February 06, 2026

JP4EE specific comments draft New Mexico Administrative Code Title 20 Chapter 13, Part 2 "ENACTING THE PER- AND POLYFLUOROALKYL SUBSTANCES PROTECTION ACT"

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Following our general comments in the separate document, we would like to submit our specific comments to each section of updated draft New Mexico Administrative Code Title 20 Chapter 13, Part 2 "ENACTING THE PER- AND POLYFLUOROALKYL SUBSTANCES PROTECTION ACT"

No.	Section	Current text	Comments and proposals
1	20.13.2.7. Definition	B. "**commercially available analytical method**" means any test methodology used by a laboratory that performs analyses or tests for third parties to determine the concentration of per- and poly-fluoroalkyl substances in a product or a methodology which is publicly available or available for purchase. Commercially available analytical methods do not need to be performed at a third-party laboratory; however, the method must remain unmodified.	While the definition of "commercially available analytical method" implies that it is a method used by a laboratory that performs tests for third party parties, it also states that the tests need not be conducted by a third-party laboratory, which may cause confusion for businesses. To avoid such confusion, we suggest that the definition of "commercially available analytical method" be revised as follows. *"commercially available analytical method" means any test methodology used by a laboratory that performs analyses or tests ~~for third parties~~ to determine the concentration of per- and poly-fluoroalkyl substances in a product or a methodology which is publicly available or available for purchase. ~~Commercially available analytical methods do not need to be~~*

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		Laboratories performing commercially available analytical methods must be certified by the department or by a national or regional certifying authority recognized by the department	~~*performed at a third-party laboratory*~~ ***Laboratories performing these methods are not required to be third-party entities****; however, the method must remain unmodified. Laboratories performing commercially available analytical methods must be certified by the department or by a national or regional certifying authority recognized by the department;*
2	20.13.2.7. Definition	C. "**complex durable good**" means a product that is a manufactured good 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;	We consider the proposed definition itself is reasonable, but we would like to propose clearly indicating that "consumer electrical and electronic equipment" that meets the definition of "complex durable good" be treated as "complex durable good" rather than as a category of consumer products. Even if it is intended for consumers and falls under the definition of consumer products, electrical and electronic equipment falls under "complex durable good" and has the same technical characteristics as other "complex durable goods" and requires the same consideration. Concretely, following sentence should be added at the end of this definition: ***The consumer electronics which meet this definition shall be deemed as complex durable goods.***
3	20.13.2.7. Definition	E. "**consumer information**" means warnings, directions for use, ingredients lists, and nutritional information. "Consumer information" does not include the brand name, product name, company name, location of	"Consumer information" depends on the nature of the product and it should be defined per product category. At least it should be clarified that nutrition information is limited to food products. We would like to propose following rephrasing. *"consumer information" means warnings, directions for use, ingredients lists*

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		manufacturer, or product advertising;	*and nutritional information* ***as required by the nature of the product****. …* About our detailed comments on the information provision relating to the PFAS in the complex durable goods, please also see our General Comments VI and VII.
4	20.13.2.9 PROHIBITIONS ON PRODUCTS CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES (especially on C)	A. Except as provided in Section 20.13.2.10 of this rule, beginning January 1, 2027, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, the following products if that product contains an intentionally added per- or poly-fluoroalkyl substance: (1) cookware; (2) food packaging; (3) dental floss; (4) juvenile products; and (5) firefighting foam. B. Except as provided in Section 20.13.2.10 of this rule, beginning January	20.13.2.9 A, B and C can be read to be effective immediately for all covered products, including those already in the stream of commerce. unless products are exempted or recognized as CUU. Normally, manufacturers don't have ownership of stocks distributed in the market after selling their products to distributors and cannot control sales of such stocks. Similar to the amendment to 20.13.2.13 LABELING, in order to make the requirements feasible and manageable for manufacturers of the products, we would propose "prohibition of manufacture" after the date of prohibition. In particular, we propose the amendment to 20.13.2.9.C which may be relevant to EEE, though we consider that consumer electronics should be also exempted. <Proposal> *C. Except as provided in Section 20.13.2.10 of this rule, beginning January 1, 2032, a manufacturer may not* ~~*sell, offer for sale, distribute or distribute for sale*~~ ***manufacture for sale or distribution*** *in this state, directly or indirectly or through intermediaries, a product containing an intentionally added per- or*

