

Nate Pelczar

Submitted to the New Mexico Environment Department (NMED) via Public Comment Form.

September 17, 2026

RE: Comments Related to the Implementation of New Mexico's Per- and Poly-Fluoroalkyl Substances (PFAS) Protection Act

On behalf of the American Forest & Paper Association (AF&PA), thank you for the opportunity to provide feedback concerning New Mexico's implementation of the PFAS Protection Act.

Introduction to AF&PA

AF&PA serves to advance public policies that foster economic growth, job creation and global competitiveness for a vital sector that makes the essential paper and packaging products Americans use every day. The U.S. forest products industry employs more than 925,000 people, largely in rural America, and is among the top 10 manufacturing sector employers in 44 states. Our industry accounts for approximately 4.7% of the total U.S. manufacturing GDP, manufacturing more than \$435 billion in products annually. AF&PA member companies are significant producers and users of renewable biomass energy and are committed to making sustainable products for a sustainable future through the industry's decades-long initiative — Better Practices, Better Planet 2030.

In New Mexico, the forest products industry employs more than 2,000 individuals, with an annual payroll of over \$92 million. The estimated state and local taxes paid by the forest products industry totals \$8 million annually.

1. Supply Chain Verification and Reporting Challenges

Relevant Sections: Section 5(A)(2)-(5); Section 5(B); Section 5(D)

The Act's reporting provisions require manufacturers to identify the purpose of PFAS within a product, quantify PFAS content, provide product-specific information, and submit that information to the Department by January 1, 2027. Products containing intentionally added PFAS may not be sold after January 1, 2028, if the required information has not been submitted.

AF&PA is concerned that compliance with the Act's requirements will be particularly challenging for manufacturers that rely on complex domestic and global supply chains, in large part, those that reference intentionally added ingredients. AF&PA asks that NMED provide additional guidance regarding the application of the Act's definition of "intentionally added." The phrases "used during the manufacture of a product," "expected in the final product," and "at any level or concentration," may raise uncertainty regarding the distinction between intentional addition versus incidental or unintended presence. Determining whether intentionally added PFAS is present requires extensive supplier outreach and verification efforts. The Department should recognize the practical limitations associated with obtaining product-specific chemical information from upstream suppliers and allow manufacturers to rely on supplier certifications and reasonable due diligence when fulfilling their reporting obligations.

2. Broad Applicability of Labeling Requirements

Relevant Sections: Section 4(B)(1); Section 3(A); NMED Proposed Labeling Framework

The Act authorizes the Environmental Improvement Board to adopt rules requiring product labeling in English and Spanish. The Department's stakeholder presentations indicate that labeling requirements are expected to apply broadly to products containing intentionally added PFAS, including many products otherwise exempt from reporting requirements under Section 3(A) and products designated as Currently Unavoidable Uses.

AF&PA encourages NMED to ensure that any labeling program remains narrowly tailored and practical to implement. Manufacturers may be required to modify product packaging, sales literature, specification sheets, websites, and online sales platforms solely to satisfy New Mexico-specific requirements. Such requirements can be particularly burdensome for products distributed nationally through integrated supply chains.

3. Consistency with Other States and Interstate Commerce Concerns

Relevant Sections: Section 4(B)(1); Section 5

The Act establishes a comprehensive state-specific reporting and labeling framework while other states continue to adopt their own PFAS disclosure and product restriction requirements.

AF&PA supports NMED's stated intention to recognize compliance efforts undertaken in other states and encourages the Department to maximize reciprocity wherever possible. Differing state requirements for reporting, labeling, and product disclosures increase compliance costs and administrative burdens without necessarily providing additional benefits. Harmonization with other state programs would reduce burden on manufacturers while maintaining transparency objectives.

4. Treatment of Currently Unavoidable Uses

Relevant Sections: Section 3(A)(15); Section 3(E); Section 4(A)(3); Section 4(B)(2)

The Act expressly recognizes that certain PFAS uses may remain essential for health, safety, or the functioning of society where alternatives are not reasonably available. The Act further directs the Board to identify such uses through rulemaking and authorizes reliance on determinations made by other states.

AF&PA encourages NMED to establish a practical and transparent process for evaluating Currently Unavoidable Use determinations and to provide substantial weight to existing determinations made by other states. Manufacturers should not be required to repeatedly demonstrate the same essential-use findings across multiple jurisdictions where scientific and technical evidence has already been reviewed.

5. Consumer Communication and Product Labels

Relevant Section: Section 4(B)(1)

The Act authorizes the Board to require product labeling but does not prescribe specific warning language or symbols.

AF&PA encourages NMED to ensure that any required labels are factual, objective, and scientifically supported. PFAS encompasses thousands of different compounds used in a wide variety of applications. Labeling requirements should avoid implying that all products containing intentionally added PFAS present identical exposure or risk profiles. Consumer communications should provide accurate information without oversimplifying a complex scientific issue.

6. Regulator Evaluations and Supporting Evidence

Relevant Section: Definitions, Subsection O ("Intentionally Added")

The Act states that "intentionally added" means a PFAS deliberately added or used during the manufacture of a product where the continued presence, at any level or concentration, of the PFAS is expected in the final product or one of the product's components.

AF&PA recommends NMED clarify the circumstances and information relevant to this definition and determination, including testing and whether detection alone establishes intentional addition. Guidance regarding the types of information that would support regulated entities' evaluation of the applicability of the Act's reporting and labeling requirements would be greatly beneficial.

Recommendations:

In summary, AF&PA respectfully recommends that NMED:

- Allow reliance on supplier certifications and reasonable due diligence for compliance with Section 5 reporting obligations.
- Maximize reciprocity with other state PFAS programs when implementing Section 4(B)(1) labeling requirements.
- Provide flexibility and extended implementation timelines for labeling and reporting compliance.
- Establish a predictable and transparent process for Currently Unavoidable Use determinations pursuant to Sections 3(E) and 4(A)(3).
- Ensure that required consumer disclosures remain factual, non-misleading, and grounded in science.
- Provide guidance on determining whether PFAS is "intentionally added," including whether detection alone establishes intentional addition and what information regulated entities may use to evaluate reporting and labeling requirements.

Thank you for your consideration of our concerns. Please direct any questions regarding this matter to Nate Pelczar, AF&PA's Senior Manager, Government Affairs at Nate_Pelczar@afandpa.org.



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¹ Data sources: IMPLAN, 2023 Data, using inputs provided by AF&PA, In 2023 Dollars.

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