November 2025

New Mexico Environment Department

Submission of Comments Regarding Proposed PFAS Protection Act Implementation Rules

We express our respect for the New Mexico government's efforts to regulate PFAS. Policies to mitigate the environmental and health impacts of PFAS are a crucial step toward achieving a sustainable society, and we support their intent. However, we believe it is appropriate to exempt products containing fluoropolymers from labeling requirements in the draft implementation rules under the PFAS Protection Act (HB212).

1. Proposal

We propose that products containing high molecular weight PFAS be exempt from labeling requirements. Or at the very least, the labeling wording should avoid equating them with other low molecular weight PFAS with different hazardous properties. Classification based on scientific evidence and corresponding minimum requirements should be implemented.

2. Reason for Proposal

1) The hazards of polymeric PFAS are fundamentally different from those of low-molecular-weight PFAS

In contrast to the fact that PFAS includes a wide range of chemical substances, fluoropolymers and perfluoropolyethers have high molecular structures are physically and chemically stable, and have extremely low mobility and bioaccumulation in the environment, as scientifically demonstrated, and are classified as "low-concern polymers"[1),2)]. High molecular weight PFAS, unlike other low molecular weight PFAS (e.g., PFOA, PFOS), have not been confirmed to have direct harmful effects on health or the environment, or such effects are extremely limited, according to many studies. Therefore, these high molecular weight PFAS are used in medical applications, and for example, regarding PTFE, no definitive evidence has been found of health issues for patients[3)].

2) Labeling Requirements Conflict with the Exemption Approach for Polymeric PFAS

Under the PFAS Protection Act, products containing fluoropolymers are exempt from "prohibition requirements" and "reporting obligations" (20.13.2.10). This means that the use of fluoropolymers is currently unavoidable and is judged to pose low environmental and health risks. However, the proposed implementation rules (20.13.2.13) do not clearly apply the exemption to labeling requirements, and products are required to be labeled collectively as

"PFAS-containing." This labeling may mislead consumers into believing that products containing fluoropolymers have the same harmfulness as other low molecular weight PFAS, which contradicts scientific knowledge and the intent of the PFAS Protection Act.

3) Inappropriate wording of labeling requirements

The obligation to label polymeric PFAS should be exempted; however, in case that labeling is required, we request modifications to the wording since the proposed wording for labeling requirement (e.g., "PFAS are a family of chemicals, exposure to which are associated with negative health and environmental effects") emphasizes the general risks of PFAS as a whole and is inappropriately applied uniformly to exceptional substances like high molecular weight PFAS. Such labeling may mislead consumers and foster scientifically unfounded anxiety. Additionally, imposing excessive labeling requirements on products containing high molecular weight PFAS may hinder the reasonable operation of industries.

For the above reasons, we strongly request revisions to the proposed rules regarding labeling requirements.

(References)

1) A critical review of the application of polymer of low concern and regulatory criteria to fluoropolymers, Integrated Environmental Assessment and Management, Volume 14, Issue 3, May 2018 Pages 316-334
2) A critical review of the application of polymer of low concern regulatory criteria to fluoropolymers, Journal of Fluorine Chemistry, Volumes 285-286, July 2025, 110459 Assessment and Management, Volume 19, Issue 2, March 2023, Pages 326-354
3) https://www.fda.gov/medical-devices/products-and-medical-procedures/pfas-medical-devices