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		1, 2028, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, the following products if that product contains an intentionally added per- or poly-fluoroalkyl substance: (1) carpets or rugs; (2) cleaning products; (3) cosmetics; (4) fabric treatments; (5) feminine hygiene products; (6) textiles; (7) textile furnishings; (8) ski wax; and (9) upholstered furniture. C. Except as provided in Section 20.13.2.10 of this rule, beginning January 1, 2032, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product	*polyfluoroalkyl substance, unless the board has adopted a rule providing that the use of the per- or poly-fluoroalkyl substance in that product is a currently unavoidable use or is or otherwise exempt pursuant to Section 20.13.2.11 of this rule.*

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		containing an intentionally added per- or polyfluoroalkyl substance, unless the board has adopted a rule providing that the use of the per- or poly-fluoroalkyl substance in that product is a currently unavoidable use or is or otherwise exempt pursuant to Section 20.13.2.11 of this rule.	
5	20.13.2.9 PROHIBITIONS ON PRODUCTS CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES D	D. On or after January 1, 2028, a manufacturer may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product if testing requested by the department, as enumerated in Section 20.13.2.14 of this rule, demonstrates that the product contains an intentionally added per- or poly-fluoroalkyl substance and the manufacturer has failed to provide the department the information required by Section 20.13.2.12 of this rule.	**We consider 20.13.2.9.D. should be deleted.** The date proposed in 20.13.2.9.D contradicts with the date set in 20.13.2.9.C. In addition, as there are currently no reliable test methods for measuring PFAS in the articles, the management of PFAS in products is unfeasible. As the prohibition is set in 20.13.2.9.A to C, scientifically and technically unfeasible actions should not be set here. Please also our General Comment VIII for our detailed input on testing.
6	20.13.2.9 PROHIBITIONS	E. On or after January 1, 2028, a manufacturer, trade association, or other	**In conjunction with the review of the requirements of 20.13.2.12, the date, January 1, 2028, should be reviewed.**

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	ON PRODUCTS CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES E	responsible party may not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product that contains an intentionally added per- or poly-fluoroalkyl substance unless the manufacturer has submitted to the department the information required by Section 20.13.2.12 of this rule.	The date set in 20.13.2.9.E is not feasible for complex durable goods such as EEE if the detailed reporting requirement for them is kept as currently proposed. The proposed timeline would only become feasible when the reporting criteria for the complex articles are allowed at the same level as simplified reporting for the imported articles under §705.18 of the PFAS Reporting Regulations under TSCA Art. 8. Please see also our General Comment VI for our detailed input on the reporting requirements.
5	20.13.2.10 EXEMPTIONS (scope)	The following are exempt from the requirements in Sections 20.13.2.11, 26 20.13.2.12, and 20.13.2.14 (limited to medical devices outlined in 20.13.2.10.C) of this rule: …	**The scope of exemption should be modified as follows**: *EXEMPTIONS: The following are exempt from the requirements in Sections ~~20.13.2.11~~, 2.13.2.9, 20.13.2.12, **20.13.2.10**, 20.13.2.14 ~~(limited to medical devices outlined in 20.13.2.10.C)~~ of this rule:* Justification for the above proposal: 2.13.2.10 indicates that certain products are exempted from the following requirements: 20.13.2.11 (CUU), 2.13.2.12 (reporting), 2.13.2.14 (testing) However, this seems to generate the following three inconsistencies and our proposal would solve these points: 1) Exemption requirements in the State Statute (HB212): Section 3 A of the State Statute (HB212) states that certain products are exempted from sales prohibition, which is inconsistent with this Proposed New rule.

