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Please see attached the comments of the Chemical Users Coalition.

**Before the New Mexico Environment Department
Public Comment on the Report Requested by House Joint Memorial 3
Regarding the Exemptions Codified in the
Per- and Poly-Fluoroalkyl Substances Protection Act
September 17, 2026**

Comments of the Chemical Users Coalition

I. Introduction and Interest of the Chemical Users Coalition

The Chemical Users Coalition (CUC) appreciates the opportunity to comment on the draft report the New Mexico Environment Department (NMED or the “Department”) is preparing in response to House Joint Memorial 3 (HJM 3), which requests that NMED evaluate the public health, environmental, and economic risks associated with the exemptions for certain products containing intentionally added per- or polyfluoroalkyl substances (PFAS) codified in the Per- and Poly-Fluoroalkyl Substances Protection Act (the “Act”)¹ and recommend whether those exemptions should be continued, modified, or removed.

CUC is an association of companies from diverse industries interested in chemical management policy from the perspective of those who use, rather than manufacture, chemical substances.² CUC Members produce and distribute complex, long-lived manufactured goods ranging from microscopic integrated circuits to aircraft, medical imaging equipment, and high-voltage electrical infrastructure. Many products made by CUC Members are not specifically considered “consumer products,” although CUC Members also produce products that become components in consumer products. Still others do produce products that consumers acquire for use in their homes and for personal and professional uses. This diversity of CUC Membership informs the comments being submitted today, as well as CUC’s history of being actively engaged with federal and state regulators on PFAS-related legislation and rulemakings, including in Maine, Minnesota, and New Mexico (and other states in which legislation seeking to reduce the presence of PFAS—particularly in consumer products—has been considered and enacted).

As discussed in further detail below, CUC recommends that the exemptions in the authorizing legislation be continued and in some cases clarified or expanded.³

¹ NMSA 1978, Section 74-15-3(A)(1)-(16); *see also* 20.13.2.10 NMAC. Unless otherwise noted, citations are to the Act as codified at NMSA 1978, Sections 74-15-1 to -7, and to the implementing rule at 20.13.2 NMAC, effective July 1, 2026.

² CUC members include Airbus S.A.S., The Boeing Company, GE Vernova, HP Incorporated, IBM Company, Intel Corporation, Lockheed Martin Corporation, the National Electrical Manufacturers Association, RTX, Sony Electronics, Inc., and TDK U.S.A. Corporation.

³ CUC Members understand the New Mexico PFAS in products implementing regulations to largely reflect the Legislature’s intentions to reduce the presence of PFAS in consumer-use products. *See, e.g., New Mexico Environment Department, House Joint Memorial 3 Status Update* (Aug. 18, 2026) (describing the PFAS Protection

Section III of these comments address the exemptions of principal importance to CUC Members. CUC generally supports but does not address the remaining exemptions. For many of the complex manufactured goods addressed here, the PFAS at issue is present in an internal component, in a fixed or solid form, in a sealed assembly, and/or in a portion of the product that is generally inaccessible to consumers, so the potential for exposure during the intended use of these products is low. Potential risk to the consumer is therefore minimal, if even plausible. The medical device exemption rests on a distinct rationale, addressed in Section III.E below. Removing these exemptions would impose substantial and often unachievable information-gathering obligations on downstream manufacturers and could place at risk the continued availability of products on which the state's residents, numerous industries, utilities, hospitals, and public institutions depend and for which non-PFAS alternatives are not readily available. It is therefore critical that these exemptions be maintained.

II. The Act's Exemptions for Articles and Complex Manufactured Products Are Well Founded

Most of the exemptions CUC addresses in these comments identify articles, or categories of articles, rather than specific chemical formulations. The potential for exposure to PFAS contained in articles is generally less than when PFAS is a material component of (or is itself the sole constituent in) a product that is a chemical formulation. Additionally, manufacturers of articles containing PFAS (or PFAS-containing components) are less likely to have visibility into which PFAS is contained in an article and in what quantity. Furthermore, replacing PFAS or a PFAS-containing component in an article may not be possible without a redesign of the entire article (and potentially a requalification of the alternative product on technical and performance capabilities). These distinctive features of PFAS-containing articles support the continuation of the exemptions identified below. The fluoropolymer exemption is based on the chemistry of the PFAS contained in a product rather than the type of article, but is no less important.

