

Outdoor Power Equipment Institute

Submitted via e-mail: james.kenney@env.nm.gov

September 17, 2026

Mr. James Kenney
Cabinet Secretary
New Mexico Environment Department (NMED)
Harold Runnels Building
1190 St. Francis Dr.
Suite N4050
Santa Fe, NM 87505

Re: OPEI comments on NM House Joint Memorial 3 (HJM 3)

Dear Secretary Kenney,

The Outdoor Power Equipment Institute (“OPEI”)¹ appreciates the opportunity to provide these comments on behalf of our member companies, to assist with NMED’s required report to the legislature evaluating the current exemptions in the PFAS Protection Act (HB 212). OPEI is a member of the Complex Products Manufacturers Coalition (“CPMC”) which has also submitted comments on this matter.

OPEI supports the comments filed by the CPMC. OPEI also requests the continuation of the current exemptions included in statute, as well as expansion/revision of such exemptions as set forth below.

1. Overview of the outdoor power equipment (“OPE”) industry

OPEI represents 110 member manufacturers and their suppliers of outdoor power equipment. Our members manufacture and ship approximately 40 million complex durable good products each year in the U.S., including hundreds of different product lines, and thousands of models. OPE is used in both residential (consumer) and commercial applications, including lawn and garden, construction, agriculture, forestry and tree care, and utility. OPE is powered by gasoline-, diesel-, and propane-powered engines, battery and AC (electric) powered motors, and other sources.

OPE includes the following significant assembled and component product categories:

- Power applications including non-road gasoline and diesel-powered engines, electric motors, batteries, battery packs, and recharge equipment;

¹ The Outdoor Power Equipment Institute (OPEI) is an international trade association representing more than 100 manufacturers and their suppliers of gas and electric-powered outdoor power equipment (OPE), golf cars, and personal transport and utility vehicles. OPEI member products are ubiquitous in U.S. households and businesses, including equipment such as lawnmowers, garden tractors, grass trimmers, chain saws, snow throwers, generators, utility vehicles and other similarly powered lawn and garden and vehicle applications. The industry currently contributes approximately \$16 billion to U.S. GDP, domestically ships over 40 million products each year, estimates as many 250 million legacy products in service across the U.S., and sells these products through a diverse network of retail channels.



- Non-road mobile machinery²;
- Consumer and commercial lawn & garden equipment and outdoor power equipment (e.g., lawnmowers, garden tractors, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers, cut-off machines, drills, pressure washers);
- Utility terrain vehicles / all-terrain vehicles / side-by-sides;
- Golf cars, and;
- Attachments and implements associated with the above equipment (i.e., mower decks, snow throwers, sprayers).

OPEI member products are broadly used by consumers and businesses across the state of New Mexico, for everyday residential and commercial purposes. In many applications, outdoor power equipment provides essential value and services for societal health and safety. Significant application sectors include:

Lawn and Garden:

Lawn mowers and other wheeled (ground-supported) turf care equipment, handheld products (e.g., trimmers, blowers) and other various forms of outdoor power equipment are essential for safe and healthy managed landscapes, whether it be the backyard or public spaces (e.g., parks, sports fields, commercial properties).

Also included in this broader residential sector, essential for health and safety, are generators for home power in the cases of undue outages, including natural disasters, and pressure washers for general home cleaning and maintenance.

Construction:

The construction sector involves building, repairing, and maintaining infrastructure, including housing, commercial real estate, and public infrastructure. Common OPE uses in these sectors, essential to commercial work, are generators, cut-off saws, and utility vehicles.

Agriculture:

The agricultural sector includes the cultivating of crops and the raising of livestock. Virtually all products manufactured by OPE members can be essential to commercial and residential farm operations, but examples include lawnmowers and turf care equipment, forestry and tree care OPE including chain saws, log splitters, and chipper shredders, utility vehicles, and generators.

Forestry/Tree Care:

The forestry and tree care sector includes commercial and residential applications, to manage forests and woodlands, and the backyard. Common OPE utilized in this sector includes chain saws, pole saws, log splitters, chipper shredders, generators, and utility vehicles.

