

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

AMERICAN CHEMISTRY COUNCIL,
ALLIANCE FOR AUTOMOTIVE
INNOVATION, AMERICAN COATINGS
ASSOCIATION, ASSOCIATION OF HOME
APPLIANCE MANUFACTURERS,
NATIONAL ASSOCIATION OF
MANUFACTURERS, NATIONAL
ELECTRICAL MANUFACTURERS
ASSOCIATION, NATIONAL FEDERATION
OF INDEPENDENT BUSINESS, INC., NEW
MEXICO RETAIL ASSOCIATION, and
POWER TOOL INSTITUTE,

Plaintiffs,

v.

JAMES C. KENNEY, *in his official capacity
as Secretary of New Mexico Environment
Department*; and RAÚL TORREZ, *in his
official capacity as Attorney General of New
Mexico,*

Defendants.

Case No.: _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs American Chemistry Council (“ACC”), Alliance for Automotive Innovation (“AAI”), American Coatings Association (“ACA”), Association of Home Appliance Manufacturers (“AHAM”), National Association of Manufacturers (“NAM”), National Electrical Manufacturers Association (“NEMA”), National Federation of Independent Business, Inc. (“NFIB”), New Mexico Retail Association (“NMRA”), and Power Tool Institute (“PTI”) bring this complaint for declaratory and injunctive relief against James C. Kenney, in his official capacity as Secretary of the New Mexico Environment Department (“NMED”), and Raúl Torrez, in his official capacity as Attorney General of the State of New Mexico. Plaintiffs bring this action

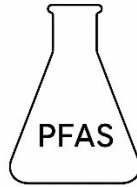
on behalf of their members, based on personal knowledge as to all facts related to Plaintiffs and on information and belief as to all other matters.

INTRODUCTION

1. This case concerns per- or poly-fluoroalkyl substances, commonly referred to as “PFAS.” There is no settled definition of PFAS, but as the term is commonly used, it encompasses a broad category of thousands of substances with materially different physical, chemical, and toxicological properties used in countless household, commercial, and industrial products. While health and environmental concerns have been raised for *some* types of PFAS, the evidence does not support such concerns for all types of PFAS. For example, fluoropolymers, including polytetrafluoroethylene (“PTFE”), are a type of PFAS considered of low or no risk to human health or the environment. Additionally, many products contain PFAS that is entirely enclosed or sequestered within the product (for example, products that include an internal component that contains PFAS), and so a consumer is not exposed to the PFAS.

2. In 2025, New Mexico enacted the Per- and Poly-Fluoroalkyl Substances Protection NMSA 1978, § 74-15-3 (the “PFAS Act”). The core feature of the PFAS Act is a phased prohibition on the sale and distribution of products that contain certain PFAS.

3. Then, in May 2026, the New Mexico Environmental Improvement Board (“EIB”), acting at the request of the New Mexico Environment Department (“NMED”), adopted a sweeping, first-of-its-kind labeling mandate, applicable to most products, including those that are not subject to the ban. Under the Regulation, codified at NMAC § 20.13.2.13 (the “Regulation”), manufacturers of covered products that contain intentionally added PFAS are required to include a pictographic warning of an Erlenmeyer flask stamped with the word “PFAS” on the product and its packaging:



4. The prescribed warning label, with an image of an Erlenmeyer flask and the designation “PFAS,” conveys a sense of chemical danger. That is no accident. NMED views the warning label as a means for furthering its goal of “turning off the spigot” of PFAS-containing products into New Mexico, by warning consumers not to buy such products.

5. This warning label mandate, which applies to products containing *any* form of PFAS regardless of existence or degree of risk to human health or the environment, is unconstitutional twice over.

6. First, it compels manufacturers to speak in violation of the First Amendment. In the context of commercial speech, government-mandated disclosures are permissible only if the required commercial disclosure is (1) purely factual, (2) uncontroversial, (3) related to the terms under which services are offered, and (4) not unduly burdensome. *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985).

7. None of *Zauderer’s* requirements are met here. The warning label, with its Erlenmeyer flask pictograph, is not purely factual and uncontroversial. Mandatory use of the Erlenmeyer flask symbol only can be understood as an effort to convey a sense of danger, not to report “purely factual” information. After all, commercial-scale manufacturing does not *actually* use Erlenmeyer flasks, and *no* government—including New Mexico—requires use of the pictograph for *any* other chemical. Consumers therefore will understand there must be something unusually dangerous about all types of PFAS. But that assertion of risk is not supported by settled science. NMED admitted in regulatory proceedings before the EIB that “the vast majority of PFAS

have not been studied at all,” and the available evidence for some PFAS, such as fluoropolymers, shows no meaningful risk. The Regulation also is not limited to disclosing terms of service between manufacturers and consumers, as NMED has attempted to justify the Regulation based on speculative upstream and downstream environmental impacts from manufacturing and incineration that are disconnected from actual consumer use. And the labeling mandate is anything but “not unduly burdensome.” Redesigning products, packaging, and manufacturing lines to accommodate the labeling mandate will impose staggering costs on Plaintiffs’ member companies.

8. Because the labeling mandate does not qualify for the *Zauderer* exception, heightened scrutiny under the First Amendment applies. The mandate cannot survive any level of First Amendment scrutiny, because it is not narrowly tailored to directly advance any substantial government interests. Courts reviewing other warning label mandates, such as those imposed under California’s Proposition 65, regularly hold that mandates falling outside the *Zauderer* exception are not narrowly tailored because the government can convey its message itself, using government websites, public service announcements, or other media. Notably, only three other states impose a labeling mandate with respect to PFAS, and those states limit their labeling mandates to much narrower product categories and do not require any kind of pictograph.

9. The Regulation’s speech mandate also violates the dormant Commerce Clause. New Mexico may not regulate transactions that take place wholly outside of the State’s borders. Yet the labeling mandate directly regulates manufacturers wholly outside of the State based solely on the premise that products sold to third parties, in transactions with no nexus to New Mexico, may ultimately find their way to New Mexico. The labeling mandate further violates the dormant Commerce Clause for the separate reason that it will impose a burden on interstate commerce that

“is clearly excessive in relation to the putative local benefits.” *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

10. New Mexico cannot violate the First Amendment rights of companies by compelling them to spread the State’s unsupported message that PFAS-containing products are dangerous, nor can it set regulatory policy over PFAS labeling across multiple industries for the entire nation. The Regulation is unconstitutional and its enforcement should be permanently enjoined.