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			2) Exemption from 2.13.2.11 (CUU) : CUUs are required to apply as described in 20.13.2.11, but when applying CUUs for products subject to exemption in 2.13.2.10, it is not clear whether it is not necessary to follow 20.13.2.11, or products subject to this exemption are automatically recognized as CUUs. This unclarity causes confusion among business operators. 3) Limiting products excluded from 2.13.2.14 (testing) to medical devices. As we describe the details later, "complex durable good" that uses electricity, whether medical devices or EEE, uses the same technology, and why PFAS is necessary and why testing is difficult are the same. Therefore, it makes no sense to exempt only medical devices from testing.
6	20.13.2.10 EXEMPTIONS (Addition of the Exemption (1))		**Please add an exemption for articles already manufactured before the enforcement date of the regulation.** Reason: Manufacturers located outside the New Mexico do not have control over existing products that are already in the inventory of retailers, etc. Therefore, the application of the restriction should be based on the "date of manufacture" that the manufacturer can control.
7	20.13.2.10 EXEMPTIONS (Addition of the		**Please add an exemption for spare parts for complex durable goods manufactured before the enforcement of the regulation.**

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	Exemption (2))		Reason: The complex durable goods such as EEE need spare parts which are the same as those used in the first production of each product, because changing to a newly designed part is not simple procedures as shown below. Especially when the sale of a product model is ceased, only old spare parts produced before the cessation would be available for such model. If EEE cannot have spare parts as produced, the EEE will not be able to be repaired and then it might shorten its lifetime and be abandoned earlier than its intended lifetime. If the New Mexico considers "right to repair" in future, the exemption of the spare parts would be indispensable. Similar exemption has been set under the EU RoHS Directive which regulates substances in EEE, complex durable goods. The change of important parts (including the change of their materials) is never simple task. Even if some alternatives are proposed by chemical manufacturers in future, there is no guarantee that the same performance as before can be obtained. The device manufacturers such as semiconductor industry must assess their performance, reliability, safety or any other features of such alternatives. Furthermore, the change of the very important parts often needs redesigning the finished product as a whole. Such redesigning is beyond "repair" process. The manufacturers can repair such products "as produced" by replacing same parts as before, but cannot redesign parts, components or the whole

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			system to use similar but different parts. In such cases, it would be almost impossible to assure the same or similar performance, safety and reliability as before. Only setting an exemption of spare parts for the older complex durable goods which are manufactured in compliance with legislation applicable at the time of manufacturing can solve such problems.
8	20.13.2.10 EXEMPTIONS J.	J. a semiconductor, including semiconductors incorporated in electronic equipment, and materials used in the manufacture of semiconductors;	**Electronic equipment incorporating a semiconductor should be also exempted** as follows: *J. a semiconductor, including semiconductors incorporated in electronic equipment,* ***electronic equipment incorporating a semiconductor,*** *and materials used in the manufacture of semiconductors;* Reason: Normally, "semiconductors incorporated into electronic equipment" are not limited to "materials having conductive properties intermediate between those of conductors and insulators" and incorporated into EEE as "packaged semiconductor" (the figure below is an example of cross-sectional views of some packaged semiconductors, and there are many other types, source: SIA). It will not function as a semiconductor if it is not incorporated in this form. This draft implementation rule raises concerns that "semiconductors incorporated into EEE" will in fact no longer be exempted. Therefore, it is necessary to exclude semiconductors incorporated in EEE.

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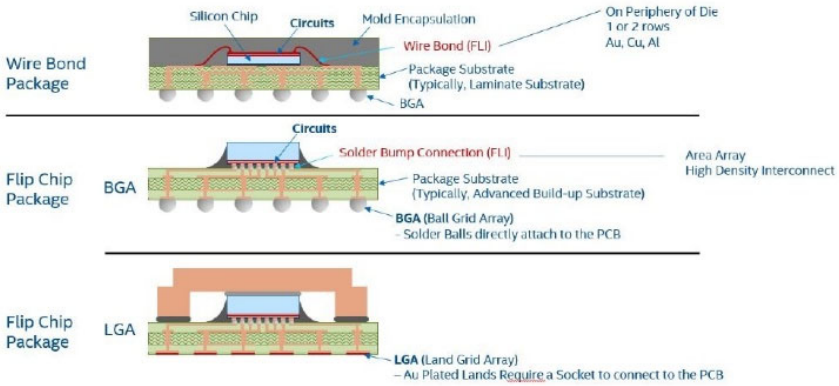
			Please refer to our general comments III for more details. Furthermore, since no electronic device can be operated only by a semiconductor and cannot be operated without electronic components other than semiconductors (e.g., resistors, coils, capacitors, printed circuit boards, etc.), we request not only semiconductors but also electronic devices other than semiconductors as well as electronic equipment including these devices be excluded. 
9	20.13.2.10 EXEMPTIONS K.	K. non-consumer electronics and non-consumer laboratory equipment not ordinarily used for personal, family or household purposes	**Consumer electronics should be exempted together with non-consumer electronics and non-consumer laboratory equipment.** Reason: Even for consumer use, EEE are almost "complex durable good."