Utility/Public Safety:

The utility sector includes the maintenance of public infrastructure, both in urban and rural settings, including operations for electric power, natural gas, water supply, and sewage among others. OPE utilized

² Any mobile machine, item of transportable industrial equipment, or vehicle with or without bodywork or wheels which: 1) is not intended for carrying passengers or goods on the road, 2) includes machinery installed on the chassis of vehicles intended for the transport of passengers or goods on the roads, 3) installed with a combustion engine – either an internal spark ignition (SI) engine, or a compression ignition diesel engine.

in this sector can include lawnmowers and other various forms of OPE for landscape management in public spaces and on public roadways, and various other maintenance, repair, safety related tasks. Also included here are public safety entities and emergency responders who rely on OPE.

2. OPE industry supply chain overview and issues

OPEI members design and manufacture a diverse range of assembled whole-good and component products, ensuring their safety and performance in diverse operating environments, which in some cases can be demanding and severe. OPEI members also rely on extensive supply chains which in some cases can be 20 layers deep and include suppliers manufacturing both domestically and abroad. OPE products can also have 10,000 or more unique parts per product, many of which may rely on PFAS for critical functions and characteristics, most notably safety and performance.

3. OPE performance requirements

Some OPE products can expect prolonged service lives exceeding 10 years, which further increase the need for robust design considerations. To meet these requirements, OPE components may rely on PFAS in cases when they are the only known materials with the technical characteristics to provide the necessary safety functions while withstanding, particularly over extended lifetimes, the following types of physical impacts.

- Pressure up to 500 bar.
- Temperatures as high as 1500°F and cyclical temperatures of -70 to +450°F.
- A high degree of mechanical wear and shear forces.
- Electrical and flammability resistance.
- Vibration up to 45.0mm/s causing alternating stress between joint components.
- Chemical resistance to substances such as fuel, hydraulic fluid, coolant with additives like 2-ethyl hexanoic acid, and carboxylic acids, exhaust gas fumes (highly acidic) and engine oil (highly alkaline).
- Long-term durability (10 years or more) against factors such as ultra-violet (UV) light, mechanical damage, dusty, humid, wet, muddy, damp environments, and exposure to salt spray.
- Lightweight composition to ensure the energy consumption required to operate certain systems is minimized.
- Operation in hazardous or explosive environments.

OPE and its applications are diverse, always with unique considerations, but chemistries including PFAS may provide important safety and performance characteristics to common components. Among others these include high temperature durability, low friction properties, resistance to sticking, resistance to corrosion, resistance to fuel, water repellency, electrical contact stability, waterproofing, binding characteristics, and evaporative emission protections. Specific OPE components, common to most products are:

- **Seals:** OPE uses fluids to ensure the equipment performs its intended functions. Fluid applications include hydraulic fluid, oil, fuel, refrigerants, coolant, among others. Sealing technology, such as O-rings and gaskets, prevents fluid leaks and ensures water, dirt, dust, and debris stays out of the equipment.

- **Hoses:** Similar to seals, hoses are required and critical to the transmission of fluids from one location to another. Many hoses in the OPE industry use fluoropolymers to safeguard the durability of the machine by protecting its components from various internal pressure, temperature, and chemical stressors.
- **Fluorinated fuel tanks:** Provide a chemical resistance and low permeation barrier that allow federal (EPA) emission standards³ to be met. PFAS has been found to be an unintentional impurity in these products.
- **Paints:** These coatings protect OPE from natural, chemical, weather, or water erosion and damage. Paint coatings help extend the useful life, and maintenance requirements, for many forms of OPE. Many paint suppliers use PFAS in their paints to improve the flow, spread, and glossiness of the coating, as well as to decrease bubbling and peeling. They are also used in specialty paints to give stain-resistant, and water-repellent properties.
- **Refrigerants/Coolants:** Temperature management is a crucial product design requirement in the OPE industry. Regulating and controlling engine and product temperatures ensures proper operation for peak performance within the temperature limits of the materials used.
- **Hydraulic Fluid:** Hydraulic fluid enables the transfer of power from the engine to end-use hydraulic systems in some forms of OPE. Hydraulic fluid is also heavily used within our manufacturing facilities and is a critical element for functionality in building OPE.
- **Exterior Finishes and Materials:** UV protection is critical for parts and components such as dashboards, handlebar grips, fenders, seat covers, etc. PFAS acts in a way with these pieces, so that it protects from extended outdoor use and UV exposure by not severely degrading the exterior piece(s) by drying and/or cracking the piece(s) beyond normal wear and tear or safe functionality.
- **Electrical:** Protective coatings on electrical wires and within electrical systems insulate and protect key electronic functionalities for all OPE. PFAS is regularly found within these protective coatings.
- **Batteries:** Batteries utilize chemical binders to hold the internal active materials together to maintain a strong contact between the electrodes and the current collectors. Battery manufacturers use Polyvinylidene Fluoride (PVDF) as a binder in lithium-ion batteries due to its electrochemical and thermal stability, as well as its acceptable binding properties for the cathode. Additionally, certain fluorinated compounds are also used to coat the anodes to prevent unwanted reactions with the electrolyte. Due to their long lasting and chemical stable properties, the fluorinated compounds help extend the useful life of the battery.

