?

An extension request may be submitted at least 30 days before the reporting due date. If an extension request is granted, the due date for reporting will be extended by 90 days.

What if a reporting extension is not granted?

Reports are due within 30 days after an extension request is denied or by January 1, 2027, whichever is later.

What if there are changes to the product after the report is submitted?

A revised report must be submitted within 30 days of a significant change or upon the state's request. A "significant change" means a change in the composition of a product that results in the intentional addition of a specific per- and poly-fluoroalkyl substance; a change in the amount of per- and poly-fluoroalkyl substances of more than a ten percent increase, above the method variability allowed by the commercially available analytical method used, of the concentration that has been reported when compared to the existing

notification; or a change in responsible official or contact information. Significant change includes when information used to obtain a waiver is no longer accurate.

Will NMED notify manufacturers that the information they have submitted is accepted?

Within 60 days of receiving information, NMED will notify manufacturers whether the submission is adequate or additional information is required. If additional information is required, it must be submitted within 30 days of the request.

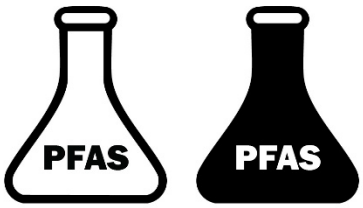
Is there a fee associated with reporting?

Yes. A manufacturer must pay a $2,500 fee to submit the initial report pursuant to Section 20.13.2.12 NMAC. The fee for each instance of subsequent reporting following a significant change pursuant to Subsection C of Section 20.13.2.12 NMAC is $1,000. (Note: Fee amounts listed are associated with reporting completed prior to January 1, 2028. Reporting fees are subject to annual adjustments to reflect changes in the consumer-price index for urban consumers ["CPI-U"]).

Labeling

What is the PFAS label and what is its purpose?

The PFAS label that must be included on consumer products with intentionally added PFAS sold in New Mexico must be an Erlenmeyer flask with the word "PFAS" inside the flask. The label must be affixed to the product such that the label is clearly visible and legible prior to purchase. Examples of labels that align with these requirements are shown below and can be downloaded by manufacturers at www.env.nm.gov/pfas/manufacturers/.



New Mexico's PFAS label is intended to provide transparent information to consumers or other purchasers at the point of purchase so that they can make informed choices. Inclusion of the PFAS label offers greater transparency, so consumers know when products include these chemicals. The acronym "PFAS" is universally recognized and actively used by speakers of many languages including English and Spanish.

Who is responsible for labeling products that contain intentionally added PFAS?

The manufacturer of a consumer product sold in New Mexico that contains intentionally added PFAS, which can include private labelers whose brand is associated with the product, is ultimately responsible for labeling. However, a wholesaler, retailer, or distributor can accept responsibility for labeling on behalf of the manufacturer.

What products need to be labeled, and how does a manufacturer know if they need to label a product?

Starting January 1, 2027, consumer products with intentionally added PFAS or a component containing intentionally added PFAS must be labeled to be sold or distributed in New Mexico, unless they fall within a product category exempted from labeling by 20.13.2 NMAC or a labeling waiver is requested by the manufacturer and granted by NMED. Manufacturers are responsible for determining if their products contain intentionally added PFAS.

More information on exempted product categories and how to request a label waiver are included below. As a general rule of thumb, if a manufacturer is required to report on the concentration of intentionally added PFAS within their product, they are also responsible for labeling that product. However, New Mexico's labeling requirements also apply to many product categories that are exempt from reporting (e.g., products containing fluoropolymers).

When do products need to be labeled?

New Mexico's PFAS labeling requirements go into effect on January 1, 2027. Any consumer product for sale in New Mexico that contains intentionally added PFAS that is manufactured after this date must include the label, unless it falls within a product category exempted from labeling by 20.13.2.13 NMAC or a labeling waiver is requested by the manufacturer and granted by NMED. Products manufactured before January 1, 2027, may continue to be sold without the label.