CUC Members are downstream users of chemical substances, acquiring components and sub-assemblies from multi-tiered global supply chains and incorporating them into finished goods comprising tens, hundreds, or thousands of components sourced both domestically and internationally. In supply chains of that structure and complexity, a downstream product manufacturer faces significant practical challenges when seeking to determine whether a given component contains intentionally added PFAS, or any other chemical substance for that matter. The party that added the PFAS may sit many tiers upstream in the supply chain, and may be unknown to CUC Members. Even when direct suppliers are responsible for adding PFAS to a product or product component, they may decline to identify the specific constituents added on the

Act Rule as "regulat[ing] consumer products containing intentionally added PFAS"). The focus of these comments reflects this understanding. When preparing its report to the legislature regarding the implementation of the authorizing statute and its exemptions as required under HJM 3, CUC recommends NMED clearly define for the legislature its interpretation of the Act as being applicable solely to consumer-use products. This clarification is essential to delineate the industrial inputs, components and equipment that fall within the Act's scope and to guide review of the exemptions set forth in the Act. Nevertheless, for purposes of these comments and to ensure completeness of coverage, CUC's rationale for maintaining each of the exemptions identified in this letter addresses products with a broad range of uses, including those that may not be specifically "consumer products."

basis that they are proprietary. The Act's broad definition of PFAS (covering any substance in a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom) encompasses a very large number of substances, compounding the difficulty of making a component-by-component and chemical-by-chemical inquiry.

This significant burden may be justified if the resulting information corresponded to a meaningful exposure pathway. For the complex manufactured goods addressed here, it does not. For example, semiconductors, circuit boards, and related electronic components are, when installed (as they are when distributed to New Mexico consumers), not exposed to consumers. A gasket in an engine, a seal in a circuit breaker, or an insulating layer on a current transformer winding is similarly not a surface a consumer touches. Transmission and distribution equipment is sited to be inaccessible to the public and deployed in closed-loop configurations. Where, as in many use cases of CUC Members, the potential for direct contact during intended use is remote, the case for compelling downstream manufacturers to trace material through several tiers of a global supply chain is correspondingly weak.

The implementing rule reflects the same distinction. Products exempt under Section 20.13.2.10 NMAC are not automatically exempt from labeling; only used products, FIFRA-preempted products, veterinary products, and medical devices and drugs are. 20.13.2.13(B) NMAC. The Department may, however, waive labeling for an otherwise exempt consumer product where none of its material containing intentionally added PFAS will ever come into direct contact with a consumer while the product is used as intended. 20.13.2.13(F) NMAC. That waiver standard rests on the same lack of direct-contact rationale that supports the underlying exemptions.

Finally, as NMED reviews the potential human health and environmental impacts of these exemptions as it prepares its report under HJM 3, it must consider the exposure that is reasonably likely to occur from exempt products across their lifecycle. The mere presence of PFAS in a consumer product does not establish that exposure to or risk from the PFAS will occur across uses. As discussed further below in relation to fluoropolymers, different PFAS have different characteristics, which should be reflected in how they are regulated. Further, NMED should distinguish between dispersive applications and PFAS incorporated into internal, fixed, solid, sealed, or otherwise inaccessible components. It should also consider applicable controls, waste management requirements, product durability, and whether substitution could create greater safety, reliability, or environmental risks.

III. Comments on Specific Exemptions of Importance to CUC Members

As already discussed in Section II, CUC Members are downstream users of chemical formulations and other components often containing numerous chemical substances, potentially including PFAS. Due to the complex nature of the supply chain for CUC Members' products, collecting information from individual suppliers about product components that may contain intentionally added PFAS would impose a significant burden on CUC Members and similarly positioned entities that are not justified by the minimal potential exposure from these uses. Exemptions from the Act's reporting requirements for these products should therefore be maintained. The following paragraphs further describe in further detail why exemptions from the

Act's prohibitions on the use of intentionally added PFAS in products should similarly be continued.

A. Semiconductors, materials used in their manufacture, and manufacturing equipment (Section 74-15-3(A)(10), (14))

Semiconductors are the paradigm case of an internal component: the device is mounted on a board and installed within an enclosure. A consumer using (for example) a phone, computer, or vehicle containing a semiconductor has no contact with it. The same is true of circuit boards and related electronic components, which when installed are not exposed to consumers.