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			Since the basic technologies used are the same whether it's for industry or consumer use, and almost all consumer EEE uses PFAS. It is not reasonable to exempt only non-consumer use from technology point of view as well as socio-economic impact point of view. For example, as described in our General Comment II, the smartphones, one of consumer electronics, use PFAS in various technologies other than semiconductors, and strict regulation of PFAS could make smartphones unavailable in New Mexico. Please also refer to our General Comments II and III for more details.
10	20.13.2.11 CURRENTLY UNAVOIDABLE USE (conditions for approving CUU)		We consider that "complex durable good" including consumer electronics should be exempted as stated above. However, in case it is not accepted, we comment on CUU issues as shown below. **The conditions for approving CUU should be clearly set.** Concretely, the conditions should be as follows: *A CUU is approved where any of the following conditions is fulfilled:* *i. their elimination or substitution via design changes or materials and components which do not require any of the PFAS materials or substances is scientifically or technically impracticable,* *ii. the reliability of substitutes is not ensured,* *iii. the total negative environmental, health and consumer safety impacts caused by substitution are likely to outweigh the total environmental, health and consumer safety benefits thereof.*

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			Decisions on the exemptions shall also take into account of the followings: - *the availability of substitutes (Please note that possible substitutes in research stage cannot be used in actual products. Reliable substitutes should be available on the market for every stakeholder at reasonable prices.),* - *the socioeconomic impact of substitution (also the cases where the products itself cannot be used due to the inability to substitute should be considered), and* - any potential adverse impacts on innovation. Please see our General Comment V (1) for the reasons for this proposal.
11	20.13.2.11 CURRENTLY UNAVOIDABLE USE (Scope of the application of a CUU)		**CUU which is submitted by an individual company or group and granted by the NMED should be able to be used by all other entities using the granted uses.** Please see our General Comment V (3) for the details.
12	20.13.2.11 CURRENTLY UNAVOIDABLE USE	A. …A proposal must, at a minimum, contain: (1) Identification of the specific per- or poly-fluoroalkyl substance(s) intentionally	**CUUs should be approved based on information available to finished products manufacturers.** Concretely, the following (iii) should be added at the end of A.(1):

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	A. (1)	added to the product or its components as identified by: i. The chemical name, and ii. The Chemical Abstracts Service Registry number (CASRN), or if no CASRN exists, another chemical identifying number.	***(iii) If the specific chemical identity of the PFAS imported in a complex durable good is not known to or reasonably ascertainable to the submitter of the notification, if the chemical identity is claimed as confidential business information by the submitter's supplier, or if the submitter knows they have a PFAS but is unable to ascertain its specific chemical identity), the submitter may provide a generic name or description of the PFAS.*** Reasons: In the case of EEE, the information required in this section must be obtained from the material or component suppliers upstream in the supply chain, who may, for trade secret reasons, not provide the finished products manufacturer with any additional information beyond the presence of PFAS, such as a specific chemical name or identifier. More recently, supply chain investigations were conducted for the TSCA PFAS report, but specific substance names and CAS numbers were almost impossible to obtain. Therefore, from the viewpoint of feasibility, the detailed information required in A (1) should be optional or that only information indicating the use of PFAS be accepted. Specifically, options similar to those in TSCA§705.18 (a) (2) (ii) should be allowed. Please see also our General Comment V (4) for details.
13	20.13.2.11 CURRENTLY	(2) A brief description of the type of product to which a per- or poly-fluoroalkyl	**Broader scope of CUU proposals should be accepted especially for the complex durable goods such as electronics.**