PARTIES

11. Plaintiff ACC is a nonprofit trade association representing more than 190 of the leading companies involved in the business of chemistry operating throughout the U.S., including in New Mexico. The business of chemistry in the U.S. is a \$673 billion enterprise, employing more than 547,000 people in high-paying jobs. Chemistry is an integral part of the economy providing critical inputs into most major supply chains. In fact, a quarter of U.S. GDP is generated from industries that rely on chemistry products. ACC members are creating the groundbreaking products that improve the world all around us by making it healthier, safer, more sustainable and more productive.

12. Plaintiff AAI represents the full auto industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Its mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to ensure a healthy and competitive auto industry that supports U.S. economic and national security. The automotive industry is the nation’s largest manufacturing sector, representing approximately 5 percent of the country’s GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual

economic activity.

13. Plaintiff ACA is a nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it, including manufacturers, raw materials suppliers, distributors, and technical professionals. Its members operate throughout the United States, including in New Mexico.

14. Plaintiff AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the United States. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. The home appliance industry is a significant segment of the economy. In all, the industry manufactures products with a factory shipment value of more than \$50 billion and drives nearly \$200 billion in economic output throughout the United States.

15. Plaintiff NAM is the largest manufacturing association in the United States, representing small and large manufacturers in all fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes \$2.96 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation that is vital for our economic ecosystem to thrive. NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

16. Plaintiff NEMA, founded in 1926, represents over 300 electrical equipment manufacturers that make safe, reliable, and efficient products and technologies that power, connect, and light our world. NEMA's member companies manufacture a diverse set of products

focused on end-user markets in the grid, industrial, mobility, and built environment sectors, including a wide array of lighting products, such as controls, ballasts, drivers, lamps, and luminaires. NEMA also sponsors the development of, and publishes, over 700 standards relating to electrical products and their use.

17. Plaintiff NFIB is the nation's leading small business association. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. As part of this mission, NFIB fights against both federal and state policies that increase regulatory barriers and increase the cost of doing business. NFIB represents hundreds of thousands of members across the United States, including in New Mexico. These members span the spectrum of small and independent businesses—from sole proprietorships to firms with dozens or hundreds of employees—across all industries and sectors of the economy. NFIB represents the interests of its members in Washington, D.C., and in all 50 state capitals.

18. Plaintiff NMRA is the statewide trade association representing New Mexico's retail industry. For nearly 50 years, NMRA has served as the voice of retailers before local, state, and federal policymakers and regulatory agencies. NMRA represents retailers of all sizes, ranging from large national chains to small family-owned businesses operating in communities throughout New Mexico. The Association advocates on behalf of its members regarding legislative, regulatory, and legal matters affecting the retail industry, including issues relating to product regulation, consumer goods, supply chains, taxation, labor and employment, and the overall cost of doing business. In addition to traditional retail operations, many NMRA members source, distribute, manufacture, or market products under their own proprietary or private-label brands. Accordingly, NMRA and its members have a substantial interest in regulatory actions that affect the manufacture, distribution, sale, labeling, and availability of consumer products in New Mexico.

19. Organized in 1968, Plaintiff PTI is the leading trade organization in the United States that has members engaged in the manufacture or assembly of electric or battery operated professional or consumer portable and stationary power tools. The purpose of PTI is to promote the common business interests of the power tool industry, to represent the industry before government, to educate the public as to the usefulness and importance of power tools, to encourage high standards of safety and quality control in the manufacture of power tools, and to prepare and distribute information about safe use of power tools. PTI member companies employ over 13,000 people with facilities in 40 states and employees in all 50 states.

20. James C. Kenney is the Secretary of the New Mexico Environment Department. In that capacity, he is authorized to investigate and enforce the Regulation, *see* NMAC § 20.13.2.23, and to assess administrative costs incurred in enforcing the Act, *see* NMSA 1978, § 74-15-7.

21. Raúl Torrez is the Attorney General of New Mexico. In that capacity, Attorney General Torrez is authorized to enforce the Act, including by bringing actions to enforce the Act's civil penalty. *See* NMSA 1978, § 74-15-7.

JURISDICTION

22. Plaintiffs' causes of action arise under 42 U.S.C. § 1983 and the U.S. Constitution. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

23. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2). Defendants, who are state officials acting in their official capacities, reside in this district, and the state action giving rise to Plaintiffs' claims occurred in this district.

24. There is a justiciable case or controversy. Plaintiffs bring this action on behalf of their members, and neither the claims nor the requested relief require the participation of individual members.

25. Plaintiffs fulfill their respective missions in part by representing their members in proceedings before Congress, the courts, and federal and state administrative agencies raising issues of common interest to its members, such as the issues that are the subject of this litigation. The Regulation immediately and directly harms many of each Plaintiff's members, who manufacture or sell products that contain intentionally added PFAS that are sold and distributed in New Mexico. If not enjoined, the Regulation's labeling mandate will imminently cause each Plaintiff's members irreparable harm in the forms of both the loss of constitutional rights and unrecoverable economic harm. A favorable decision will redress these injuries.

FACTUAL BACKGROUND

I. PFAS are a broad category of substances used in many everyday products manufactured and sold by plaintiffs' member companies.

26. PFAS is a catchall term that, depending on the definition used, can encompass more than 14,000 substances with diverse physical, chemical, and toxicological properties.

27. There is no universal definition of a PFAS and thus no consensus about the substances that fall within the category. In general, however, PFAS have certain, unique chemical properties that make them useful in industries worldwide. In particular, PFAS have covalent bonds between carbon and fluorine atoms, which are the strongest single bond in organic chemistry.

28. Because of these properties, PFAS are critical for many industries, including health care, energy systems, transportation, electronics, aerospace and defense, and other infrastructure. In general, no alternative substances provide the same benefits as PFAS.