PFAS are used in the semiconductor manufacturing process itself, may remain in final packaged devices, and are present in the fluoropolymer components of the tool set, including wet-bench structures. Semiconductor manufacturing is a precise, complex process that by its nature requires exacting product standards. Sector safety standards, including SEMI S2 and SEMI S14 and FM 4910 and UL 2360 for cleanroom plastics, establish performance thresholds PFAS materials are used to satisfy. CUC Members understand there are no current drop-in alternatives meeting the standards that these uses require, and that qualification and customer approval of a substitute can take years (if it is feasible at all).

Paragraph (14), which exempts equipment directly used in the manufacture or development of the products described in Paragraphs (1) through (13), is a necessary complement to the semiconductor exemption: an exemption for semiconductors that did not extend to the supplied formulations, the complex tools and their internal components used to make finished chips would restrict the equipment on which the exempt product depends. *See also* 20.13.2.10(N) NMAC. Furthermore, semiconductor manufacturing is a highly technical and precise process in which significant controls on worker exposure are required to maintain product purity and integrity. Therefore, minimal worker exposure to PFAS would be expected during this manufacturing process.

The minimal exposure anticipated to humans and the environment during the use of intentionally added PFAS in semiconductor manufacturing processes and related equipment supports the continuation of these exemptions for any such products within the scope of the Act.

B. Non-consumer electronics and non-consumer laboratory equipment (Section 74-15-3(A)(11))

This exemption is narrowly drawn, reaching only equipment not ordinarily used for personal, family, or household purposes, and therefore should be maintained without modification to cover any such products within the scope of the Act. The products it covers may include industrial automation, non-consumer broadcast and communications equipment, and laboratory apparatus, which are installed and maintained in commercial and institutional settings. These are complex pieces of equipment containing tens, hundreds, or thousands of parts, with parts containing intentionally added PFAS expected to be contained inside or used with the equipment. Any minimal exposure to such intentionally added PFAS would be anticipated to occur in industrial settings where potentially exposed persons are trained in how to minimize exposure to

possible hazards. The uses of intentionally added PFAS covered by this exemption are also highly specialized, and non-PFAS alternatives may not be available or feasible. Furthermore, broadcasting and communications equipment is essential because such equipment enables the public to receive vital information. The loss of broadcasting infrastructure could significantly impair public access to emergency and other essential communications.

The importance of equipment covered by this exemption, as well as the minimal potential for exposure to intentionally added PFAS within such equipment, warrants its continuation.

C. Products used for the generation, distribution, or storage of electricity (Section 74-15-3(A)(13))

Products used for the generation, distribution, or storage of electricity may both encompass consumer products (e.g., residential generators and battery storage systems) that are subject to the Act, as well as industrial/commercial products including wind turbine components. CUC understands this exemption to encompass all products and equipment within the scope of the Act that are necessary to generate, transmit, transform, convert, distribute, store, monitor, control, connect, and protect electricity. This could include, but would not be limited to, equipment used in harnessing clean energy (such as wind turbine components and solar cells), energy storage devices (such as batteries), and other finished electricity generation, distribution, or storage equipment, as well as incorporated components and accessories, such as transformers, switchgear, circuit protection, controls, monitoring equipment, wire and cable, connectors, insulation systems, seals, and other function-critical components.

This equipment (including all related components and accessories) is critical to maintaining the safe and reliable electricity upon which New Mexico relies. PFAS-containing materials appear in narrow, function-critical roles in this equipment: insulating coatings and lubricants; seals and gaskets that prevent leakage of oils and gases; insulating gases; wire and cable insulation; current transformer windings; and spacers. In switchgear applications these components sit within sealed, closed-loop assemblies requiring minimal maintenance and sited to be inaccessible to the public. The potential for exposure to intentionally added PFAS in such products is therefore expected to be minimal. In considering this exemption and the others addressed in CUC's comments, NMED's report must distinguish among exempted categories based on the anticipated exposure that may result from the uses covered by each exemption, rather than treating exposure potential during all intended uses as uniform.

Intentionally added PFAS in these applications serve critical functions for which alternatives may not be readily available and (even where they are) transition to alternatives may require equipment redesigns that are implausible without significant advance notice. To the extent non-consumer products within this category are covered by the Act, this issue is even more acute. Transmission and distribution assets routinely have service lives of forty years or more, and substation upgrades are commonly planned roughly a decade ahead of build-out. Design and validation cycles average three to five years per design and can extend to ten to twenty years for a product family. Utilities then run their own trial-use processes, adding one to five years before procurement can begin. As an example of a transition away from a non-PFAS chemistry, CUC

Members have reported that the transition away from sulfur hexafluoride (SF6) in transmission and distribution equipment has resulted in lead-time, qualification, and availability constraints, even though only a single substance is at issue. A requirement to transition away from all PFAS in electricity generation, distribution, or storage equipment would impose exponentially larger burdens.

