

Carla Sonntag

Please accept the attached written comments of Carla Sonntag, president and CEO, of the New Mexico Business Coalition, regarding HJM 3 and NMED's review of the public-health, environmental, and economic risks of the exemptions in the PFAS Protection Act. My comments focus on use-specific risk analysis, availability and qualification of substitutes, full-value-chain impacts, critical infrastructure and product safety considerations, compliance and capital costs, and the need to compare product prohibitions with more targeted lifecycle risk-management approaches.

Thank you for including these comments in the HJM 3 record.

WRITTEN COMMENTS ON HJM 3

PFAS Protection Act Implementation and Statutory Exemptions

Submitted to: New Mexico Environment Department

Submitted by: New Mexico Business Coalition (NMBC)

Re: House Joint Memorial 3 (2026) - Public Health, Environmental and Economic Risks of PFAS Protection Act Exemptions

Date: September 2026

The New Mexico Business Coalition appreciates the opportunity to provide comments as the New Mexico Environment Department (NMED) prepares the report requested by House Joint Memorial 3 (HJM 3). We support protecting public health and New Mexico's water resources from harmful contamination. At the same time, HJM 3 expressly directs NMED to examine not only public health and environmental risks, but also the economic risks associated with the exemptions in the PFAS Protection Act. That economic analysis should be rigorous, transparent, use-specific, and grounded in real-world commercial and engineering conditions.

Our principal recommendation is straightforward: NMED should not recommend removing or narrowing an existing exemption unless the record demonstrates (1) a meaningful exposure or environmental risk from the specific exempt use, (2) that the proposed change is likely to reduce that risk, and (3) that technically and commercially viable substitutes can meet the same safety, performance, durability, regulatory, and reliability requirements within a realistic transition period. Where risk can be addressed more directly through emissions controls, waste-management requirements, lifecycle controls, or other targeted measures, NMED should compare those approaches with a product prohibition before recommending statutory changes.

Key request: For each exemption, NMED should identify the specific risk being addressed, the exposure pathway, the availability and performance of alternatives, the full compliance and conversion cost, and the likely consequences for New Mexico consumers, workers, employers, infrastructure, and supply chains.

1. Distinguish among PFAS substances, product uses, and exposure pathways

PFAS encompasses a large and diverse class of substances used for very different purposes. HJM 3 itself recognizes that the existing exemptions were adopted against a backdrop of limited scientific literature concerning degradation, mobility, persistence, exposure pathways, and health impacts, and it calls for additional study of fluoropolymers. NMED should therefore avoid assuming that all PFAS-containing products, polymers, or applications present equivalent risk.

The Department should evaluate each exemption based on the substance's actual form, how it is used, whether and how exposure occurs during normal product use, and whether the principal environmental risk instead arises during manufacturing, processing, recycling, or disposal. This distinction is especially important for solid fluoropolymers and other high-performance materials whose physical properties and exposure profiles may differ substantially from smaller, mobile PFAS compounds. Fluoropolymers, while meeting the OECD structural definition of PFAS, satisfy the OECD's Polymer of Low Concern (PLC) criteria during their intended use phase, reflecting their high molar mass, insolubility, immobility, and non-bioaccumulative properties. NMED should weigh these distinctions when assessing PFAS-containing materials rather than applying uniform risk conclusions.

2. Require a real-world alternatives analysis before recommending removal of an exemption

An available substitute is not necessarily a feasible substitute. In many industrial and safety-sensitive applications, replacement requires product redesign, equipment modification, testing, requalification,

customer validation, certification, regulatory review, and new manufacturing processes. The National Association of Manufacturers (NAM), in its May 26, 2026, comments on the European Union PFAS restriction proposal, identifies these concerns across semiconductors, medical technology, pharmaceuticals, energy technologies, transportation, industrial equipment, and advanced manufacturing.

NMED should identify, for any exemption it considers modifying or removing, which substitutes are commercially available today; whether they have been demonstrated to provide equivalent safety, durability, reliability, chemical resistance, thermal performance, electrical properties, or other required characteristics; and the time and cost necessary to qualify and deploy them at commercial scale.

3. Analyze the full value chain, not only the final product

New Mexico's exemptions cover several products and sectors that depend on complex upstream supply chains, including semiconductors, electricity generation/distribution/storage, transportation equipment, HVAC and refrigeration systems, non-consumer electronics and laboratory equipment, and equipment used to manufacture exempt products. A final-product exemption may have little practical value if a critical upstream material, process aid, seal, gasket, membrane, coating, maintenance item, spare part, or manufacturing component becomes unavailable.

NMED should map the full value chain for each exemption and evaluate whether a change could unintentionally make an otherwise exempt product unavailable, unrepairable, or uneconomic. It should also consider the effect on imported components and nationally distributed products, because New Mexico-specific requirements can influence whether suppliers continue to serve a comparatively small state market.

4. Quantify effects on critical infrastructure, safety, and reliability

The current statute exempts categories that intersect with critical infrastructure and essential services. Electricity systems, heating and cooling, semiconductors, laboratory equipment, medical products, vehicles, aircraft, watercraft, farm equipment, and industrial machinery can depend on materials selected for heat resistance, chemical resistance, electrical performance, leak prevention, low friction, durability, or biocompatibility.

NMED's economic analysis should include the consequences of substitute failure or reduced performance, not simply the purchase price of a replacement material. Relevant effects include equipment downtime, shortened service life, increased maintenance, leakage, fire or worker safety risk, higher energy use, reduced reliability, delayed projects, and accelerated capital replacement. The analysis should also account for consumer products that rely on fluoropolymers for performance, safety, or durability, where the fluoropolymer exemption supports continued product availability for New Mexico consumers.

