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February 6, 2026

Pamela Jones
Administrator
Environmental Improvement Board
New Mexico Environment Department
1190 St. Francis Drive, Suite N4050
P.O. Box 5469
Santa Fe, NM 87502

Re: Comments on Proposed New Rule 20.13.2 NMAC (EIB 25-61 (R))

Dear Ms. Jones:

AAON, Inc. is a technology leader engaged in engineering, manufacturing, and selling commercial air conditioners, heat pumps, and several other commercial heating, ventilation, air conditioning, and refrigeration products. We excel in offering customers highly efficient products that exceed U.S. Department of Energy requirements. AAON reported revenue of \$1.20 billion in 2024 and employs over 4,600 people across operations located exclusively in the United States. AAON is headquartered in Tulsa, Oklahoma, and has been in continuous operation since 1988.

AAON respectfully urges the New Mexico Environment Department and the Environmental Improvement Board to consider the following concerns regarding the current language of the proposed rules and to adopt the revisions described below.

SECTION 20.13.2.13(D)

AAON believes that products exempted under Section 20.13.2.10 should also be exempt from labeling requirements, particularly where the use of per- or poly-fluoroalkyl substances (PFAS) is unavoidable or subject to federal regulation, including refrigerant use acceptability determinations under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. In these circumstances, no compliant alternatives are reasonably available, and all such products necessarily contain intentionally added PFAS.

The PFAS Protection Act does not itself impose labeling requirements; rather, it authorizes the Environmental Improvement Board to adopt labeling requirements by rule. Applying labeling obligations to products that the Act expressly exempts from sales prohibitions would extend regulatory requirements beyond the Act's operative structure and create indirect regulation of products the Legislature chose to exempt.

To address this concern, AAON requests a targeted revision to the exemption cross references in Section 20.13.2.10.

Proposed revised regulatory text (20.13.2.10)

The following are exempt from the requirements in Sections 20.13.2.11, 20.13.2.12, and 20.13.2.14 (limited to medical devices outlined in 20.13.2.10.C) of this rule, and such products shall also be exempt from the labeling requirements in Section 20.13.2.13.

SECTION 20.13.2.13(D)(4)

Complex durable goods, as reflected in the definition, involve complex and multi-tiered supply chains. The components that make up complex durable goods are themselves often manufactured through similarly complex supply chains. Requiring manufacturers of complex durable goods to determine whether individual components or subcomponents contain intentionally added PFAS imposes a substantial and, in many cases, infeasible burden due to limited visibility beyond first-tier suppliers.

In addition, a complex durable good may incorporate multiple components that are exempt under Subsection A of Section 3 of the PFAS Protection Act, as implemented in Section 20.13.2.10 of the proposed rule. As written, the labeling requirements do not account for these statutory exemptions at the component level. This would require manufacturers of complex durable goods to exceed the obligations imposed on manufacturers of the exempt components themselves.

For these reasons, AAON proposes the following targeted revisions to Section 20.13.2.13(D)(4).

Proposed revised regulatory text (20.13.2.13(D)):

Prior to sale of a complex durable good that contains intentionally added per- or poly-fluoroalkyl substances, or that contains components that, to the extent reasonably discernible or reasonably ascertainable through documented due diligence, contain intentionally added per- or poly-fluoroalkyl substances, the manufacturer shall conform to the information requirements of this section.

Proposed revised regulatory text (20.13.2.13(D)(1)–(4)):

(1) A symbol approved by the department accompanied by a statement indicating the presence of intentionally added per- or poly-fluoroalkyl substances and/or component parts that, to the extent reasonably discernible or reasonably ascertainable through documented due diligence, contain intentionally added per- or poly-fluoroalkyl substances shall be included in the specification sheet and other product labeling information available to potential consumers prior to purchase. The following wording is acceptable: This product is made with PFAS or contains component parts made with PFAS. PFAS are a family of chemicals, exposure to which are associated with negative health and environmental effects. For more information on the location of components made with PFAS, review the product's operation and maintenance manual.

(2) The statement shall also be included in Spanish and shall include an internet website address for a web page hosted by the department [<https://www.env.nm.gov/pfas/>] that provides information about per- and poly-fluoroalkyl substances in products or a quick response (QR) code or other machine-readable code, consisting of an array of squares, used for storing an internet website [<https://www.env.nm.gov/pfas/>] for a web page hosted by the department that provides information about per- and poly-fluoroalkyl substances in products.

(3) The statement must be easily identified and legible on the specification sheet and other information available to potential consumers prior to purchase. A 10-point font or larger is presumed to be legible.

(4) The operation and maintenance manual associated with the complex durable good shall include a statement indicating the presence of intentionally added per- or poly-fluoroalkyl substances and/or component parts that, to the extent reasonably discernible or reasonably ascertainable through documented due diligence, contain intentionally added per- or poly-fluoroalkyl substances, using words and symbols approved by the department, followed by a list, to the extent reasonably practicable, of components with intentionally added per- and poly-fluoroalkyl substances, including sufficient detail about the components' locations within the complex durable good such that they can be readily located. The statement must also include an internet website address for a web page hosted by the department [<https://www.env.nm.gov/pfas/>] that provides information about per- and poly-fluoroalkyl substances in products or a quick response (QR) code or other machine-readable code, consisting of an array of squares, used for storing an internet website for a web page hosted by the department [<https://www.env.nm.gov/pfas/>] that provides information about per- and poly-fluoroalkyl substances in products.

SECTION 20.13.2.13(F)

There is ambiguity in the proposed rule regarding the criteria and evidentiary showing required for approval of a labeling waiver under Section 20.13.2.13(F). As drafted, the provision provides limited guidance as to what information is necessary or sufficient to support a waiver determination, creating uncertainty for regulated entities and a risk of inconsistent application by the department. This section should provide clearer, objective standards to guide both manufacturers seeking waivers and the department's review and approval process.

SECTION 20.13.2.13(F)(3)

Section 20.13.2.13(F)(3) presents the same practical and feasibility concerns identified with respect to Section 20.13.2.13(D)(4). The requirement to identify specific PFAS intentionally added to a product or its components may impose the same burdens that lead manufacturers of complex durable goods to seek a labeling waiver in the first instance. As drafted, the provision risks placing manufacturers in a position where they cannot practicably comply with the labeling requirement and likewise cannot satisfy the information requirements necessary to obtain a waiver.

Proposed regulatory text (20.13.2.13(F)(3)):

Identification of the specific per- or poly-fluoroalkyl substance(s) intentionally added to the product or its components by the chemical name and the Chemical Abstracts Service Registry number (CASRN), or if no CASRN exists, another chemical identifying number, to the extent such information is reasonably discernible or reasonably ascertainable through documented due diligence;

We thank you for your attention to these comments and stand ready to engage further with the Department and the Environmental Improvement Board regarding the practical and administrable implementation of the rule.

Sincerely,



Clint Reese

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Regulatory Engineer