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	UNAVOIDABLE USE A. (2)	substance is intentionally added including: i. A brief narrative of the product; its physical structure and appearance; how it functions; and if applicable its place in larger items, systems, or processes;	Please see our General Comment IV and V (2) for the details.
14	20.13.2.11 CURRENTLY UNAVOIDABLE USE A. (2) ii	ii. If applicable, the universal product code, stock keeping unit or other numeric code assigned to the product; and	**20.13.2.11 A.(2)(ii) should be deleted.** ~~*ii. If applicable, the universal product code, stock keeping unit or other numeric code assigned to the product; and*~~ Reasons: UPC codes, SKUs, and so on are identifiers assigned to individual product models rather than to product categories. If an application is made by specifying the UPC code individually, a preparation for new application for CUU must be made every time a new product is released, and the workload of both the manufacturers and the authorities will become enormous. If the application is submitted by product category, the product category can be sufficiently identified by an example product description in (i) and the NAICS code in (iii).
15	20.13.2.11 CURRENTLY UNAVOIDABLE USE	(5) A description of whether there are alternatives for this specific use of per- or poly- fluoroalkyl substances that are reasonably available including:	**The presentation of the available information should be clearly allowed in this section, rather than the description as if all the information in 20.13.2.11.A. (5)(i) to (vi) would be essential.**

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	A. (5)		Concretely, 20.13.2.11.A.(5) should be amended as follows: *(5) A description of whether there are alternatives for this specific use of per- or poly-fluoroalkyl substances that are reasonably available**, such as**:* Please see our General Comment V (4) for details.
16	20.13.2.11 CURRENTLY UNAVOIDABLE USE C.	C. Should a proposal for a currently unavoidable use determination contain claims of confidentiality, the department may determine that there is insufficient publicly available information to evaluate the proposal. The department strongly recommends that all proposals for currently unavoidable use determinations do not contain claims of confidentiality.	**20.13.2.11 C should be deleted.** ~~*C. Should a proposal for a currently unavoidable use determination contain claims of confidentiality, the department may determine that there is insufficient publicly available information to evaluate the proposal. The department strongly recommends that all proposals for currently unavoidable use determinations do not contain claims of confidentiality.*~~ Reason: In the case of EEE, the information required in this section must be obtained from the material or component suppliers upstream in the supply chain, who may, for trade secret reasons, not provide the finished products manufacturers with any information. The finished products manufacturers themselves do not directly use PFAS in most cases, and the information requested by the proposed rule is not the properties of such manufacturers but confidential information upstream of the supply chain. Therefore, it is unreasonable to conclude that "all proposals for currently unavoidable use determinations do not contain claims of confidentiality". In

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			currently proposed way, New Mexico would not be able to use any state-of-the-art consumer EEE, including smartphones. CUUs should be approved based on information available to finished products manufacturers Please see our General Comments V for the details.
17	20.13.2.11 CURRENTLY UNAVOIDABLE USE D.	D. CUU designations will expire three years after approval. …	**The duration of a CUU designation should be at least five years.** Concretely, 20.13.2.11.D should be amended as follows: *D. CUU designations will expire* ***five*** *years after* ***the date of prohibition of the products or the date of the formal*** *approval****, whichever later****.* ***The products covered under an application for CUU shall be tentatively deemed as CUU. …*** Reason: The duration of the exemptions under the EU RoHS Directive is five years, but it is not expected that substitutes for PFAS be developed within five years, and that the reliability and safety of PFAS be established before it can be actually used in products for sale. Please see our General Comments II and IV for details. In the example of the EU RoHS, the burden on authorities and on the industry is enormous even for renewal of exemptions at intervals of five years, but if we look for a similar case, the CUU in Maine is also valid for five years, so we consider that five years would be a marginal operational duration. For your reference, under the proposed derogations for the EU REACH PFAS restriction, the derogations are currently considered as

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			following three classes: (1) five years from the start of the restriction; (2) for 12 years from the start of the restriction; and (3) for an indefinite period. In addition, for the products subject to the prohibition of PAS from January 1, 2032, if a CUU application is filed early and it is approved much before 2032, the CUU application is meaningless if the expiration date starts to be counted from the date of approval. Therefore, it should be clearly stated that a five-year period is counted from the date of prohibition of the products or the date of the formal approval, whichever later. Since it is not possible to predict how long it will take for a CUU application to be approved, products for which a CUU is applied should be treated as those which CUU is granted provisionally. Similar practice is also adopted in the EU RoHS Directive, which regulates substances in EEE, complex durable goods.
18	20.13.2.11 CURRENTLY UNAVOIDABLE USE D. (repeated applications)		**We would request clearly stating that a CUU application can be renewed as long as the manufacturers can demonstrate the technical need for PFAS.** Reason: There are no known practical substitutes for PFAS currently in use, and there are no prospects for developing substitutes in the near future. Therefore, repeated renewals will be indispensable if the expiration date comes in a five-year interval.