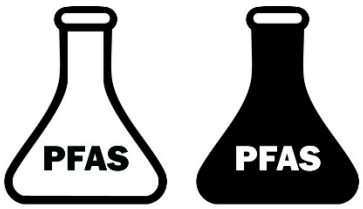
If a company manufactures component parts with intentionally added PFAS that it sells to other manufacturers that sell products in New Mexico, how can it comply with the labeling requirements?

If a manufacturer or supplier of a component part knows that the component contains intentionally added PFAS, the manufacturer or supplier should inform the business purchasing the item of the presence of intentionally added PFAS.

The manufacturer purchasing the component part is ultimately responsible for knowing that ingredients or components of their product contain intentionally added PFAS and is responsible for labeling its final product with the PFAS label to indicate the presence of intentionally added PFAS.

What does the label need to look like (e.g., size, color)?

The PFAS label must be an Erlenmeyer flask and include "PFAS" inside the flask. The label must be visible and legible to a consumer prior to sale. The size of the "PFAS" text shall be no smaller than the largest font used to provide other consumer information (e.g., disclosures, directions for use, ingredients list) on the product. Examples of labels that align with these requirements are shown below and can be downloaded by manufacturers at www.env.nm.gov/pfas/manufacturers/.



There are no color requirements for the label, although the label should be included in a color consistent with other text or labels included on the product or packaging. Manufacturers are permitted to include a PFAS label that meets these requirements in any color, provided it remains visible and legible to an ordinary consumer.

Additional guidance associated with the PFAS label is provided in NMED's *Labeling Guidance for Consumer Products With Intentionally Added PFAS in New Mexico* at www.env.nm.gov/pfas/manufacturers/.

Where can a manufacturer get example artwork for the PFAS label?

Use of a symbol representing an Erlenmeyer flask and "PFAS" inside the flask are required elements of New Mexico's PFAS label. PFAS label artwork examples that manufacturers can use to comply with New Mexico's labeling requirements are available at www.env.nm.gov/pfas/manufacturers/.

Does the label go on the product, product packaging, or both?

The label could potentially be on both the product itself and its packaging. The label is required to be included on the product such that it can be seen by a consumer at the time of purchase of the product. If the product is sold in packaging that prevents a consumer from clearly seeing the label at the time of purchase, the product's packaging must also include the label.

Additional guidance associated with the PFAS label is provided in NMED's *Labeling Guidance for Consumer Products With Intentionally Added PFAS in New Mexico* at www.env.nm.gov/pfas/manufacturers/.

What if a manufacturer's product is too small for the label to be applied directly to the product?

If a product is too small for a legible label, product packaging must include the PFAS label. If a product or its packaging is large enough to contain other consumer information (e.g., disclosures, directions for use, list of ingredients), it must include the PFAS label.

Is the label required for internet or catalog purchases?

When a product is sold to New Mexicans through catalogs, over the phone, online, or via any other means where the product or packaging PFAS label isn't clearly visible to the consumer or other purchaser before purchase, the manufacturer must include the PFAS label in sales materials such as sales literature, web pages, and product specification sheets. The PFAS label used to disclose the presence of intentionally added PFAS must be included on both manufacturer and retailer product sales web pages visible to purchasers prior to purchase in New Mexico.

Retailers based out-of-state who sell products in New Mexico must provide the PFAS label to purchasers prior to purchase to disclose the presence of intentionally added PFAS.

Does a manufacturer or retailer need to include the PFAS label in print, internet, or broadcast advertisements?

Generally speaking, the PFAS label is not required in advertisements. However, if a product containing intentionally added PFAS is directly sold through advertisements published or aired in New Mexico where the consumer does not visit a separate sales web page or platform where the PFAS label would be visible, the PFAS label must be included in the advertisement to disclose the presence of intentionally added PFAS.

If a manufacturer's product is a complex durable good where only internal components include PFAS, does it still require a label?

A complex durable good is defined under 20.13.2 NMAC as "a product that is composed of 100 or more manufactured components, with an intended useful life of five or more years, where the product is typically not consumed, destroyed, or discarded after a single use." Examples can include motor vehicles, appliances, and electronics.

A complex durable good is not required to include the label on the product itself. Instead, the PFAS label must be included within product literature, such as the operations and maintenance manual and consumer-facing product specification sheets or web pages.

