

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NOTICE OF RULEMAKING HEARING TO CONSIDER ADOPTION OF
PROPOSED NEW RULE 20.13.2 NMAC – PER- AND POLY-FLUOROALKYL SUBSTANCES IN
CONSUMER PRODUCTS

(EIB case no. 25-61 (R))

The New Mexico Environmental Improvement Board (“EIB”) will hold a public hearing beginning on February 23, 2026 at 9:00 a.m. and continuing as long as required to hear all testimony, evidence, and public comment, to consider EIB 25-61 (R): In the Matter of Proposed Adoption of 20.13.2 NMAC – Per- and Poly-Fluoroalkyl Substances Protection Act (“Petition”) to adopt Proposed New Rule 20.13.2 Per- and Poly-Fluoroalkyl Substances in Consumer Products, Exhibit B to the Petition (“Proposed New Rule 20.13.2 NMAC”) as supported by the technical information set forth in the Statement of Reasons, Exhibit A to the Petition (“Statement of Reasons”). The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held at the Wendell Chino Building, Pecos Hall, 1220 S. St. Francis, Santa Fe, NM 87505. The EIB may make a final decision on Proposed New Rule 20.13.2 NMAC at the conclusion of the hearing or may convene a later meeting for that purpose. The hearing will be conducted in accordance with 20.1.1 NMAC, Rulemaking Procedures – Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; and other applicable procedures, including pursuant to any orders from the EIB and appointed hearing officer. Detailed information concerning the hearing, including the meeting room location, additional hearing details and access details such as times and how to participate or attend the hearing remotely, can be found on the New Mexico Environment Department (“NMED”) calendar (<https://www.env.nm.gov/events-calendar/>) under the calendar entry corresponding to the hearing start date. For more information, please contact the EIB Administrator at (505) 660-4305 or pamela.jones@env.nm.gov.

Additionally, the NMED Office of Public Facilitation maintains NMED’s docketed matters website, which includes the Petition, Statement of Reasons, and Proposed New Rule 20.13.2 NMAC, as well as any orders from the EIB and appointed hearing officer governing the conduct of the hearing. The docket for EIB 25-61 (R) may be accessed by visiting the website (<https://www.env.nm.gov/opf/docketed-matters/>), navigating to the ‘Environmental Improvement Board’ dropdown menu, and then accessing the files under the ‘EIB 25-61 (R): In the Matter of Proposed Adoption of 20.13.2 NMAC – Per- and Poly-Fluoroalkyl Substances in Consumer Products’ dropdown menu. Paper copies of the Petition, Statement of Reasons, and Proposed New Rule 20.13.2 NMAC are available at all of NMED’s offices statewide. The Petition, Statement of Reasons, and Proposed New Rule 20.13.2 NMAC are available electronically at (https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2025/10/2025-10-08-EIB-25-61-Petition-Request-for-Hearing_Statement-of-Reasons_and-Rule.pdf).

The purpose of the hearing is for the EIB to consider and take possible action on the Petition by NMED requesting the EIB to adopt the Proposed New Rule 20.13.2 NMAC. The purpose of Proposed New Rule 20.13.2 NMAC is to phase out and prohibit certain products that contain an intentionally added Per or Polyfluoroalkyl substance (“PFAS”), require reporting for manufacturers of products containing intentionally added PFAS, identify currently unavoidable uses for PFAS that are essential for the health, safety, or functioning of society, to require labeling of consumer products containing intentionally added PFAS, to establish penalties and fees related to the rule, and to establish enforcement provisions. The EIB is authorized to adopt rules regarding the prohibition of products that contain an intentionally added PFAS substance pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-1 et seq., and the Per- and Poly-Fluoroalkyl Substances Protection Act, NMSA 1978, Sections 74-15-1 et seq.