5. Include capital, compliance, and small-business costs

The cost of changing materials can extend far beyond the cost of the material itself. Businesses may face engineering and consulting costs, testing, supplier qualification, new tooling, changed manufacturing processes, inventory write-offs, relabeling, recordkeeping, training, equipment retrofits, accelerated retirement of long-lived assets, and production downtime. Small and mid-sized businesses may have less ability to obtain chemical composition information from upstream suppliers or to absorb specialized testing and compliance costs.

NMED should estimate these costs by sector and, where possible, distinguish one-time conversion costs from recurring compliance costs. The analysis should also consider mechanisms that enable downstream businesses to reasonably rely on supplier certifications or other verified information rather than forcing duplicative testing throughout the supply chain.

6. Consider targeted lifecycle controls where they address the risk more directly

If NMED concludes that the primary risk associated with an exempt use occurs during manufacturing, emissions, waste handling, recycling, incineration, or disposal rather than normal use of the finished product, the Department should evaluate whether targeted controls could reduce that risk more effectively and with fewer unintended consequences than eliminating the exemption.

Potential tools include emissions controls, wastewater and waste-management requirements, safe-use conditions, take-back requirements, end-of-life management, and other lifecycle measures. HJM 3 asks for a risk assessment; the recommendation should therefore be tailored to where the risk occurs.

7. Evaluate substitute tradeoffs, not PFAS content in isolation

Replacing a PFAS-containing material can reduce one hazard while increasing another. A substitute may be more flammable, less durable, less chemically resistant, more prone to leakage, less energy efficient, or require more frequent replacement. It may also create a different toxicological or waste-management concern.

For safety-sensitive or long-lived products, NMED should use a lifecycle and performance framework that considers these trade-offs. The goal should be genuine risk reduction rather than regrettable substitution that merely transfers risk from one environmental, health, or safety category to another.

8. Preserve workable transition and currently unavoidable-use pathways

The PFAS Protection Act includes a mechanism for currently unavoidable uses. That mechanism will be important where alternatives are still under development or cannot yet satisfy regulatory, safety, performance, or durability requirements. NMED should evaluate whether the process is accessible, timely, and predictable enough to function in practice for complex products and supply chains.

Any recommendation to narrow an exemption should include a realistic transition period based on engineering, certification, and procurement cycles, and should preserve an evidence-based mechanism for additional time when a business can demonstrate that no qualified substitute is commercially available.

9. Reduce unnecessary interstate fragmentation

Manufacturers and distributors commonly serve national markets. Divergent state definitions, labels, reports, exemptions, testing requirements, and phaseout dates can require state-specific product versions or compliance systems. Those costs can ultimately be passed through to consumers or can cause suppliers to discontinue products in smaller markets.

NMED should identify opportunities for reciprocity, harmonization, or reliance on equivalent data and determinations from other jurisdictions where doing so would preserve New Mexico's policy objectives without creating unnecessary duplication.

10. Quantify the economic benefits of reducing contamination as well as the costs of regulation

A balanced economic analysis must also address the costs that PFAS contamination can impose on taxpayers, utilities, public drinking-water systems, wastewater systems, private wells, septic systems, solid-waste infrastructure, and affected communities. HJM 3 specifically identifies these concerns.

We therefore encourage NMED to quantify New Mexico-specific contamination, treatment, monitoring, cleanup, disposal, and other reasonably attributable costs. The critical comparison, however, should be exemption-specific: how much of those costs can reasonably be linked to the exempt product category under review, and how much would continuation, modification, or removal of that exemption actually reduce them?

Conclusion

NMED has an opportunity under HJM 3 to develop a more precise record than a broad debate over whether PFAS as a class should be restricted. The Department should evaluate each exemption on the evidence: the nature of the PFAS use, the actual exposure pathway, the environmental and public health consequences, the availability and qualification of substitutes, the product's full lifecycle, and the economic and safety consequences of regulatory change.

We respectfully request that NMED preserve existing exemptions unless the evidence demonstrates that modification or removal would produce a meaningful net reduction in risk and can be implemented without disproportionate harm to product safety, critical infrastructure, supply-chain resilience, New Mexico employers, or consumers. Where a genuine risk is identified, NMED should recommend the most targeted and effective means of addressing that risk and should provide sufficient transition time and a workable, currently unavoidable use pathway when alternatives are not yet technically or commercially viable.

Key request: Because this is such a large undertaking with significant implications for manufacturers, suppliers, and consumers, it would be helpful to include another comment period after the Department publishes its recommendations.

Thank you for considering these comments and for including business and economic evidence in the HJM 3 report.

Respectfully submitted,



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Authorities and Materials Referenced

- New Mexico Legislature, House Joint Memorial 3 (2026), Per- & Polyfluoroalkyl Substances Report, final version, March 9, 2026.
- New Mexico PFAS Protection Act, NMSA 1978, Chapter 74, Article 15, including statutory product exemptions and the currently unavoidable use mechanism.
- New Mexico Environment Department, HJM 3 public comment portal and August 2026 public participation materials.
- National Association of Manufacturers, Comments on the Draft Opinion of the European Chemicals Agency Socio-Economic Analysis Committee on the Proposed Restriction of PFAS, May 26, 2026. The NAM submission is cited for its manufacturing, substitution, supply chain, and socio-economic analysis; EU-specific legal recommendations are not assumed to apply automatically to New Mexico.