Narrowing or removing this exemption would significantly impact products essential to grid reliability and the safe delivery of electricity in New Mexico. This exemption must therefore be maintained.

D. Motor vehicles, specialty and off-highway vehicles, watercraft, and aircraft (Section 74-15-3(A)(7), (8), (9))

PFAS-containing materials in vehicles are concentrated in internal applications to which consumer exposure is not anticipated: hydraulic fluids, greases and lubricants, seals, gaskets, and engine parts, wiring insulation, protective coatings, and, in electric vehicles, batteries and related energy storage components.⁴ The use of intentionally added PFAS in these applications is necessary to ensure the proper functioning and durability of such vehicles, and their components. Given the negligible potential for exposure from these uses, requiring such substitution is not justified.

By way of example, while not consumer products, aircraft (inclusive of certain formulations and other materials on which they rely to function safely) must be qualified against federal and industry specifications, including SAE AS1241 for hydraulic fluid, MIL-PRF-27617 for grease, AS50881 for aerospace vehicle wiring, and SAE AS22759 and NEMA WC 27500 for wire and cable. Substituting a qualified material can require requalification testing, customer approval, and, as applicable for aircraft, action by the Federal Aviation Administration or the Department of Defense, so an alternative nominally available on the market is not reasonably available in practice until those processes are complete. To the extent that any of these products are somehow interpreted to be within the scope of the Act, it is critical that they be exempt.

CUC suggests that NMED consider recommending to the New Mexico Legislature one clarifying modification relating to these exemptions. Specifically, locomotives, rail cars, and rail transit equipment do not fit comfortably within the exemptions in Paragraphs (7) through (9), which address motor vehicles, other motor and specialty vehicles, and watercraft and aircraft. The Act does not expressly address rail equipment at all, despite the fact that internal PFAS-containing components within this equipment are generally not accessible to passengers or other consumers, and this equipment shares the long asset lives and materials-change constraints of the categories the Act does exempt. If any such railroad equipment is within the scope of the Act, CUC recommends that NMED identify this as an area where clarification would improve the internal consistency of the exemption scheme.

⁴ This exemption does not apply to “any textile article... that is included in or as a component part of” motor vehicles. NMED should consider requesting that the New Mexico legislature clarify the scope of this apparent exclusion from the exemption to ensure that it is clear and appropriately narrow given the specialized design of motor vehicles and National Highway Traffic Safety Administration regulations.

Finally, notwithstanding the federal preemption clause at 20-13-2-10(A) of the Act, NMED should clarify that (to the extent they are covered by the Act) other complex durable goods aside from vehicles, watercraft and aircraft are likewise exempt that are sold to federal, state and local agencies or placed in the state by such agencies for the purpose of national security, defense and space exploration. These include, but are not limited to weapon systems, munitions and energetics, satellites, space vehicles, ground support and emergency equipment, test equipment, radar and other surveillance equipment, etc.

The exemptions for motor vehicles and other vehicles, aircraft, and watercraft should therefore be maintained, and New Mexico should consider expanding and clarifying this exemption.

E. Medical devices and drugs (Section 74-15-3(A)(3))

CUC Members have identified medical devices and appliances as containing PFAS components for which no drop-in alternative meeting the required technical and performance standards is currently available. Because these devices are already subject to comprehensive federal premarket and postmarket oversight directed at patient safety, a state-level product restriction would substitute a less-informed judgment for a more-informed one and may result in the unavailability of crucial products, with the consequences of such unavailability falling directly on patients. CUC Members have identified the replacement parts for such devices as raising the same concern. The Act's definition of "medical device" includes any component or accessory, NMSA 1978, Section 74-15-2(Q), and the exemption should be read accordingly. The Act's exemptions for medical devices and drugs, as well as components or accessories of medical devices, should therefore be maintained.

F. Fluoropolymers (Section 74-15-3(A)(16))

HJM 3 identifies the fluoropolymer exemption by name. The exemption applies to 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. Whether a product qualifies therefore turns on the chemistry of the PFAS it contains rather than on the product category in which it appears.