29. ACC members manufacture and use PFAS, including, but not limited to, fluoropolymers, fluoroelastomers, perfluoropolyethers, fluorinated refrigerants, and fluorinated propellants and blowing agents in a wide variety of products. From enhancing energy efficiency in building construction to ensuring the reliability of electronics, these PFAS play a crucial role in

modern technology and infrastructure.

30. As relevant to AAI's members, PFAS are critical to the functioning of motor vehicles and their parts in many different ways and are found throughout the vehicle. PFAS are used in automotive applications because of their temperature resistance, low flammability, flexibility, resistance to fluids, lightweight nature, and more. A non-exhaustive list of places where PFAS are used in vehicles includes refrigerants for air conditioning systems (some of which are separately regulated and/or incentivized by other government regulations), semiconductors, electric vehicle batteries, fuel lines, on-board diagnostic (OBD) system sensors, emissions reduction seals, wiring, anti-lock braking systems, radar and proximity sensors for blind spot detection and automatic braking, power steering, head gaskets, shock absorber piston seals, and coated weather stripping.

31. Plaintiff ACA's members rely on PFAS to improve the durability, texture, and application of paints and coatings. In particular, PFAS additives improve spreading and leveling to produce smooth, uniform finishes while increasing resistance to UV fading, weathering, corrosion, and everyday wear. PFAS also provide water-, oil- and stain-repellant properties and contribute to even, high-gloss finishes that are easy to clean and maintain over time.

32. PFAS chemicals play a key role in the safety of household appliances sold by AHAM's member companies. PFAS help appliances withstand the extreme conditions of daily use and perform safely for years. PFAS are used in a variety of materials found in appliances including wires and cords, nonstick coating, printed circuit boards, batteries, and hydrofluoroolefins (HFOs), which are climate-friendly alternatives for use as refrigerator insulation foam-blowing agents. Some of these components are deeply embedded within appliances and so do not present a high risk of direct human exposure.

33. Plaintiff NAM's members manufacture, including for sale into New Mexico, PFAS-containing products including transformers used to power electric grids; semiconductors and solar components needed for clean energy transition; aircraft, munitions, fire suppression systems and communication devices required for national security; as well as countless other products like home appliances, furniture, consumer goods, electronics, construction materials, packaging, medical technologies, pharmaceuticals, transportation and heavy industrial equipment.

34. Members of Plaintiff NEMA's Lighting Systems Division manufacture light-emitting diode (LED) lamps and other lighting systems equipment that contain discrete electrical components (*e.g.*, LEDs, resistors, capacitors, transistors, integrated circuits, and inductors) that are often manufactured with PFAS content. Depending on the component, the PFAS content may aid in reliability, heat resistance, longevity, and other performance aspects.

35. Plaintiff NFIB's members include, but are not limited to, carpet cleaners, auto shops, car washes, restaurants, clothing stores, painters, and construction companies. Each of these businesses may use any number of PFAS chemicals during their operation, for routine things like paint formulation, fabric treatment, carpet treatment and upholstery, food packaging, specialty coating, automotive detailing or coating, sealing or lubrication, and more.

36. Plaintiff NMRA's members include grocery stores, convenience stores, pharmacies, hardware stores, home improvement retailers, department stores, clothing retailers, sporting goods stores, agricultural supply stores, specialty retailers, and numerous other businesses engaged in the sale, distribution, and manufacture of consumer products throughout New Mexico. Many of these businesses sell, distribute, import, manufacture, or market products that may contain PFAS compounds or other regulated substances, including food packaging, textiles, outdoor apparel, cosmetics, cleaning products, cookware, electronics, automotive products, and other

consumer goods. Several NMRA members also develop, source, manufacture, or market products under their own proprietary or private-label brands. As a result, regulatory actions affecting PFAS-containing products may directly impact product formulation, manufacturing processes, supply chains, inventory management, compliance obligations, product availability, and the cost of doing business for retailers and manufacturers operating in New Mexico.

37. Plaintiff PTI's members manufacture PFAS-containing products including batteries, chargers, flashlights, band saws, belt sanders, circular saws, drills, jigsaws, nail guns, screw guns, screwdrivers, powered staplers, table saws, chain saws, and various other hand-held power tools. PFAS is needed to make lithium-ion batteries, which are required for all cordless power tools.

38. Within the umbrella category of PFAS are different substances that differ substantially in physical and chemical properties. Those physical and chemical differences among PFAS have implications for the human health and environmental risks posed—or not—by the different substances.

39. Government entities have cautioned against regulating all PFAS as a singular, sweeping category. For example, the Organisation for Economic Co-operation and Development (“OECD”) notes that “PFAS” is a “broad, general, non-specific term, which does not inform whether a compound is harmful or not,” and it therefore cautions against using the broad category to guide “regulatory and voluntary actions.” OECD, *Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance* 8 (2021), <https://tinyurl.com/33y86et2>. The U.S. Department of Defense has urged Congress and federal agencies to “avoid taking a broad, purely ‘structural’ approach to restricting or banning

PFAS.” U.S. Dep’t of Defense, *Report on Critical Per- and Polyfluoroalkyl Substance Uses* 16 (Aug. 2023), <https://tinyurl.com/5d2z8rrp>.

40. Fluoropolymers are a subcategory of PFAS that includes materials such as PTFE. Fluoropolymers are large, stable, and not water soluble. They are non-toxic, are not bioavailable (*i.e.*, they are not absorbed into an organism, such an animal or plant), and are not bioaccumulative (*i.e.*, they do not accumulate in an organism over time). Fluoropolymers like PTFE are used in a wide range of consumer products, such as non-stick cookware, razor blades, electronics, appliances, and others. In addition, PTFE regularly has been used in medical devices installed into humans, such as cardiovascular stents and pacemakers, since the 1950s. *See, e.g.*, U.S. Food and Drug Administration (“FDA”), *PFAS in Medical Devices* (Aug. 6, 2025), <https://tinyurl.com/2s4z3xrs>.

41. Other types of PFAS are used in the manufacture of fluoropolymers, and fluoropolymers may break down into other substances at extremely high temperatures. But modern emissions controls at factories are capable of preventing all or most PFAS used in the manufacture of fluoropolymers from escaping into the environment, and modern incinerators will eliminate essentially all PFAS in fluoropolymers (99.9999%) during product disposal. For these reasons, many experts consider fluoropolymers to be of low concern for human health and the environment.

