

Submitted via NMED online comment portal

September 17, 2026

Christina Keyes
Acting Director, Office of Strategic Initiatives
New Mexico Environment Department
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

Re: House Joint Memorial 3 Report on *PFAS Protection Act* – Fluorogasses

Dear Acting Director Keyes:

We appreciate the opportunity to provide comments to inform the New Mexico Environment Department's (NMED) consideration of House Joint Memorial 3 and the statutory exemptions in the PFAS Protection Act. These comments are submitted on behalf of the American Chemistry Council's (ACC) Fluorinated Gases Group, whose members are some of the world's leading manufacturers, processors, and users of fluorinated gasses. The Group's mission is to promote responsible production, use, and management of fluorogasses, while also advocating for a sound science- and risk-based approach to their regulation consistent with long-standing national and international regulatory frameworks.

These comments focus on two exemption categories that are essential to public health, energy efficiency, environmental protection, and New Mexico's economy:

1. Certain HVAC and refrigeration equipment containing EPA-approved refrigerants.
2. Products containing PFAS used as EPA-approved substitutes for ozone-depleting substances under the U.S. Environmental Protection Agency Significant New Alternatives Policy (SNAP) program.

These categories warrant continued exemption without any time limitations because the relevant refrigerants (including impact of any degradants), and their applications along with their circularity are already subject to extensive federal and international regulatory risk evaluations. Fluorinated Gases, are critical to maintain the health and safety of New Mexico residents and important to achieving climate and ozone-protection objectives, and currently lack universally viable alternatives across many applications. The Department should preserve these exemptions and maintain a risk-based, application-specific approach that recognizes the substantial scientific and regulatory review already applicable to these technologies.

Existing Regulatory Oversight Is Extensive

Fluorinated refrigerants and related technologies are subject to multiple layers of review and oversight, including EPA's SNAP program, international work under the Montreal Protocol¹ and Kigali Amendment, and the American Innovation and Manufacturing ("AIM") Act of 2020. The AIM Act authorizes EPA to regulate hydrofluorocarbons (HFCs) and facilitate the United States' transition to alternative products. These frameworks evaluate environmental impacts, safety characteristics, technical performance, and the availability of alternatives in relevant applications.

Accordingly, NMED is not considering an unregulated or unassessed category of use. Fluorinated Gases and their applications have been the subject of rigorously updated scientific assessment and regulatory

¹ Montreal Protocol on Substances that Deplete the Ozone Layer United Nations Environment Programme (UNEP) Report of the Technology and Economic Assessment Panel May 2026

scrutiny. Maintaining the exemptions would avoid duplicative state regulations that could conflict with established environmental and climate policy objectives. Finally, NMED might want to consider the risk if the exemption is not maintained.

Exemption for HVAC and Refrigeration Equipment Containing EPA-Approved Refrigerants

Fluorinated gases are critical to meeting established safety, health, environmental and performance standards for a wide-range of products. A misalignment with applicable federal standards and specifications or with national or New Mexico energy, building, safety, or environmental codes, regulations, or requirements could prevent a critical product and/or application from being available or compliant.

There is no single refrigerant technology capable of replacing fluorinated refrigerants across all heating, ventilation, air-conditioning, refrigeration, heat-pump, chiller, industrial refrigeration, commercial refrigeration, mobile AC, and foam-blowing applications. Alternatives such as carbon dioxide, ammonia, and hydrocarbons have their own considerations. Even if there may be a suitable alternative for a narrow selected configuration, each configuration may present application-specific limitations relating to safety, pressure, performance, energy efficiency, ambient conditions, equipment design, and cost.

For example, carbon dioxide systems may require high-pressure components, require additional water resources for extra cooling capacity and can experience capacity losses at medium and high ambient temperatures. Ammonia presents toxicity concerns and is restricted in occupied spaces under applicable safety standards. Hydrocarbon refrigerants (ex: propane) are highly flammable and for safety reasons are subject to charge size limitations. In foam-blowing applications, hydrocarbons are highly flammable and other blowing agents may not provide equivalent performance. These considerations make clear that refrigerant selection must be technology-neutral and application-specific.