Proposed New Rule 20.13.2 NMAC outlines a phaseout and prohibition timeline of certain non-exempt products that contain an intentionally added PFAS. In accordance with NMSA 1978, 74-15-3, beginning January 1, 2027, the following products containing intentionally added PFAS would be prohibited: cookware, food packaging, dental floss, juvenile products, and firefighting foam containing intentionally added PFAS. Beginning January 1, 2028, Proposed New Rule 20.13.2 NMAC would prohibit the following products containing intentionally added PFAS:

carpets or rugs; cleaning products; cosmetics; fabric treatments; feminine hygiene products; textiles; textile furnishings; ski wax; and upholstered furniture. Beginning January 1, 2032, Proposed New Rule 20.13.2 NMAC would prohibit any product containing intentionally added PFAS unless PFAS in that product is deemed a currently unavoidable use. Proposed New Rule 20.13.2 NMAC establishes a framework for manufacturers to seek to have the use of intentionally added PFAS in a product deemed a currently unavoidable use. Further, it requires the labeling of products containing intentionally added PFAS and provides the option for manufacturers to seek a labeling exemption for products that are statutorily exempt from the PFAS ban. Proposed New Rule 20.13.2 requires manufacturers to report products that contain intentionally added PFAS and authorizes NMED to test products, or require manufacturers to test products, which are suspected of containing intentionally added PFAS which have not been previously reported. Proposed New Rule 20.13.2 requires manufacturers to pay fees for reporting and for currently unavoidable use proposals and enumerates fines for non-compliance. Additional information is available on NMED's PFAS webpage (<https://www.env.nm.gov/pfas/>).

Technical information that served as a basis for the proposed rule may be viewed online at <https://www.env.nm.gov/public-notice/> and may also be obtained from the Petitioners upon request to NMED-PFAS@env.nm.gov.

PUBLIC PARTICIPATION: The EIB's hearings and meetings are open to the public, and the general public is encouraged to participate. All interested persons will be given a reasonable opportunity to participate by filing a notice of intent to present technical testimony, filing an entry of appearance, or participating as a member of the general public. "Technical testimony" means scientific, engineering, economic or other specialized testimony, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing. "General public" includes any person attending a hearing who has not submitted a notice of intent to present technical testimony.

Any member of the general public may testify at the hearing. Any person who provides testimony at the hearing is subject to cross-examination on the subject matter of his or her direct testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

No person may discuss ex parte the merits of the proceeding with any EIB member or the appointed hearing officer. **TECHNICAL TESTIMONY:** Any person who intends to present technical testimony at the hearing shall file a notice of intent to present technical testimony with the EIB Administrator at least 20 days prior to the hearing date or in accordance with an order from the EIB or appointed hearing officer and shall be a party. In addition to any requirements a pre-hearing order may have, the notice of intent to present technical testimony shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and (7) serve a copy on NMED.

ENTRY OF APPEARANCE: Any person may file an entry of appearance as a party. The entry of appearance shall be filed with the EIB Administrator no later than 20 days before the date of the hearing or in accordance with an order from the EIB or appointed hearing officer.

PUBLIC COMMENT: The general public may testify with a written public comment or orally at the hearing. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Those wishing to submit a written public comment prior to the hearing may submit the written public comment to the EIB Administrator: <https://nmed.commentinput.com/?id=8mWdJ5uaj>; pamela.jones@env.nm.gov, or EIB Administrator, New Mexico Environment Department- Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Additionally, there will be an opportunity each day of the hearing for oral testimony from members of the general public. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibits are not unduly repetitious.

of the testimony and comply with 20.1.1.402 NMAC. The appointed hearing officer shall determine the process and times for the general public to testify during the hearing.

ACCESSIBILITY: If any person requires assistance, an interpreter, or an auxiliary aid to participate in this process, please contact the EIB Administrator at least 14 days prior to the hearing date at 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502, telephone (505) 660-4305, or email pamela.jones@env.nm.gov (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

NOTICE OF NONDISCRIMINATION: NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, 505-827-2855, nd.coordinator@env.nm.gov. If you believe that you have been discriminated against with respect to an NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.