Fluoropolymers are substances of low hazard and low risk to human health for which the New Mexico Legislature should maintain an exemption. Because of the nature of these substances, continuing such exemption would not create new or increased risk to product purchasers and consumers. Furthermore, the ubiquity of fluoropolymers makes their presence currently unavoidable until substitutes can be identified, tested, and confirmed as effective alternatives. CUC has also identified fluoropolymer components contained in fixed forms to which direct consumer exposure is not reasonably foreseen, including automotive gaskets, engine parts, and seals not in contact with the vehicle operator that perform functions dependent on resistance to heat and friction. Exposure to fluoropolymers is not anticipated to occur from many CUC Member uses of these substances and, where such exposure may occur, risk is not expected due to their low hazard profile. Continuation of this exemption is therefore justified.

IV. The Exemptions Should Cover the Complete Supply Chain for Exempt Products

The Act defines “product” to include a product component. NMSA 1978, Section 74-15-2(T). Components are reached expressly in some places: the veterinary product exemption covers the product’s components, Section 74-15-3(A)(5), and the definition of “medical device” includes any component or accessory, Section 74-15-2(Q). No comparable language appears in other exemptions, including the transportation, electricity, or electronics exemptions. Additionally, the Act is silent as to the raw materials necessary to manufacture exempt products. Thus, the treatment of such raw materials and separately sold replacement and spare parts under those exemptions is correspondingly unclear. CUC recommends that the Legislature clarify that the exemptions reach the entire supply chain of exempt products.

The manufacture, maintenance, repair and overhaul of exempt products in New Mexico requires access to the raw materials that comprise these products. Thus, NMED should work with the Legislature to clarify that these product-specific exemptions extend to, and include, the materials necessary to manufacture, maintain, repair, and overhaul these products. Similarly, NMED should recommend that the New Mexico legislature continue the exemption under Section 74-15-3(A)(14) for “equipment directly used in the manufacture or development” of exempt products. Failing to ensure the availability of the raw materials and equipment necessary to manufacture, maintain, repair, and overhaul exempt products would significantly undermine the usefulness of these exemptions.

With respect to spare and replacement parts, many of the products covered by these exemptions are long-lived, increasing the importance of available spare and replacement parts. For example, high-voltage circuit breakers and similar grid assets are designed to last forty years or more, and periodic maintenance requires replacement parts stocked long after the core product ceases to be manufactured. CUC Members have identified replacement parts as essential in the transportation and medical device categories as well. If a replacement seal, gasket, wiring harness, or circuit board is treated as a stand-alone “product” outside the exemption covering the equipment it serves, the equipment cannot be maintained and must be retired prematurely, imposing capital costs on New Mexico purchasers and sending serviceable equipment to the waste stream earlier than necessary. NMED should therefore recommend to the New Mexico Legislature clarifying that all exemptions cover the products specified in the exemptions, their raw materials, and their replacement and spare parts indefinitely, as well as recommend continuation of the exemption under Section 74-15-3(A)(14) for “equipment directly used in the manufacture or development” of exempt products.

V. Removing the Exemptions Would Shift a Substantial Burden to the Currently Unavoidable Use Process

Removal of an exemption would mean that a currently unavoidable use (CUU) designation would be required for the product to remain available in New Mexico after January 1, 2032. NMSA 1978, Section 74-15-3(E). Under the implementing rules, a separate CUU proposal is required for each combination of product category and NAICS industrial sector; initial proposals must be filed no later than 12 months before the applicable sales prohibition; designations expire three years after approval; and renewals are considered only between 24 and 12 months before expiration.

20.13.2.11 NMAC. Separate non-refundable application fees apply to initial designations and to new determinations. 20.13.2.18 NMAC. Removing the exemptions for the essential uses of intentionally added PFAS described in these comments would necessitate the submission of a significant number of CUU proposals. CUC urges NMED to weigh the cumulative administrative cost of that structure, for the Department and the regulated community alike, as part of the economic analysis HJM 3 requests.

