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New Mexico Environment Department
1190 St. Francis Drive, Suite N4050
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Submitted via electronic portal

Re: EIB 25-61 (R) – Per- and Poly-Fluoroalkyl Substances Act

I write to express concern about the effect new PFAS labeling requirements contained in the PFAS Protection Act (HB212) would have on consumers and encourage New Mexico to abandon this labeling system.

I support New Mexico's approach to banning the use of intentionally added PFAS chemicals where safer alternatives exist and are not considered "currently unavoidable." This protects public health by reducing exposure to PFAS in consumer goods and the hazards of PFAS contaminating the environment in production and manufacturing. It is because of these strong steps that I believe it is unnecessary for New Mexico to move forward with labeling requirements and should abandon them to avoid confusing consumers.

California has had Proposition 65 labeling for decades ("WARNING: this product contains a chemical known to the state of California to cause cancer"). Because of the label's ubiquity, consumers in California have largely become immune to it. It is an inefficient warning because it does not help consumers distinguish between large and small risks.¹ New Mexico's proposed PFAS labels would use this same inefficient labeling scheme.

The labels proposed by New Mexico also complicate national distribution of products. Consumers buying products in other parts of the country are unlikely to be familiar with the New Mexico PFAS warning labels and may not understand the potential risks being conveyed. In the case of Proposition 65 warning labels, research shows that consumers outside California react more strongly to the label than those in California, likely because of unfamiliarity and inability to understand the level of risk being conveyed, thereby misjudging the product's safety.²

Because New Mexico is taking action to remove consumer products most likely to expose consumers to PFAS chemicals, it is unclear what New Mexico hopes to accomplish with its warning labels. Draft regulations propose requiring labels on some, but not all, exempted products. This will send mixed messages to consumers about the continued use of PFAS in

1. <https://www.hks.harvard.edu/faculty-research/policy-topics/business-regulation/labels-cried-wolf>
2. <https://PMC11651356/#c5>

products without providing enough context on why use is continued. This could give the impression of non-compliance with the law and overstate the risks of PFAS exposure in products. New Mexico's law specifically chooses to exempt from its product ban. This creates a situation that overstates hazards; research shows that poorly designed hazard labels systems confuse consumers and render them unable to discern level of risk.³

I encourage New Mexico to focus on elements of the law that phase out the use of intentionally added PFAS chemicals in avoidable uses and abandon the proposed product warning labels that have great potential to confuse consumers in New Mexico and in other states.

Sincerely

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3. <https://www.hks.harvard.edu/publications/efficient-warnings-not-wolf-or-puppy-warnings>