4. The exemptions included in HB 212 are essential to provide a workable approach for NMED and complex products manufacturers, including OPEI members.

OPEI supports all of the exemptions included in the PFAS Protection Act, and now incorporated in the New Mexico Administrative Code, Section 20.13.2.10. These exemptions collectively provide for the

³ 40 C.F.R Part 1060, Control of Evaporative Emissions from New and In-Use Nonroad and Stationary Equipment

practical and risk-based consideration of complex durable goods, where there is no evidence of any adverse human health impacts.

OPEI offers the following comments on specific exemptions.

20.13.2.10 A. A product for which federal law governs the presence of a per- or poly-fluoroalkyl substance in the product in a manner that preempts state authority.

An important example in support of this exemption in the outdoor power equipment sector is the required regulatory compliance of all small off-road engines (SORE) which power OPE to meet federal Environmental Protection Agency standards for air⁴ and evaporative⁵ emissions, as required under the U.S. Clean Air Act. Engine designs require many of the components detailed above which may include intentionally added PFAS.

20.13.2.10 B. Used products offered for sale and resale

As explained above some OPE can expect a service life far exceeding 10 years, with a high probability of resale. These complex durable goods and their resale is of value to both state businesses and homeowners, and the typical utility applications include agriculture, ranching, and turf care. Extended service life and resale potential also support other important policy objectives such as waste reduction and repairability.

20.13.2.10 D. Cooling, heating, ventilation, air conditioning or refrigeration equipment that contains intentionally added per- or poly-fluoroalkyl substances or refrigerants listed as acceptable, acceptable subject to use conditions or acceptable to narrowed use limits by the United States environmental protection agency pursuant to the significant new alternatives policy program, Subpart G of 40 CFR Part 82, and sold, offered for sale, distributed or distributed for sale for the use for which the refrigerant is listed pursuant to that program.

An important example in support of this exemption in the outdoor power equipment sector is the fitting of some vehicle products with climate-controlled cabs (air conditioned). Examples include compact tractors and utility vehicles.

20.13.2.10 H. Any other motor vehicle, including an off-highway vehicle or a specialty motor vehicle, such as an all-terrain vehicle, a side by-side vehicle, farm equipment or a personal assistive mobility device.

OPEI supports the proposed modification to this exemption included in the CPMC comments, since it clarifies that the scope includes all off-highway, non-road equipment, both mobile and stationary. OPEI also recommends the following definition for consideration and in support of the proposed modification, or as an alternative for NMED adoption.

Non-Road Stationary and Mobile Machinery (NRSMM), to mean agricultural, construction, off-highway truck, mining, stationary power, generator, gravel and concrete mixer, crane, utility vehicle, mower, hand-held equipment, and any other non-road stationary or mobile machinery powered by an internal combustion engine or an alternative power source, including battery or solar power, that uses spare parts, accessories or attachments.

⁴ 40 C.F.R Part 1054

⁵ 40 C.F.R Part 1060

20.13.2.10 P. *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.*

OPEI strongly supports this exemption as it is consistent with current science that there are no known adverse health or environmental impacts from long chain fluoropolymer PFAS. The CPMC comments provide significant background and literature in support of this exemption, and further why it is of importance to complex product manufacturers, including those making outdoor power equipment.

In conclusion, there are current uses of PFAS in chemistries which are critical to manufacturing modern OPE which is high performing and safe for the operator, bystanders, and the environment. Maintaining the current exemptions, including modification where suggested, is highly important to OPEI members and their customers.

OPEI again appreciates the opportunity to provide these comments and NMED's consideration. Please contact me if you have any questions or require further information.

Best regards,

A handwritten signature in black ink that reads "Daniel J. Mustico". The signature is fluid and cursive, with the first name "Daniel" and last name "Mustico" clearly legible.

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