New Mexico should therefore maintain the exemption for HVAC, mobile AC, and refrigeration equipment containing EPA-approved refrigerants. The State should also clarify the intent for this exemption to extend to maintenance and replacement of existing equipment and the use of these materials in other applications beyond HVAC and refrigeration equipment. Continued access to approved refrigerants where needed helps preserve system safety, reliability, energy efficiency, affordability, building performance, food and pharmaceutical cold-chain integrity, and long equipment service life. Prematurely narrowing the available technology set could increase indirect greenhouse-gas emissions by reducing energy efficiency, increase water demand, and could create safety and/or reliability tradeoffs.

Exemption for EPA-Approved Substitutes for Ozone-Depleting Substances

NMED should also maintain the exemption for products containing PFAS used as EPA-approved substitutes for ozone-depleting substances under the SNAP program. The United Nations Environment Programme (UNEP) Technology and Economic Assessment Panel has cautioned that broad, non-risk-based restrictions could unintentionally constrain refrigerants, foam-blowing agents, fire-protection agents, and fluoropolymers that are important to achieving Montreal Protocol and Kigali Amendment objectives. UNEP's analysis supports careful consideration of sector-specific impacts, the practical availability of alternatives, and appropriate derogations for critical uses.²

² United Nations Environment Programme, Technology and Economic Assessment Panel, Report of the Technology and Economic Assessment Panel (May 2026).

Preserving the exemption is consistent with these environmental objectives. Restrictions adopted before technically feasible, safe, and efficient alternatives are available could slow deployment of energy-efficient equipment, increase costs, and undermine efforts to reduce greenhouse-gas emissions and protect the ozone layer. A targeted, risk-based approach is more appropriate than a broad restriction based solely on chemical-class membership.

New Mexico-Specific Policy Considerations

New Mexico's climate, infrastructure, residential and commercial cooling needs, and interest in efficient building technologies reinforce the importance of retaining access to safe and efficient refrigerant options³. The supporting materials identify state-level economic analyses addressing residential heating and cooling, commercial heating and cooling, and building materials. This also includes important implications regarding millions in annual State and local government revenues that would be at risk. Removing these exemptions could also create regulatory requirements that conflict with those applicable in other jurisdictions, including key states, and placing New Mexico at odds with the broader national regulatory framework for these materials. NMED should consider these application and socio-economic effects in its evaluation.

Maintaining the exemptions would not prevent continued monitoring, scientific assessment, or risk management of individual substances where evidence supports action. It would instead preserve a proportionate framework for federally reviewed applications whose environmental benefits, safety requirements, and technical constraints have already been examined through specialized regulatory programs.

Conclusion

For the reasons described above, NMED should maintain the exemptions without a time limitation for:

- Certain HVAC and refrigeration equipment containing EPA-approved refrigerants; and
- Products containing PFAS used as EPA-approved substitutes for ozone-depleting substances under EPA's SNAP program.

These products (including degradants) and their applications are already subject to rigorous federal and international regulatory review. They provide critical environmental and societal benefits, and remain necessary in applications where technically feasible, safe, and energy-efficient alternatives are not universally available. Preserving the exemptions would support a focused, science-based, and risk-based

³ U.S. Chamber of Commerce, Essential Chemistries: Providing Benefits Across the U.S. Economy, Part 2: Examining the Impact of Possible Restrictions on Heating, Cooling, & Building Materials (March 2025).

- Appendix Table 5 - Annual State-Level Impacts, Residential Heating and Cooling (2035)
- Appendix Table 6 - Annual State-Level Impacts, Commercial Heating and Cooling (2035)
- Appendix Table 7 – Annual State-Level Impacts, Building Materials (2035)
- Appendix Table 8 – Annual Incremental Costs, Residential Heating and Cooling (2025)
- Appendix Table 9 – Annual Incremental Costs, Residential Heating and Cooling (2035)
- Appendix Table 10 – Annual Incremental Costs, Commercial Heating and Cooling (2025)
- Appendix Table 11 – Annual Incremental Costs, Commercial Heating and Cooling (2035)
- Appendix Table 12 – Annual Incremental Costs, Building Materials (2025)

policy while avoiding duplicative restrictions and unintended conflicts with energy efficiency, greenhouse-gas reduction, and ozone-protection objectives.

Thank you again for the opportunity to provide these comments as NMED develops its report on the implementation of, and exemptions provided under, the *PFAS Protection Act*. If you have any questions or need further clarification about the information that has been provided, please feel free to contact me at (202) 249-7000 or Owen_Jappen@AmericanChemistry.com.

Sincerely,

Owen P. Jappen
Director, Chemical Products and Technology
American Chemistry Council