42. The United States government has acknowledged the safety of fluoropolymers. For example, FDA has recognized that “fluoropolymers are typically comprised of molecules that are too large to cross through cell membranes and, as a result, are very unlikely to cause toxicity to patients.” FDA, *supra*. The U.S. Environmental Protection Agency (“EPA”) has similarly recognized that fluoropolymers are “believed to pose less risk to human and ecological health

relative to nonpolymer PFAS.” EPA, *Multi-Industry Per- and Polyfluoroalkyl Substances (PFAS) Study - 2021 Preliminary Report 3* (2021), <https://perma.cc/7XXT-9V4E>.

43. In addition, many products contain PFAS substances that are entirely enclosed or sequestered within the product, such that the consumer is not exposed to the PFAS. Products that contain PFAS substances that are entirely enclosed within the product pose no risk to human health or the environment through their use, and modern emission controls and incineration methods reduce or eliminate environmental risk from their manufacture and disposal.

II. New Mexico Enacts a Sweeping Labeling Regulation for all PFAS.

A. The New Mexico legislature adopts phased-in bans for certain PFAS, but exempts other PFAS such as fluoropolymers.

44. In 2025, the New Mexico legislature adopted the “PFAS Act,” codified at NMSA 1978, § 74-15-3.

45. The core feature of the PFAS Act is a phased prohibition on the sale and distribution of products containing certain types of PFAS. It bans certain products beginning in January 2027 (including cookware, food packaging, dental floss, juvenile products, and firefighting foam), and additional products beginning in January 2028 (such as carpets and rugs, cleaning products, cosmetics, textiles, and ski wax). *Id.* § 74-15-3(B)–(C). By January 1, 2032, the PFAS Act imposes a near-total prohibition on all products containing certain intentionally added PFAS. *Id.* § 74-15-3(D). This ban extends to any sale or distribution of such products in New Mexico, including “indirectly or through intermediaries.” *Id.* § 74-15-3(B)–(D).

46. The PFAS Act’s phased ban contains exemptions that recognize the diversity of PFAS. For example, the PFAS Act explicitly exempts products that contain fluoropolymers from the ban. *Id.* § 74-15-3(A)(16). It also exempts any products designated by regulators as a “currently unavoidable use”—meaning the use of PFAS in the product is “essential for health,

safety, or the functioning of society” and “alternatives are not reasonably available.” *Id.* §§ 74-15-2(H), 74-15-3(A)(15).

47. The PFAS Act grants rulemaking authority to the EIB to implement the statute. As particularly relevant here, the PFAS Act authorizes, but does not require, the EIB to adopt rules “requiring the labeling of products in English and Spanish.” *Id.* § 74-15-4(B).

48. The PFAS Act also imposes reporting obligations on manufacturers beginning in 2027, and it authorizes testing and enforcement mechanisms, including civil penalties (\$15,000 for each day a violation occurs, and \$25,000 for each day of noncompliance with a compliance order). *Id.* §§ 74-15-5–7.

B. The EIB adopts a labeling rule for all PFAS.

i. NMED proposes an initial labeling regulation.

49. The EIB promulgates rules through an adversarial public hearing between interested parties, including NMED. *See* NMSA 1978, § 74-1-9(A)–(B). Invoking those procedures, in October 2025 NMED petitioned the EIB to adopt a proposed rule implementing the PFAS Act. *See* Proposed New Rule NMAC § 20.13.2, Ex. B to *Petition for Regulatory Change to Adopt 20.13.2 NMAC and Request for Hearing*, NMED EIB Docket 25-61(R) (Oct. 8, 2025), <https://perma.cc/8BER-RRJ5> (“Initially Proposed Rule”).

50. The Initially Proposed Rule required manufacturers to label any product containing any type of intentionally added PFAS. *See id.* § 20.13.2.13(C)(1). The Initially Proposed Rule exempted only used products from the labeling mandate, and it included separate requirements for complex durable goods. *Id.* § 20.13.2.13(B), (D).

51. The Initially Proposed Rule mandated distinct labeling requirements for products and product packaging. For products, the required label consisted of “words and symbols approved by the [NMED] that the product contains intentionally added per- and poly-fluoroalkyl

substances in both English and Spanish.” *Id.* § 20.13.2.13(C)(1). The rule required that the label be affixed directly onto the product as well as on the product’s packaging. *Id.* § 20.13.2.13(C)(2)–(3).

52. Separately, the Initially Proposed Rule required that the consumer packaging of any products containing PFAS also bear a label. In particular, it required that a label be affixed to the packaging for any products sold in packaging that would “obscure[]” the label on the product. *Id.* § 20.13.2.13(C)(3). The Initially Proposed Rule also required that the label include a website or QR code linking to an NMED website that, in turn provided “information about per- and poly-fluoroalkyl substances in products.” *Id.*

53. As of this filing, the NMED website states that PFAS “are often called ‘forever chemicals,’” asserts that “[s]ome PFAS are associated with health effects such as cancer, reproductive damage, increased cholesterol, and other problems,” and advises that “[b]ecause PFAS can build up in the body, even small, repeated exposures over time can matter.” NMED, *PFAS in New Mexico* (last visited July 1, 2026), <https://www.env.nm.gov/pfas/>.

ii. Industry groups submit comments objecting to the proposed rule, prompting an amendment introducing the pictographic warning.

54. Industry groups, including some of the Plaintiffs here, submitted comments in response to NMED’s Initially Proposed Rule. These industry groups explained that “PFAS” includes a wide variety of commonly used substances with different chemical and physical properties, some of which do not pose risks to human health or the environment. These commentators objected that imposing a labeling mandate for *all* types of PFAS would not only create costly and complex challenges for manufacturers, but would force manufacturers to print product labels falsely indicating that all PFAS are dangerous to human health and the environment.

55. NMED issued revisions to the Initially Proposed Rule, including a “Rebuttal Rule” issued in February 2026 purportedly to address industry concerns regarding the broad scope of the labeling mandate. *See Rebuttal Proposed New Rule*, § 20.13.2.13(C)(1), NMED EIB Docket 25-61(R) (Feb. 16, 2026), <https://perma.cc/6UY6-EYLB>.