CUC Members have previously estimated the administrative cost of a single CUU request at more than 500 hours. Establishing a baseline PFAS inventory to the CAS registry number level across multiple product lines is itself a significant undertaking, before any analysis of alternatives occurs. For manufacturers whose products contain thousands of components across multiple supply chain tiers, there is not the engineering capacity to redesign every product and component containing intentionally added PFAS, meaning CUUs would be the only available option for such products to continue to be sold or distributed in New Mexico. Comparable experience bears this out. After the U.S. Environmental Protection Agency restricted phenol, isopropylated phosphate (3:1), industry feedback showed the substance was deeply embedded in existing products, supply chains, and replacement parts, and EPA delayed compliance deadlines repeatedly before eventually recalibrating its approach. Similarly, under REACH, the European Union's listing of hexavalent chromium on Annex XIV produced a surge of use authorization applications the European Chemicals Agency could not process in a timely fashion. Both involved individual substances; the Act's definition of PFAS reaches a broad class. Removing exemptions would therefore impose a significant burden on both industry and NMED.

Finally, for many manufacturers the cost of redesigning every affected product would outweigh the cost of not doing business in New Mexico. Where such transition costs could be justified, they would ultimately be borne by consumers. Furthermore, requiring a hurried transition to non-PFAS alternatives presents the risk of causing regrettable substitution—*i.e.*, transition to a substitute that is more flammable, more toxic, less durable, and/or less reliable. Such a transition is not an improvement, and in safety-critical applications it would present a hazard.

VI. Clarification of the Scope of Covered Products

As NMED conducts a review of the statutory exemptions under the Act as required by HJM 3, CUC urges the Department to confirm its interpretation of the Act as limited to consumer products, as well as consider recommending that existing exemptions be broadened or new exemptions be added. For example, while the Act's current exemptions cover certain products that are subject to comprehensive federal regulatory schemes (e.g., drugs and medical devices, veterinary products), other products covered by similar federal regulatory schemes may not be exempt. NMED should consider whether to recommend that the New Mexico Legislature enact additional exemptions for products covered by other federal regulatory schemes (e.g., products in which intentionally added PFAS is subject to regulation under section 5 of the Toxic Substances Control Act).

Additionally, NMED should consider whether the Act could be further clarified to reinforce that the intended scope excludes all non-consumer industrial, commercial, and critical-infrastructure equipment, including relevant components and accessories. Existing exemption

language addressing “non-consumer electronics” may not clearly encompass electromechanical, mechanical, or passive electrical products that perform comparable essential functions. These products may include industrial motors and drives, control panels, enclosures, wiring systems, building controls, and life-safety equipment. Such equipment frequently contains PFAS in internal, fixed, sealed, or function-critical applications and is installed, operated, and maintained by trained personnel rather than ordinary consumers. Products that fall into these categories include equipment used for industrial automation, manufacturing, electrical distribution and control, building systems, communications, transportation infrastructure, water systems, and other essential commercial or institutional applications.

Finally, as NMED develops its draft report in response to HJM 3, the Department should consult with industry—including downstream users of chemicals and chemical-containing products—to identify other categories of products where intentionally added PFAS is used in a highly controlled setting with minimal anticipated exposure and should recommend that the New Mexico Legislature consider exemptions for additional uses meeting these criteria. Such an approach will ensure that the Act focuses on collecting information about and restricting the use of intentionally added PFAS that is most likely to result in exposure to consumers and the environment.

VII. Conclusion

CUC respectfully requests that NMED’s report recommend continuing the exemptions discussed in these comments. NMED’s analysis of the Act’s exemptions must take into consideration factors including the likelihood of exposure from exempt uses and any controls in place to mitigate this exposure, the routes of exposure, and the different PFAS chemistries used in various applications. For many of the complex manufactured goods addressed above, PFAS is present in internal, contained, and/or non-consumer applications from which exposure is expected to be minimal, and alternatives are constrained by technical-performance requirements and, where applicable, qualification and certification requirements. Removal of these exemptions would therefore impose substantial costs on manufacturers and New Mexico purchasers with no clear benefits. Any modifications to these exemptions should be clarifying, including confirming that these exemptions, such as the transportation, electricity, and electronics exemptions, reach the entire supply chain for these products (including raw materials and separately sold replacement and spare parts) and addressing an exemption for rail equipment within the scope of the Act.

Finally, CUC encourages NMED to confirm its interpretation of the Act as applying to consumer products, as such confirmation will allow more productive engagement between NMED and stakeholders as NMED prepares the report required under HJM 3. In the event NMED declines to provide such confirmation, we respectfully ask the Department for a meeting with CUC Members to discuss this issue further. CUC reserves the right to supplement these comments and would welcome the opportunity to meet with NMED staff.