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19	20.13.2.12 REPORTING REQUIREMENT A. (2)	A. (2) all manufacturers must maintain documentation of a reporting responsibility	We consider that exemptions listed in 20.13.2.10, in addition to the complex durable goods including consumer electronics, should be also exempted from the reporting as stated above. However, in case it is not accepted, we comment for reporting requirement as shown below. Please define "documentation of a reporting responsibility". In addition, the maintain period should be clearly specified, for example, 5 years or 10 years from the last date of manufacturing.
20	20.13.2.12 REPORTING REQUIREMENT B	B. 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 per- or poly-fluoroalkyl substances must submit to the department the following information: …	**Start of reporting should be aligned with the date of starting prohibition.** Reason: In relation to 2.13.2.12 B and 2.13.2.9 D (on or before January 1, 2028), the deadlines for submitting reports seem to be inconsistent. We have proposed that 20.13.2.9.D. should be deleted, in out comment on 20.13.2.9.D above. However, the date of starting reporting requirement seems still not be reasonable and feasible. The purpose of reporting should be clarified. If the purpose is checking compliance, it would be reasonable that the reporting requirement becomes applicable from the date of prohibition of PFAS -for many products, from January 1, 2032. Please also see our General Comment VI.

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21	20.13.2.12 REPORTING REQUIREMENT B.(1)	B. (1) a brief description of the product, including a universal product code, stock keeping unit or other numeric code assigned to the product;	**The phrase after "including" in 20.13.2.12.B.(1) should be deleted** as follows: *B. (1) a brief description of the product~~, including a universal product code, stock keeping unit or other numeric code assigned to the product~~;* Reason: UPCs etc. are basically allocated to individual SKU, so requiring reporting per UPC would result in a huge number of reports. Other parts of the proposed rule provide for reporting by product group (20.13.2.12. A) and exemption from the reporting when substantially equivalent information has already been reported (20.13.2.12. D), which seems to be intended to reduce the burden. However, the inclusion of information specific to product models, such as UPC, in the reporting would be inconsistent with this direction. Current proposal requires a report to be re-submitted when there is a change in its content, but if UPC is required as a content of the report, the report must be re-submitted at the launch of all new products, and the frequency of submission is expected to be quite high. This will create an unbalanced huge administrative burden with no advantages for either the authority or the industry. Therefore, the latter part should be deleted.
22	20.13.2.12 REPORTING	B. (3) the amount, expressed as a percentage concentration in the product,	For our comments on PFAS analytical methods, please see our general comments VIII.

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	REQUIREMENT B. (3)	of each per- or polyfluoroalkyl substance in the product, identified by its chemical abstracts service registry number and reported as an exact quantity determined using commercially available analytical methods or as falling within the following reporting ranges. The manufacturer shall provide documentation verifying analytical method results to the department. …	We would like to propose rephrasing this section as follows: *(3) the amount, expressed as a percentage concentration in the product, of each per- or polyfluoroalkyl substance in the product, identified by its chemical abstracts service registry number and reported as an exact quantity ~~determined using commercially available analytical methods~~ or as falling within the following reporting ranges determined using commercially available analytical methods or calculated based on the supplier's declaration. The manufacturer shall provide documentation verifying analytical method results to the department if it use analytical method to determine the amount of each per- or polyfluoroalkyl substance and if required by the department.* In addition to explanation in our general comments, there may be the case that upstream suppliers would not be able to provide not only information on PFAS content but also PFAS identification due to confidential reason. In that case, it is desirable to accept reporting which selects the range of PFAS concentration which is determined by NMED in advance for PFAS group as a whole. Required information from i to v in this Section is extremely detailed and its calculation method is not clear. Manufacturers of Chemicals may be able to calculate but we, as manufacturers/importers of complex articles, cannot submit such information. More concretely, we would like to propose options like those in TSCA section 705.18(a)(2)(viii).