56. The Rebuttal Rule made three primary changes to the Initially Proposed Rule’s labeling mandate. First, the Rebuttal Rule revised the label required for products, newly requiring “a symbol” that “shall be an outline of an Erlenmeyer flask with the word ‘PFAS’ inside the flask.” Rebuttal Rule § 20.13.2.13(C)(1). In addition, the Rebuttal Rule allowed the inclusion of “the following words directly adjacent to the flask: ‘This product is made with PFAS,’ ‘Made with PFAS’ or ‘Contains PFAS.’” *Id.*

57. Second, the Rebuttal Rule changed the label required for product packaging. It eliminated the website or QR code link and instead required that the packaging bear the same flask label as the products themselves. *Id.* § 20.13.2.13(C)(3).

58. Third, the Rebuttal Rule added a handful of narrow exemptions to the labeling mandate, none of which are relevant to this litigation. *Id.* § 20.13.2.13(B).

59. In their testimony in support of the Rebuttal Rule, NMED witnesses claimed to have “heard concerns from interested parties” by removing from the required label “language concerning health or environmental effects of PFAS” and “any language that communicates a hazard.” The change, NMED witnesses asserted, eliminated the argument that “requiring all PFAS-containing products to include a label suggesting that they pose such risks is inaccurate, or at the very least the subject of ongoing scientific research and debate.”

60. NMED witnesses provided no explanation for adding the flask symbol or what it was meant to convey to consumers.

61. Another comment period followed, in which Plaintiffs and other industry groups explained that the Rebuttal Rule’s changes did not address their concerns about New Mexico’s “one-size-fits-all” approach to PFAS. Commentators explained that adopting the proposed labeling requirement—which was without precedent anywhere else in the country—would be highly burdensome and also misleading, because the label failed to distinguish between PFAS based on hazard and exposure potential. And some groups cautioned against the Erlenmeyer flask symbol in particular, noting that pictographic images provide little meaningful context and would likely mislead consumers.

iii. The EIB holds a hearing in which NMED concedes the lack of scientific consensus on the risks associated with all PFAS.

62. Following the comment period, the EIB held a public evidentiary hearing involving witnesses from NMED and other interested parties, including some of the Plaintiffs.

63. At the hearing, industry groups presented evidence regarding the scientific community’s lack of a consensus view as to what materials constitute “PFAS,” given the significant difference between large, insoluble fluoropolymers like PTFE and small, water soluble molecules. Industry groups also presented evidence about the wide body of scientific literature supporting the conclusion that some PFAS, including fluoropolymers and PFAS sequestered within products, pose little to no risk to human health or the environment.

64. NMED witnesses agreed that “the vast majority of PFAS have not been studied at all,” and that the study of PFAS “continue[s] to evolve as additional data becomes available.” NMED witnesses effectively conceded that fluoropolymers like PTFEs do not themselves pose a danger to consumers, and contended instead that fluoropolymers may pose an environmental risk during their manufacture or incineration. NMED witnesses also recognized that the FDA has concluded that there is “no reason that the continued use of PFAS in medical devices should be

discontinued” given the lack of “any conclusive evidence of patient health issues associated with fluoropolymers.” And NMED witnesses admitted that “[i]f there is zero exposure” to PFAS from a product then “there is zero risk.”

65. Nevertheless, NMED witnesses insisted that the labeling mandate was necessary for products containing any kind of PFAS, even widely used fluoropolymers.

66. NMED witnesses also insisted that the labeling mandate was not a “warning label,” but rather only a neutral “statement of fact.” They suggested that the label merely informs consumers that the labeled product contains “a chemical that goes by the acronym or initials ‘PFAS,’” and encourages them to learn more about PFAS.

67. Other statements by NMED witnesses, however, showed NMED’s intent and expectation that the label would discourage the use of any products containing any intentionally added PFAS. For example, NMED witnesses repeatedly emphasized that the Regulation was intended to “turn off the spigot of PFAS in New Mexico.”

68. Witnesses for NMED admitted during the hearing that NMED did not consider the potential burdens on manufacturers from the labeling mandate or alternatives to a labeling mandate. The NMED Secretary could not identify “the cost to implement the Labeling portion” of the rule. When NMED’s labeling expert was asked whether there were “other mechanisms through which the State could provide information about the contents of PFAS products,” she responded, “I don’t really feel like I can speak to other methods of communication.”

iv. The EIB adopts a labeling mandate that does not address industry groups’ concerns about overgeneralizing PFAS.

69. Following the hearing and a final comment period, the EIB voted to approve the Regulation, which reflected NMED’s Rebuttal Rule with minor, irrelevant changes. The EIB

explained that it had explicitly considered and determined that “PFAS should be regulated as a class.” On May 5, 2026, the EIB published the Regulation in the New Mexico Register.

70. As finalized, the Regulation provides that the Erlenmeyer flask warning label must in all instances be affixed to the product itself, not just the product packaging, and “also” to the packaging in some instances. NMAC § 20.13.2.13(C)(2)–(3), (5). In particular, the label must be “printed, mounted, molded, engraved, embossed, or otherwise affixed to the product.” *Id.* § 20.13.2.13(C)(2). And “[i]f the product is sold in consumer packaging that obscures the label on the product,” the product packaging must also be labeled. *Id.* § 20.13.2.13(C)(3).

71. The Regulation also imposes sizing specifications. The label must be “clearly visible and legible prior to sale” and “displayed with such conspicuousness as compared with other words, statements, design or devices on the product as to render the label likely to be seen, read, and understood by an ordinary individual under customer conditions of purchase or use.” *Id.* § 20.13.2.13(C)(1). The label’s text must “be no smaller than the largest font used for other consumer information on the product.” *Id.*

72. The Regulation also requires further labeling when products are sold under circumstances in which the consumer cannot see the product or packaging at the time of sale, such as when products are sold online. *See id.* § 20.13.2.13(C)(4). In those circumstances, the manufacturer—or the retailer, if the manufacturer itself is not the seller—must “clearly” present the warning label to the consumer at the time of purchase by, for example, including the label on the website. *Id.*

73. The Regulation also includes a labeling requirement for complex durable goods. Manufacturers of those goods must include a label in the consumer-facing product specification sheet available to potential consumers prior to purchase, and the consumer-facing operation and

maintenance manual associated with the complex durable good. *Id.* § 20.13.2.13(D). Like the requirements for products and product packaging, the label for complex durable goods is “an outline of an Erlenmeyer flask with the word ‘PFAS’ inside the flask.” *Id.* § 20.13.2.13(D)(1).

