

September 17, 2026

The Honorable James C. Kenney
Cabinet Secretary
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, New Mexico 87505

RE: Comments on House Joint Memorial 3 - Review of the Per- and Poly-Fluoroalkyl Substances Protection Act

Secretary Kenney:

On behalf of the members of the Window & Door Manufacturers Association (WDMA), we appreciate the opportunity to provide comments as the New Mexico Environment Department (NMED) and Environmental Improvement Board (EIB) carry out the reviews requested by House Joint Memorial 3 (HJM 3) regarding implementation of the Per- and Poly-Fluoroalkyl Substances Protection Act.

Members of WDMA are leading manufacturers and suppliers of windows, doors, skylights, and related fenestration products across North America, including companies that serve the New Mexico market. These products are durable components of residential, commercial, and institutional buildings. They are subject to extensive requirements for structural performance, weather resistance, safety, resilience, and energy efficiency.

WDMA members support New Mexico's objective of protecting public health and the environment from harmful PFAS exposures and releases. At the same time, the State's review should distinguish between PFAS chemistries, product uses, exposure and release pathways, and the availability and performance of alternatives. HJM 3 recognizes that additional study is needed to better understand the toxicological profiles, exposure risks, and public health implications of fluoropolymers.

Accordingly, WDMA recommends that the HJM 3 review: (1) support continuation of the existing fluoropolymer exemption unless product- and use-specific evidence demonstrates that modification is warranted; (2) consider the characteristics and uses of the substances and products at issue, including exposure and environmental release pathways and the availability and performance of alternatives; and (3) use the separate review of rule implementation and efficacy to identify practical improvements for durable, multi-component building products.

I. Preserve the Existing Fluoropolymer Exemption

The PFAS Protection Act's product prohibition includes an exemption for products that contain fluoropolymers consisting of polymeric substances with either a per- or polyfluorinated carbon-only backbone or a perfluorinated polyether backbone that is solid at standard temperature and pressure.

The final implementing rule likewise incorporates the fluoropolymer exemption at 20.13.2.10(P) NMAC. Qualifying products are exempt from the rule's reporting requirements and product prohibitions. As adopted, however, the rule treats labeling separately under Section 20.13.2.13, and NMED's rule and guidance provided that the fluoropolymer exemption did not, by itself, exempt a product from labeling. Section 20.13.2.13(F) also established a waiver process for products exempt under Section 20.13.2.10 when none of the PFAS-containing material would come into direct contact with a consumer during intended use. On September 16, 2026, the U.S. District Court for the District of New Mexico preliminarily enjoined enforcement of Section 20.13.2.13. The labeling discussion in these comments therefore addresses the framework as adopted and issues relevant to HJM 3's implementation review while that litigation proceeds.

HJM 3 calls for further examination of the public health, environmental, and economic risks associated with the statutory exemptions and asks NMED to recommend whether exemptions, including the fluoropolymer exemption, should be continued, modified, or removed. WDMA encourages NMED to conduct that review at a level of specificity sufficient to distinguish among substances, product applications, exposure pathways, environmental release pathways, and end-of-life considerations before recommending changes to an existing exemption.

For durable building products such as windows, doors, and skylights, qualifying fluoropolymers can serve important performance functions. In evaluating the exemption, NMED should consider how and where the material is used, relevant exposure and environmental release pathways, the availability and performance of alternatives, and potential effects of substitution on safety, durability, energy efficiency, product performance, waste generation, and cost. WDMA encourages NMED to base any recommendation to modify the exemption on product- and use-specific evidence and consideration of reasonably available alternatives.

II. Provide Clear, Workable Labeling Treatment for Durable, Multi-Component Building Products

Windows, doors, and skylights are durable, multi-component products incorporated into building construction. They may contain frames, insulating glass units, sealants, gaskets, weatherstripping, coatings, hardware, fasteners, and ancillary materials supplied through multi-tiered supply chains.

These products must also satisfy requirements for structural performance, water and air resistance, energy efficiency, durability, and fire and life safety. Changes to individual materials can affect the performance of the finished product and may require redesign, supplier qualification, testing, or certification.

The location and function of PFAS-containing components, potential consumer contact, and relevant release pathways should be considered when evaluating labeling approaches for these products.

HJM 3 separately requests that the EIB develop a report on implementation of the Act, including the efficacy of the rules adopted to enforce the law. That review provides an opportunity to assess labeling treatment for durable, multi-component building products such as windows, doors, and skylights.

The final rule defines a "complex durable good" as a manufactured good composed of 100 or more manufactured components, with an intended useful life of five or more years, that is typically not consumed, destroyed, or discarded after a single use. 20.13.2.7(C) NMAC. Under the labeling framework as adopted, a qualifying complex durable good would use alternative labeling requirements rather than the ordinary on-product standards in Section 20.13.2.13(C), including disclosure on a consumer-facing product specification sheet and in the associated operation and maintenance manual.

WDMA remains concerned that the labeling framework may create practical implementation challenges for durable, multi-component building products and encourages NMED to provide clear, workable guidance that advances transparency while accounting for the characteristics of these products.

Windows, doors, and skylights share characteristics relevant to an alternative labeling approach: durability, integrated construction, multiple components and suppliers, and incorporation into permanent building construction. Under the framework as adopted, functionally similar fenestration products may fall on opposite sides of the rule's 100-component threshold, potentially creating different labeling obligations based primarily on component count.

WDMA encourages the EIB and NMED to evaluate whether the 100-component threshold produces meaningful regulatory distinctions and whether additional implementation flexibility could better align disclosure obligations with product characteristics and the accessibility of PFAS-containing components. The agencies should also consider component-level disclosure or other alternative methods that provide useful information without implying that every component of an assembled building product contains PFAS. WDMA encourages NMED to provide clear guidance on how the labeling and waiver provisions apply to durable, multi-component building products, including how manufacturers should determine the relevant unit of labeling when PFAS is present only in discrete components.

Conclusion

Members of WDMA respectfully encourage NMED to recommend continuation of the existing fluoropolymer exemption unless reliable product- and use-specific evidence supports a targeted modification.

WDMA also encourages the EIB and NMED to use the HJM 3 implementation review to provide clearer, workable labeling treatment for durable, multi-component building products, including consideration of the 100-component threshold, component-level disclosure, and available waiver provisions.

WDMA and its members welcome the opportunity to continue working with NMED, the EIB, and state policymakers to advance New Mexico's public health and environmental objectives while maintaining workable requirements for manufacturers of safe, durable, and energy-efficient building products.

Thank you for your consideration. If you have any further questions, please contact Alex McIntyre at amcintyre@wdma.com.

Respectfully,



John Crosby
President and CEO