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## NEW MEXICO BANS CERTAIN PFAS IN CONSUMER PRODUCTS

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### SUMMARY

On April 8, 2025, the Governor of New Mexico, Lujan Grisham, signed [HB 212](#) prohibiting certain PFAS substances in various consumer products. This bill (now enacted into law) establishes on specific product categories beginning on January 1, 2027, and January 1, 2028. Notably, on January 1, 2032, New Mexico prohibits a manufacturer from selling or distributing **any consumer product** containing intentionally added PFAS substances. However, the definition of PFAS in the bill is unique in that it excludes certain fluoropolymers like PTFE from the prohibitions.

### SPECIFIC RESTRICTIONS

#### JANUARY 1, 2027

1. A manufacturer “shall not sell, offer for sale or distribute for sale in this state” the following products if that product contains intentionally added PFAS substances:

- Cookware;
- Food packaging;
- Dental floss;
- Juvenile products; and
- Firefighting foam.

2. Manufacturers of products sold or distributed in the state which contain intentionally added PFAS must submit the following information to the New Mexico Environment Department (“NMED”):

- A description of the product including a UPC, SKU, or other identifier code;

- The purpose for which PFAS is used in the product;
- The amount of each PFAS in the product, identified by CAS numbers and measured using approved laboratory test methods;
- The name and address of the manufacturer; and
- Any other information identified by NMED.

## JANUARY 1, 2028

A manufacturer “shall not sell, offer for sale or distribute for sale in this state” the following products if that product contains intentionally added PFAS substances:

- Carpets or rugs;
- Cleaning products;
- Cosmetics;
- Fabric treatments;
- Feminine hygiene products;
- Textiles;
- Textile furnishings;
- Ski wax; and
- Upholstered furniture.

## JANUARY 1, 2032

A manufacturer “shall not sell, offer for sale, distribute or distribute for sale in this state” **any consumer product** containing intentionally added PFAS substances. “Consumer product” is defined as “[a] tangible personal property that is distributed in commerce and normally used for personal, family or household use, including product categories that are normally used in households but designed for or sold to businesses, such as commercial carpet or floor waxes.”

The general restriction does not apply if there is a valid exception pursuant to subsection A of section 3 of [HB 212](#). Additionally, NMED can determine that the use of PFAS in a product is a Currently Unavoidable Use (“CUU”), and therefore, is exempt from the general prohibition. CUU is defined as “[a] use of a per- or poly-fluoroalkyl substance that the board has determined by rule to be essential for health, safety or the functioning of society and for which alternatives are not

reasonably available.” The CUU concept is included in both the [Maine](#) and [Minnesota](#) laws, and has been the subject of significant discussion in those states given the amount and complexity of the CUU applications.

## FLUOROPOLYMER EXEMPTION

Section 3 of [HB 212](#) contains sixteen categories of exemptions from the law’s requirements, but the most notable of these exemptions is “a product that contains fluoropolymers consisting of polymeric substances for which the backbone of the polymer is either a per- or polyfluorinated carbon-only backbone or a perfluorinated polyether backbone that is a solid at standard temperature and pressure.” Although fluoropolymer exemptions have been proposed in other states, such as [New York](#), this will be the first time that one has been enacted, marking the law’s most significant departure from the similar laws passed in [Maine](#) and [Minnesota](#).

The fluoropolymer exemption will have significant implications for regulated industries, and will likely reduce NMED’s burden in terms of reviewing CUU applications since PTFE and other fluoropolymers are regularly used in critical applications. For example, fluoropolymers are used in the [following applications](#): to coat medical implants such as pacemakers and other medical devices, electronics, refrigeration systems, circuit boards, and non-stick Teflon coatings on cookware products. Impacted industries have been arguing that fluoropolymers are not harmful and should not be regulated in the same way as other branches of the PFAS family tree. New Mexico appears to have agreed with that argument, which could mark a shift in the way that different types of PFAS are regulated by the states going forward.

## CONCLUSION

For additional information regarding PFAS chemicals, and the regulatory and litigation risks that they pose, please visit our [PFAS webpage](#). If you believe that you may be impacted by the proposed bill in New Mexico, please contact Tom Lee, [Meritt Jones](#), John Kindschuh, or any other member of our PFAS team at BCLP.

## RELATED CAPABILITIES

- PFAS

## MEET THE TEAM



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