74. The Regulation requires compliance by January 1, 2027. Any covered PFAS product manufactured for sale or distribution without the prescribed labeling is unlawful, and will be subject to civil penalties of \$15,000 for each day a violation occurs and \$25,000 for each day of noncompliance with a compliance order. NMSA 1978, § 74-15-7.

III. The Regulation will injure Plaintiffs’ members and substantially burden interstate commerce.

75. For Plaintiffs’ member companies, it will be extraordinarily expensive, disruptive and time-consuming to comply with the Regulation’s labeling mandate. Modern product manufacturers use highly automated systems which move products smoothly and automatically through each step of the manufacturing process and often directly into packaging and off for shipment. For a consumer product that was *itself* not previously labeled—for which all labeling was provided on the associated packaging—the new labeling mandate will require manufacturing lines to be completely reworked to add a new labeling step. For products that were previously labeled, the mandate will still require manufacturers to rework molds, machine dies, and etching machinery to add the new pictographic warning to the existing labeling. For products on which the pictographic warning does not easily fit, the product itself may need to be altered in dimension or layout to accommodate the label. And where permanent solutions to all this cannot be achieved by January 1, 2027, manufacturers will need to quickly implement disruptive, temporary solutions that may themselves be costly. Many of these problems are then repeated for those manufacturers who must also include the mandated warning on their packaging.

76. The burden the Regulation imposes on manufacturers is compounded by the fact that many manufacturers operate with national and international supply chains. A manufacturer may make products not knowing whether it will be shipped to Santa Fe, New Mexico; Rancho Santa Fe, California; or the Sante Fe business district in Mexico City, Mexico. For such manufacturers, the only way to avoid the costly fines imposed under the Regulation is to label *all* their products in compliance with the Regulation.

77. Even beyond the cost of the coming into compliance, the Regulation is certain to impose ongoing losses on Plaintiffs' member companies. The pictographic warning is clearly designed to trigger an emotional reaction in consumers and customers with the intent of causing them not to purchase the labeled products. Hence, the Regulation requires Plaintiffs' member companies to include a message that actively turns consumers and customers against those companies' own products, and potentially toward their competitors' products.

78. Relatedly, the Regulation's requirement that the Erlenmeyer flask label be included on websites imposes its own set of burdens. Most manufacturers and retailers maintain a single, unified product-detail page for items. Thus, for example, retailers generally display California's Proposition 65 warnings nationwide, rather than only to consumers in California. Complying with the Regulation's online labeling mandate would therefore require displaying the Erlenmeyer flask label to any consumer nationwide who views a covered product, not just consumers in New Mexico.

79. Further, the Regulation's requirement to include the mandated labeling on manuals and specification sheets for complex goods is an arduous process that, in many cases, requires navigating a host of other legal requirements for physical materials. For example, materials like vehicle owner's manuals are governed by other state and federal requirements and manufacturers

may not be able to quickly alter and re-distribute manuals to consumers without incurring significant expense and needing sufficient lead time.

80. These burdens, in turn, extend beyond individual manufacturers to burden the entire interstate market on the vast array of products. Manufacturing costs will rise, which will cause prices to rise. And the substantial disruptions caused by a New Mexico-specific labeling regime—potentially to be followed by any number of additional States, as each adopts its own unique disclosure requirements—will create enormous inefficiencies in manufacturing consumer goods.

LEGAL BACKGROUND

I. The First Amendment Limits Government-Compelled Commercial Speech.

81. Under the First Amendment, “[c]ontent based laws—those that target speech based on its communicative content—are presumptively unconstitutional.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). This rule applies to commercial speech: “The commercial marketplace, like other spheres of our social and cultural life, provides a forum where ideas and information flourish,” and “[t]he State may not burden the speech of others in order to tilt public debate in a preferred direction.” *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 578-79 (2011).

82. The First Amendment “includes both the right to speak freely and the right to refrain from speaking at all.” *Wooley v. Maynard*, 430 U.S. 705, 714 (1977). Laws that compel speakers to communicate a government-mandated message are inherently content-based. “By compelling individuals to speak a particular message, such notices alter the content of their speech.” *Nat’l Inst. of Fam. & Life Advocs. v. Becerra* (“*NIFLA*”), 585 U.S. 755, 766 (2018) (citation modified).

83. The Supreme Court has recognized a limited exception for laws that compel commercial speech, but only when the mandated disclosure is limited to “purely factual and uncontroversial information about the terms under which ... services will be available.” *Zauderer*,

471 U.S. at 651. If a law satisfies those conditions, there is no First Amendment violation, provided the compelled disclosures are not “unjustified or unduly burdensome.” *Id.* By contrast, if the mandated commercial speech falls outside the *Zauderer* exception, then it is subject to heightened scrutiny.

84. Courts have reached different conclusions on whether government speech mandates relating to commercial speech are subject to strict scrutiny or intermediate scrutiny. A law survives strict scrutiny only “if the government proves that [it is] narrowly tailored to serve compelling state interests.” *NIFLA*, 585 U.S. at 766 (citation omitted). Under the intermediate scrutiny test in *Central Hudson Gas & Electric Corp. v. Public Service Commission of N.Y.*, 447 U.S. 557, 566 (1980), the government must show that the regulation “directly advances” a “substantial” government interest and “is not more extensive than is necessary to serve that interest.”

85. For the State to rely on *Zauderer*, it must show compelled disclosures are “purely factual and uncontroversial,” and relate to “the terms under which” services are provided. 471 U.S. at 651.