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<tr><th>No.</th><th>Section</th><th>Current text</th><th>Comments and proposals</th></tr>
<tr><td></td><td></td><td></td><td>(viii) based on information provided by a supplier or as falling within a range approved by the Department. For amount of PFAS in the complex articles, submitters of the reporting may select from among the ranges of concentrations listed in the following table.
TABLE — CODES FOR REPORTING MAXIMUM CONCENTRATION OF PFAS IN AN IMPORTED PRODUCTS
<table>
<tr><td>Code</td><td>Concentration range (% weight)</td></tr>
<tr><td>AM1</td><td>Less than 0.1% by weight.</td></tr>
<tr><td>AM2</td><td>At least 0.1% but less than 1% by weight.</td></tr>
<tr><td>AM3</td><td>At least 1% but less than 10% by weight.</td></tr>
<tr><td>AM4</td><td>At least 10% but less than 30% by weight.</td></tr>
<tr><td>AM5</td><td>At least 30% by weight.</td></tr>
</table></td></tr>
<tr><td>23</td><td>20.13.2.12 REPORTING REQUIREMENT B. (5)</td><td>B. (5) any additional information requested by the department as necessary; provided that the department shall not require disclosure of records, reports or information or particular parts of records, reports or information that would divulge confidential business records or methods or processes entitled</td><td>For confidential information, it is desirable to establish joint submission system such as the one adopted in TSCA Section 8 PFAS reporting, and we would like to propose deleting following sentences.
(5) any additional information requested by the department as necessary; provided that the
department shall not require disclosure of records, reports or information or particular parts of records, reports or information that would divulge confidential business records or methods or processes entitled to protection</td></tr>
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		to protection as trade secret, and provided further that the manufacturer shall, by a preponderance of evidence, demonstrate that the information requested would divulge confidential business records or methods or processes entitled to protection as trade secrets.	*as trade secret,* ~~*and provided further that the manufacturer shall, by a preponderance of evidence, demonstrate that the information requested would divulge confidential business records or methods or processes entitled to protection as trade secrets.*~~
24	20.13.2.12 REPORTING REQUIREMENT	D. The department may waive the obligation of a manufacturer to submit all or part of the information required by this section if the department determines that substantially equivalent information is publicly available. The manufacturer must notify the department that the information is publicly available via methods deemed acceptable by the department. The department may grant a waiver to a manufacturer or a group of manufacturers for multiple products or a product category.	Waiver request is submitted due to impossibility of reporting. It is basically impossible to submit report regardless of number of dates in case of rejection of the waiver request. It may be possible to submit report which is based on information to the extent known to or reasonably ascertainable by the manufacturer, but at least 6 months is necessary to gather necessary information throughout complex supply chain. Furthermore, even if the information is gathered, it cannot be ensured that all necessary information is fully gathered. Please refer to our General Comments especially V(4) and others for the difficulty of gathering information throughout supply chain.
25	20.13.2.13 LABELING	C. (1) The label must clearly inform the consumer~~, using words and symbols~~	We consider that the complex articles such as EEE should not be subject to the PFAS labelling because the label cannot differentiate the products. Please

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	C. D.	~~approved by the department,~~ that the product contains intentionally added per- and poly-fluoroalkyl substances in both English and Spanish. The following wording is acceptable: "This product is made with PFAS", "Made with PFAS" or "Contains PFAS." .... D. (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 with 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," "Made with PFAS," "Contains PFAS," or "C~~c~~ontains component parts made with	see our General Comment VII. However, in case it is not accepted, we comment on the labelling as shown below. We understand, in the updated proposed rules, that requirement on symbol approved by the department is deleted for products other than complex durable good and only simple wording is required. On the other hand, for complex durable good, wording seems to be simpler but the symbol, website or QR code and details of component location are still required. As explained in our General Comment VII, we would like to reiterate that labeling requirements should be deleted for complex durable good including consumer EEE.

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		PFAS." ~~PFAS are a family of chemicals, exposure to which are associated with negative health and environmental effects.~~ …	
26	20.13.2.13 LABELING	F. The department may waive the obligation of a manufacturer to label a product or product class as required by this section if the product is exempt pursuant to Section 20.13.2.10 of this part, …	In the update proposed rules says, *The department may waive the obligation of a manufacturer to label a product or product class* And the "product class" is defined as follows. ***"product class**" means a group of products that share similar essential physical characteristics, function and may be substitutable;* There is a possibility that "similar essential physical characteristics, function" is not clearly explained and therefore it may cause confusion for those who would want to submit the waiver request in the future. We are seriously concerned that, as a result of submitting evidence of insufficient explanation based on unclear definitions, the waiver application was rejected, thereby delaying the labeling, hindering the distribution of products in New Mexico, and ultimately impacting the lives of the citizens of New Mexico. We would request, especially in the case of consumer EEE, that the definition should be clarified to allow the waiver for product categories (TV, washing machine, smartphone, etc.).