Where is the PFAS label required to be included for complex durable goods?

For complex durable goods with intentionally added PFAS or components that contain intentionally added PFAS, the manufacturer must include the PFAS label on:

- Consumer-facing product specification sheets available prior to purchase; and
- The operations and maintenance manual (also commonly referred to as owner's manual, product instructions, user manual, technical manual, service manual, or maintenance manual) for the complex durable good.

It is recommended that the PFAS label be placed in proximity to other environmental and public health disclosures.

If a manufacturer's complex durable good does not have an associated specification sheet, what are alternative consumer-facing documents that can be labeled?

If a manufacturer does not maintain a specification sheet for a complex durable good, it must still provide the PFAS label within the product's operation and maintenance manual or instructions.

The manufacturer should also consider including the label on other consumer-facing materials, such as sales brochures, internet web pages, and other guides associated with purchasing, installation, use, and maintenance of the product.

Are electronic methods such as a QR code or link to a website to display labels sufficient?

Solely using a QR code or website link on products or product packaging that directs prospective consumers to the PFAS label does not meet the labeling requirements of 20.13.2.13 NMAC.

Are any product categories exempt from labeling?

Yes. The following consumer products are exempt from labeling:

- Used products for resale.
- Pesticides for which labeling requirements are preempted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), U.S.C. Section 136v, or for which labeling requirements currently exist at 40 C.F.R. 156.10.
- Veterinary products regulated by the U.S. Food and Drug Administration, the U.S. Department of Agriculture, or the U.S. Environmental Protection Agency.

- Medical devices and drugs and associated packaging that is regulated by the U.S. Food and Drug Administration.

All other consumer products that contain intentionally added PFAS must be labeled to be sold or distributed in New Mexico, unless a label waiver is requested by the manufacturer and granted by NMED.

The only PFAS in a manufacturer's product is a fluoropolymer and is therefore exempt from reporting. Does the product still require a label?

While consumer products containing fluoropolymers are exempt from reporting requirements and product prohibitions under 20.13.2.10 NMAC, these products sold in New Mexico are still required to be labeled to indicate the presence of intentionally added PFAS.

Are label waivers available, and how does a manufacturer request one?

Manufacturers may submit a label waiver request for eligible products, which, if approved, would allow them to forego New Mexico's PFAS labeling requirements.

To be eligible for a label waiver, the following criteria must apply to the product:

- The product or product class is part of a category of products otherwise exempt from reporting and prohibition requirements of 20.13.2.10 NMAC; and
- None of the product's material containing intentionally added PFAS will ever come in contact with a consumer while the product is being used as intended during the useful life of a product. Essentially, PFAS may only be included in internal components that are not expected to be directly contacted by a consumer during traditional use.

A label waiver can be requested through NMED's New Mexico PFAS Reporting System (NMPRS). Label waiver requests received by October 31, 2026, are considered approved unless the manufacturer is notified of denial, which NMED will issue by June 1, 2027. For any label waiver requests not received by October 31, 2026, NMED will approve or deny the request upon review. Manufacturers who do not receive approval from NMED prior to January 1, 2027, must still label products until their waiver is formally approved.

If a label request is denied, the manufacturer must label the product sold in New Mexico to meet the PFAS labeling requirements within 90 days of denial.

A manufacturer applying for a label waiver must pay an associated fee ($2,000 per product or $5,000 per product class) to NMED as part of its waiver request. (Note: Fee amounts listed are associated with label waiver requests made prior to January 1, 2028. Fees are subject to annual adjustments to reflect changes in the consumer-price index for urban consumers ["CPI-U"]).

Label waiver approvals are valid for three years after the approval date, at which point manufacturers are required to resubmit for a new label waiver or comply with the PFAS labeling requirements of 20.13.2.13 NMAC.

If a manufacturer's product already includes a label to meet PFAS requirements from another state, does it also need to include the New Mexico PFAS label?