86. It is necessary but not sufficient that a compelled disclosure be “factually accurate,” since “a statement may be literally true but nonetheless misleading.” *Nat’l Ass’n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1276 (9th Cir. 2023) (quotation marks omitted). In evaluating the disclosure, courts do not merely review statements in isolation, but rather “consider whether the totality of the disclosure is misleading.” *Ass’n of Home Appliance Mfrs. v. Weiser*, 2025 WL 4642378, at *6 (D. Colo. Dec. 19, 2025).

87. Information is “uncontroversial” only if “the truth of the statement is not subject to good-faith scientific or evidentiary dispute and where the statement is not an integral part of a live,

contentious political or moral debate.” *Id.* (quoting *Free Speech Coal., Inc. v. Paxton*, 95 F.4th 263, 281-82 (5th Cir. 2024)). By contrast, “controversy” exists where an “objective evaluation” demonstrates that there is “robust disagreement by reputable scientific sources.” *Wheat Growers*, 85 F.4th at 1277 (quoting *Cal. Chamber of Com. v. Council for Educ. & Rsch. on Toxics*, 29 F.4th 468, 478 (9th Cir. 2022)). If there is no “strong scientific consensus” to back a warning label, the speech required by the label is “controversial.” *Id.* at 1278.

II. The Dormant Commerce Clause Limits Extraterritorial Regulation and Regulation that Substantially Burdens Interstate Commerce.

88. The Framers of the Constitution held “the conviction that in order to succeed, the new Union would have to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation.” *Hughes v. Oklahoma*, 441 U.S. 322, 325 (1979). Thus, “to create an area of free trade among the several States,” *McLeod v. J. E. Dilworth Co.*, 322 U.S. 327, 330 (1944), the Framers gave Congress the “Power ... [t]o regulate Commerce ... among the several States,” U.S. Const. art. I, § 8, cl. 3.

89. This clause was meant to strike a balance between the “maintenance of a national economic union unfettered by state-imposed limitations on interstate commerce and ... the autonomy of the individual States within their respective spheres.” *Healy v. Beer Inst., Inc.*, 491 U.S. 324, 335-36 (1989) (footnote omitted). Consistent with that design, the Supreme Court has “long interpreted the Commerce Clause as an implicit restraint on state authority, even in the absence of a conflicting federal statute.” *United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 338 (2007).

90. Although “[n]ot every exercise of state power with some impact on interstate commerce is invalid,” the law is clear that “direct regulation is prohibited.” *Edgar v. MITE Corp.*,

457 U.S. 624, 640, 642 (1982) (plurality opinion) (Commerce Clause “precludes the application of a state statute to commerce that takes place wholly outside of the State’s borders”) (emphasis added). This rule follows from the “inherent limits [on] the State’s power”: “any attempt ‘directly’ to assert extraterritorial jurisdiction over persons or property would offend sister States” and therefore “must be held invalid.” *Id.* at 643 (plurality opinion) (citation omitted); *Legato Vapors LLC v. Cook*, 847 F.3d 825, 829, 831 (7th Cir. 2017) (“With almost two hundred years of precedents to consider, our review of prior dormant Commerce Clause decisions has not revealed a single appellate case permitting any direct regulation of out-of-state [commerce]”).

91. Although the Supreme Court recently clarified that the Commerce Clause does not impose a per se barrier to state laws that have indirect extraterritorial *effects*, the Court made clear that it was not disturbing the Commerce Clause’s prohibition of state laws that “*directly* regulate[] out-of-state transactions.” *Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 376 n.1 (2023); *Ass’n for Accessible Meds. v. Ellison*, 140 F.4th 957, 960 (8th Cir. 2025) (applying *Pork Producers* and striking down law that “has the specific impermissible extraterritorial effect of controlling prices outside of Minnesota”).

92. Separate from its prohibition on state laws that “*directly* regulate[] out-of-state transactions,” *Ross*, 598 U.S. at 376 n.1, the Commerce Clause restricts States from enacting laws that impose undue burdens on interstate commerce. A state law violates the dormant Commerce Clause if it imposes “burdens on interstate commerce” that “exceed any local benefits conferred by the” law. *Am. C.L. Union v. Johnson*, 194 F.3d 1149, 1161 (10th Cir. 1999). Even laws that do not explicitly discriminate against interstate commerce may do so “indirectl[ly]” by imposing excessive burdens on interstate commerce. *Id.*

93. In assessing whether a state law’s burden is “clearly excessive in relation to the

putative local benefits,” *Pike*, 397 U.S. at 142, courts are not limited to “considering the consequences of the” law itself, but must also consider how the challenged law “may interact with the legitimate regulatory regimes of the other States and what effect would arise if not one, but many or every, jurisdiction adopted similar legislation,” *C & A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383, 406 (1994) (O’Connor, J., concurring in the judgment) (alterations and citation omitted); *see also U & I Sanitation v. City of Columbus*, 205 F.3d 1063, 1069 (8th Cir. 2000). The availability of a less burdensome alternative is relevant to whether the law’s burdens on interstate commerce are excessive. *See Pike*, 397 U.S. at 142 (“[T]he extent of the burden that will be tolerated will of course depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities.”).

CLAIMS FOR RELIEF

COUNT ONE

(Declaratory/Injunctive Relief – Unconstitutionality of the Regulation under the First Amendment’s Prohibition on Compelled Speech)

94. Plaintiffs re-allege and incorporate herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth in this paragraph.

95. The government may compel a commercial disclosure only if that disclosure is limited to “purely factual and uncontroversial information about the terms under which . . . services will be available,” and not unjustified or unduly burdensome. *Zauderer*, 471 U.S. at 651. Otherwise, any compelled disclosure is subject to heightened scrutiny.

96. The Regulation’s labeling mandate, which requires products containing any amount of any kind of PFAS to include a pictographic warning consisting of an Erlenmeyer flask image labeled “PFAS,” fails the *Zauderer* test.

97. The labeling mandate does not communicate a “purely factual” message. The labeling mandate is not intended to communicate that Erlenmeyer flasks were used in the manufacture of the product, which would be untrue for commercial-scale manufacturing. And New Mexico does not require an Erlenmeyer flask label for any other chemical substance. The mandated pictograph is plainly designed to trigger an emotional response that labeled products contain a dangerous chemical. Yet New Mexico cannot show that “PFAS” pose risks with respect to all types of PFAS in all products containing PFAS—for example, products containing only fluoropolymers, or products in which only internal components contain PFAS.