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27	20.13.2.13 LABELING	**F.** The department may waive the obligation of a manufacturer to label a product or product class as required by this section if the product is exempt pursuant to Section 20.13.2.10~~8~~ of this part, …	Our first request is that complex durable goods, including EEE, be exempted from labeling. If this is difficult, we would like to at least expand the scope of labeling waiver requests, which are currently limited to the products listed in 20.13.2.10 EXEMPTIONS, to include "complex durable goods." As stated in the general comment, exposure to PFASs during use of EEE, which is "complex durable goods," is generally negligibly low compared to exposure to PFASs as chemical products, and is considered to meet the requirement for a labeling waiver request: "none of the product's material containing intentionally added per- or poly-fluoroalkyl substances will ever come into direct contact with a consumer while the product is being used as intended during the useful life of the product."
28	20.13.2.13 LABELING	D. Labeling of complex durable goods with intentionally added per- or poly-fluoroalkyl substances. (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 with intentionally added per- or poly-fluoroalkyl substances, using words and	The proposed rule requires complex durable goods to include in their operation and maintenance manual a complete list 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. Our first request is that complex durable consumer goods containing EEE be exempt from labeling, but if that is not possible, we believe the requirement for "a complete list 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" should at least be removed.

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		symbols approved by the department, followed by a complete list 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…..	As noted in the general comments, exposure to PFASs when using EEE is generally negligible compared to exposure to PFASs as chemical products. There is no benefit to consumers from listing or locating PFAS-containing parts in consumer EEE that does not have PFAS exposure in the first place. On the other hand, conducting investigations on substances in EEE are extremely difficult, and efforts are currently underway to address this issue across the entire multi-layered international supply chain. Even if a component is confirmed to contain PFAS, details such as identification of PFAS or its material composition are often confidential, making it extremely difficult to publish information about its exact location. It will be extremely difficult to include a "complete" list of PFAS-containing components in products in the operation and maintenance manual by the deadline, and products that do not complete the list by the mandatory date will not be able to be distributed in New Mexico, which could result in the citizens of New Mexico losing the opportunity to benefit from cutting-edge EEE.
29	20.13.2.13 LABELING	Approved label waiver requests will expire three years after approval.	The proposed rule stipulates that the labeling waiver request will last for three years from the date of approval, and that around 2030, labeling requirements will begin to be imposed on products that were previously approved from labeling waiver requests. However, it is unlikely that PFAS replacement will progress rapidly in just three years, and it is also unlikely that confidential information such as

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			material composition will be disclosed. Therefore, many products that have applied for waivers are still unable to meet the required labeling requirements even after three years. Considering the above situation, we would like to request that a system be established for renewing waivers.
30	20.13.2.14 TESTING		The requirement for testing of articles is not reasonable. For details, please see our general comments VIII.
31	20.13.2.15 REPORTING FEE	Every manufacturer of a product containing an intentionally added per- or poly-fluoroalkyl substance that is sold, offered for sale, distributed or distributed for sale in the state, directly or indirectly or through intermediaries and is not exempt pursuant to Section 20.13.2.10 shall pay reporting fees in accordance with the provisions of this section.	Reporting should be done not per product but per product category or per company. In particular, large EEE manufacturers sell a wide range of EEE, and it is assumed that almost all of their products contain PFAS, which we think are unavoidable. If they should pay reporting fees per product, they will have to pay a huge amount of money. It is not convincing that manufacturers/importers are imposed to pay a fee on a report in addition to owing huge burden. Even if NMED would need certain cost to check or examine the reports submitted, it can be reduced by way of reducing number of reports submitted per product category or company with maintaining effective implementation. It would be able to reduce burden for manufacturers as well as reducing administrative burden for NMED and furthermore, the fee might be reduced or even free of charge in the end.

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