A manufacturer may be able to demonstrate compliance with New Mexico's PFAS labeling requirements by meeting PFAS labeling or disclosure requirements of another state. To comply in this manner, the manufacturer must provide NMED with the following:

- Product category.
- A brief description of the type of product for which the label is used in another state.
- The state(s) where the label is in use.
- A copy of the label as it will appear on products and packaging and a narrative explaining how it fulfills the intent of the New Mexico PFAS labeling requirements.
- If there are state-specific elements of the label (e.g., state-specific website, phone number), a description of the adjustments that will be made for products sold in New Mexico.

A manufacturer can submit its request and supporting information through the NMPRS. Submittal of these documents to NMED through the NMPRS constitutes compliance unless, within 90 days, NMED notifies the manufacturer that the label or labeling alternative does not comply.

Currently Unavoidable Uses (CUUs)

What is a Currently Unavoidable Use (CUU)?

A CUU is a use of PFAS that is essential for health, safety, or the functioning of society and for which alternatives are not reasonably available. Products with a CUU designation are exempt from applicable sales prohibitions and reporting requirements.

Who can submit a CUU proposal?

Manufacturers and representatives acting on behalf of manufacturers may submit proposals individually or collectively.

Where should the CUU proposal be submitted?

Proposals should be submitted to NMED through its New Mexico PFAS Reporting System (NMPRS). Manufacturers should consult current NMED guidance, including how-to videos, for submission instructions.

How many CUU proposals must be submitted if a company manufacturers products in multiple product categories?

If a manufacturer is submitting a CUU proposal for one or more product categories, one proposal must be submitted for each product category and associated North American Industry Classification System (NAICS) code.

What is the deadline for CUU proposals related to the January 1, 2027 phase-out?

The deadline for CCU proposals related to the January 1, 2027, phase-out is October 31, 2026.

When is the earliest a CUU proposal may be submitted?

A CUU proposal may be submitted no earlier than 60 months before the applicable sales prohibition. For example, for product categories that are prohibited January 1, 2032, CUU proposals may be submitted starting January 1, 2027.

When is the latest a CUU proposal may be submitted?

A CUU proposal may be submitted no later than 12 months before the applicable sales prohibition. For example, for products where sales prohibitions take effect January 1, 2028, CUU proposals must be received by January 1, 2027.

What happens to CUU proposals submitted by the deadline for January 1, 2027 phase-outs?

They are considered approved pending review, and NMED will issue final determinations by March 1, 2027.

What information must be included in a CUU proposal?

CUU proposals must include a narrative describing the product and its structure, appearance, function, and any UPC/SKU codes. In addition, CUU proposals must include the chemical name and Chemical Abstracts Service Registry Number (CASRN), or another identifier if no CASRN exists.

What justification must be provided for PFAS use?

Manufacturers must provide an explanation as to why the presence of PFAS in the product is essential for health, safety, or the functioning of society and what negative impacts would occur if PFAS were removed. If the use of PFAS in the product is required by federal or state law or regulation, citations to that requirement must be provided.

What information must be included in the PFAS alternatives assessment?

Identification of PFAS alternatives, performance comparison, availability, cost differences, health/environmental risks, and manufacturing feasibility must be submitted. A detailed list of required information may be found at 20.13.2.11.A.5 NMAC.

Must the proposal list other regulations affecting the product?

The CUU proposal must include applicable federal regulations and any PFAS restrictions in other states.

Must the proposal identify comparable products available in other jurisdictions?

If comparable products remain available where a product containing intentionally added PFAS is prohibited, then those products must be identified.

Is the proposal required to explain why alternatives used elsewhere may not work in New Mexico?

The CUU proposal must include differences in climate or physical condition or an assessment of supply constraints on the alternatives.

What health and environmental information must be included in the CUU proposal?

Human health impacts, exposure pathways, environmental impacts, release pathways, and end-of-life-fate must be included. A detailed list of required information may be found at 20.13.2.11.A.10 NMAC.

What if the required information is unavailable?

The CUU proposal must explain why the information is omitted.

Will NMED consider CUU determinations from other states?

If documentation is provided within the required timeframe, NMED will consider other states' determinations of CUU.

How long is a CUU determination in effect, and can it be renewed?

CUU designations last three years after the approval date. A renewal CUU proposal may be submitted 12 to 24 months before the CUU expires. The proposal for renewal must include updates and efforts to develop alternative products without intentionally added PFAS.