98. The implicit message that PFAS are harmful communicated by the labeling mandate is not “uncontroversial.” NMED has acknowledged that many PFAS have not even been studied by scientists. Available evidence shows that, for example, fluoropolymers such as PTFE do not pose a risk to human health or the environment. There likewise is no demonstrated risk from products in which PFAS is found only in internal components with no exposure to consumers. At a minimum, there is undisputably a legitimate scientific debate over these issues, meaning New Mexico cannot force Plaintiffs’ member companies to carry the government’s preferred message. There also is a legitimate debate as to the extent to which PFAS enter the environment during manufacture and disposal.

99. The labeling mandate does not relate to the terms under which manufacturers of products containing PFAS provide their services. For example, with respect to fluoropolymers and PFAS sequestered within products, NMED has conceded that the materials do not pose a risk to consumers under ordinary use conditions, but speculated that other PFAS may enter the environment during the materials’ manufacture and disposal. That question is the subject of legitimate debate and so not “uncontroversial,” but in any event upstream and downstream issues

pertaining to manufacture and disposal do not concern the transaction to which the consumer is a party.

100. The labeling mandate is unduly burdensome. It imposes staggering implementation costs and commercial ramifications on Plaintiffs' member companies.

101. New Mexico cannot show that the labeling mandate survives strict or intermediate scrutiny because it is not narrowly tailored to serve any compelling or substantial state interest. Defendants cannot identify a compelling or substantial interest in requiring *all* products containing *any* type of PFAS to have labeling with the Erlenmeyer flask symbol. There are many less restrictive alternatives to serve the government's interests, such as NMED communicating its concerns about PFAS on its website, using public service announcements, or on social media. Only three other States require any degree of PFAS-related labeling, and those States' laws do not require a pictographic warning or apply to more than a handful of consumer products.

102. Accordingly, the labeling mandate violates the First Amendment.

COUNT TWO

(Declaratory/Injunctive Relief – Unconstitutionality of the Regulation under the Commerce Clause's Prohibition on State Laws that Regulate Extraterritorially)

103. Plaintiffs re-allege and incorporate herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth in this paragraph.

104. Laws that "directly regulate transactions which take place wholly outside the State" may violate the dormant Commerce Clause. *Ross*, 598 U.S. at 376 n.1 (citation, emphasis, and brackets omitted).

105. The Regulation dictates standards for conduct that takes place entirely outside of New Mexico.

106. It specifies that “a manufacturer may not manufacture for sale or distribution a product containing intentionally added [PFAS] unless the manufacturer” follows the labeling mandates imposed by New Mexico. NMAC § 20.13.2.13(A). But as NMED’s witnesses during the EIB hearing recognized, no products containing intentionally added PFAS are manufactured within New Mexico. And the labeling mandate applies regardless of whether the manufacturer itself engages in any commerce in New Mexico, such as if the manufacturer sells its product to third-party wholesalers or distributors outside of New Mexico which then make the independent decision to sell products into New Mexico. *See id.* § 20.13.2.2 (specifying that the Regulation extends to manufacturers that sell or distribute a product in New Mexico “indirectly or through intermediaries”).

107. The application of the labeling mandate to these transactions violates the Commerce Clause because direct regulation of interstate commerce is invalid under the Commerce Clause.

COUNT THREE

(Declaratory/Injunctive Relief – Unconstitutionality of the Regulation under the Commerce Clause for Unduly Burdening Interstate Commerce)

108. Plaintiffs re-allege and incorporate herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth in this paragraph.

109. A state law violates the dormant Commerce Clause if it imposes a substantial burden on interstate commerce that is “clearly excessive in relation to [any] putative local benefits.” *Pike*, 397 U.S. at 142.

110. The labeling mandate will impose a substantial burden on interstate commerce, requiring that the manufacturer of any product that contains any kind of PFAS to add New Mexico–specific disclosures to both products and product packaging, and to websites. Those burdens will

fall overwhelmingly on interstate commerce, including because no PFAS-containing products are manufactured in New Mexico.

111. Those cumulative effects on interstate commerce far outweigh any interest New Mexico may have in regulating the labels of products manufactured outside of New Mexico, including as to products sold by manufacturers outside New Mexico and later resold in New Mexico by third parties.

112. NMED witnesses acknowledged that products containing any fluoropolymers, or sequestered PFAS, may not pose any direct risk to New Mexico consumers. They justified application of the labeling mandate by reference to the release of PFAS during product manufacture or incineration. Even setting aside that those upstream and downstream impacts are hypothetical, they may not even be felt in New Mexico.

113. There are alternatives to the labeling mandate that would have “a lesser impact on interstate activities,” *Pike*, 397 U.S. at 142, such as carving out fluoropolymers and sequestered PFAS, eliminating the Erlenmeyer flask pictograph, or adopting requirements consistent with the less burdensome labeling obligations established by other jurisdictions.

114. Accordingly, the labeling mandate violates the dormant Commerce Clause because it imposes a substantial burden on interstate commerce that is clearly excessive in relation to any putative local benefits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and grant the following relief:

A. Issue a declaratory judgment that the Regulation’s labeling mandate violates the First Amendment and the dormant Commerce Clause;

B. Issue preliminary and permanent injunctive relief enjoining Defendants from enforcing the Regulation's labeling mandate against Plaintiffs and their members;

C. Award reasonable attorney's fees, costs, and expenses in accordance with law, including under 42 U.S.C. § 1988; and

D. Grant all other and further relief as the Court may deem just and proper.

Dated: July 1, 2026

Respectfully submitted,

/s/ John C. Anderson

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

American Chemistry Council, et al.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

(see attachment for counsel)

DEFENDANTS

N.M. Environment Department, Secretary James C. Kenney; N.M. Department of Justice, Attorney General Raúl Torrez

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): First Amendment and Dormant Commerce Clause of the U.S. Constitution. Brief description of cause: Compelled speech, extraterritorial regulation of commerce, and unduly burdening interstate commerce

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE July 1, 2026 SIGNATURE OF ATTORNEY OF RECORD /s/ John C. Anderson

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Addendum to Civil Cover Sheet

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