Is there a fee associated with a CUU proposal?

Yes. The initial fee for a manufacturer applying to designate the use of a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use in a consumer product is $5,000. The fee to renew CUU determination to designate a per- or poly-fluoroalkyl substance in a product as a currently unavoidable use in a product is $2,500. (Note: Fee amounts listed are associated with CUU proposals made prior to January 1, 2028. CUU proposal fees are subject to annual adjustments to reflect changes in the consumer-price index for urban consumers [“CPI-U”]).

Enforcement

How are reporting requirements enforced?

Enforcement of 20.13.2 NMAC is the responsibility of NMED. When NMED has credible information that a violation has occurred, it can initiate an enforcement action in accordance with 20.13.2.23 NMAC and NMSA 1978, Section 74-15-7.

Enforcement actions can be supported through product testing to identify the presence of intentionally added PFAS. NMED may test or require a manufacturer to test a product when there is reasonable suspicion that the manufacturer of the product has not complied with reporting or labeling requirements or the manufacturer continues to sell the product after prohibition has taken effect.

What happens if a manufacturer does not report by January 1, 2027?

If a manufacturer does not report by January 1, 2027, that product can no longer be sold, offered for sale, distributed, or distributed for sale in New Mexico. Manufacturers are also subject to penalties in accordance with 20.13.2 NMAC.

What are the penalties for manufacturers who do not report products that contain intentionally added PFAS and continue to sell products in New Mexico?

A manufacturer who does not submit required reporting can be assessed a civil penalty of up to $15,000 in addition to administrative costs that NMED incurs to enforce the reporting requirements.

If a manufacturer fails to take corrective action, such as by submitting required reporting or by removing the non-compliant products from sale or distribution in New Mexico, NMED can assess a civil penalty of up to $25,000 for each day of continued non-compliance.

How is labeling of products enforced? Where can products suspected of being inadequately labeled be reported?

Enforcement of 20.13.2 NMAC is the responsibility of NMED. When NMED has credible information that a violation has occurred, it can initiate an enforcement action in accordance with 20.13.2.23 NMAC and NMSA 1978, Section 74-15-7.

Enforcement actions can be supported through product testing to identify the presence of intentionally added PFAS. NMED may test or require a manufacturer to test a product when there is reasonable suspicion that the manufacturer of the product has not complied with reporting or labeling requirements or the manufacturer continues to sell the product in New Mexico after prohibition has taken effect.

Parties concerned that a product containing intentionally added PFAS sold in New Mexico has not been labeled appropriately can report information about the product to NMED at NMED-PFAS@env.nm.gov. When reporting information to NMED, please include the product's manufacturer/brand name, product identifying information (e.g., model name, model number, universal product codes, SKU), the place the product was observed for sale (e.g., in-store or online retail location), and a photo of the product.

What are the penalties for manufacturers who do not label products that contain intentionally added PFAS?

A manufacturer who does not appropriately label a consumer product that is sold in New Mexico and contains intentionally added PFAS can be assessed a civil penalty of up to $15,000 in addition to administrative costs that NMED incurs to enforce the labeling requirements.

If a manufacturer fails to take corrective action, such as by appropriately labeling products or by removing the non-compliant products from sale or distribution in New Mexico, NMED can assess a civil penalty of up to $25,000 for each day of continued non-compliance.

When is a manufacturer required to test a product to determine whether PFAS are intentionally added?

Manufacturers can choose to perform testing to understand the presence and concentration of intentionally added PFAS to inform its reporting.

If NMED has reasonable suspicion that a product for sale in New Mexico contains intentionally added PFAS but either has not met reporting requirements or has not been labeled, NMED can test or require a manufacturer to test its product to determine whether intentionally added PFAS are present.

Testing must be conducted using a commercially available analytical method. Results must be reported to NMED within 30 days of the testing notification.

If the product is found to contain intentionally added PFAS, the manufacturer is responsible for complying with all relevant parts of 20.13.2 NMAC, including appropriately labeling the product as applicable in order to continue selling it in New Mexico. Delays in compliance can result in civil penalties for the manufacturer.