

September 16, 2026

Via: New Mexico Environment Department online comment portal
(<https://nmed.commentinput.com/?id=x2khCUR9pK>)

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

Re: New Mexico Environment Department's Report Pursuant to House Joint Memorial 3

Dear Secretary Kenney:

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI) appreciates the opportunity to provide input on the New Mexico Environment Department's (the Department) Final Report, pursuant to House Joint Memorial 3 (H.J.M. 3).

AHRI represents more than 330 manufacturers of heating, ventilation, air-conditioning, refrigeration (HVACR) and water heating equipment. It is an internationally recognized advocate for the HVACR and water heating industry and certifies the performance of many of the products manufactured by its members. In North America, the annual economic activity resulting from the HVACR and water heating industry is more than \$211 billion. In the United States alone, AHRI member companies, along with distributors, contractors, and technicians, employ more than 700,000 people.

AHRI Requests that the Department Recommend Continuation of Certain Exemptions

AHRI supports the Department's goal to protect public health and the environment, and the Department will not further its goal by removing these exemptions for: 1) heating, ventilation, air-conditioning, refrigeration (HVACR) equipment; 2) products with uses that are acceptable pursuant to the U.S. Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP); and 3) fluoropolymers. Rather, any recommendation to remove these exemptions may create significant health, safety, and economic issues. To that end, AHRI supports the continuation of these exemptions for HVACR equipment, products (i.e., refrigerants) with uses that are acceptable pursuant to U.S. EPA SNAP, and fluoropolymers.

HVACR products serve and support nearly every major sector in the nation, providing life critical products and services for medical facilities and hospitals, government agencies, the U.S. military,

law enforcement, first responders, and public safety; food and medicine preservation, energy, public works and infrastructure support services, critical manufacturing; defense industrial base, and conservation. Often, the health, safety, and functioning of society depends on AHRI member products for which alternatives are not reasonably available.

While the Department develops its Final Report and subsequent recommendations to the legislature, AHRI and its members encourage the Department to utilize a risk-based approach to per- and polyfluoroalkyl substances (PFAS) management to consider both hazard and exposure. To best ensure product safety and protection of human health and the environment, a risk-based approach focuses limited agency resources on the highest priority compounds based on actual environmental, health, and safety risk of the particular chemicals, not just the mere presence of a substance.

AHRI requests that the Department does not recommend the removal of the exemptions for HVACR equipment, refrigerants, and fluoropolymers. Removal of these exemptions does not further the Department's goal of protecting public health and the environment. It may create significant complications for public health and safety, and the economy. Lastly, it may impair our sector's ability to meet critical needs in New Mexico.

Fluoropolymers, Refrigerants, and Other PFAS Contained in HVACR Equipment Present a Low Risk to Consumers and the Environment

Certain chemicals that fall within the scope of the broad definition of per- and poly-fluoroalkyl substances (PFAS) in HB 212 represent a low risk to human health and the environment. For example, most fluoropolymers that meet HB 212's structural definition also meet the Organization for Economic Cooperation and Development's criteria to be polymers of low concern, which are "deemed to have insignificant environmental and human health impacts."¹ Current research supports this. "Fluoropolymers, high molecular weight polymers, have unique properties that constitute a distinct class within the PFAS group. Fluoropolymers have thermal, chemical, photochemical, hydrolytic, oxidative, and biological stability...Fluoropolymers are practically insoluble in water and not subject to long-range transport..."² The study also states that "fluoropolymers cannot cross the cell membrane."³ Thus, as evidenced by the current research and represented by other reputable organizations, many fluoropolymers represent a low risk to human health and the environment.

There is minimal opportunity for consumer exposure to the refrigerants used in HVACR equipment. Refrigerants used in HVACR equipment are not generally accessible to the public and must be maintained and serviced by qualified professionals. Under Section 608 of the Clean Air Act,

¹ "A Critical Review of the Application of Polymer of Low Concern and Regulatory Criteria to Fluoropolymers," Barbara J Henry, *et al.* Integrated Environmental Assessment and Management, Volume 14, Number 3, pp. 316– 334, January 30, 2018; "A critical review of the application of polymer of low concern regulatory criteria to fluoropolymers II: Fluoroplastics and fluoroelastomers," Stephen H. Korzeniowski, *et al.* Integrated Environmental Assessment and Management, Volume 19, Issue 2, pp. 326 – 354, June 9, 2022.

² *Id.*

³ *Id.*

qualified professionals must obtain certification to maintain, service, repair, or dispose of equipment containing refrigerants. Pursuant to the Clean Air Act, refrigerants in HVACR components may not be disposed of in waterways, thus they may not result in exposure through drinking water.

Refrigerants are already federally regulated, are not persistent, bio-accumulative, or toxic (PBT), and they are critical to modern life. Certain polymers that meet New Mexico's definition of PFAS (i.e., fluoropolymers such as polytetrafluoroethylene (PTFE)) are used in a wide variety of consumer products with unlikely potential for human exposure or environmental release during use of the product, therefore, presenting minimal risk associated with the actual product itself.

Additionally, most refrigerants used by the HVACR industry are already subject to exposure risk and toxicity evaluations, and environmental impact assessments, pursuant to U.S. EPA SNAP. Most refrigerants used in HVACR systems are not toxic, as defined in the *International Fire Code*, *Uniform Fire Code*, and Occupational Safety and Health Administration (OSHA) regulations.⁴ Federal statutes are in place that evaluate the exposure risks, toxicity, and environmental impacts of refrigerants, and provide for their proper handling and disposal to ensure minimal impact to public health and the environment. Thus, consumer and environmental risks are mitigated through extensive review and regulation of these products.

AHRI Requests the Department Consider the Cross-Cutting Federal Requirements for the HVACR Industry

Rescinding the exemptions for HVACR equipment and SNAP-approved substances would prohibit the sale of many low global warming potential (GWP) refrigerants and critical components for HVACR equipment without providing manufacturers with adequate time to source or develop alternatives. AHRI members are currently transitioning to refrigerants with reduced climate impact pursuant to the American Innovation and Manufacturing (AIM) Act of 2020. Removal of the exemptions for HVACR equipment and SNAP-approved substances would impact the ability of AHRI members to meet this goal. While the Department conducts its literature review for the Final Report, AHRI requests the Department consider the AIM Act and subsequent regulations with which AHRI members must comply.

AHRI Requests the Department Adhere to New Mexico State Law and Allow for the Continued Sale and Use of SNAP-Approved Refrigerants and HVACR Equipment Containing SNAP-Approved Refrigerants or PFAS

Under HB 212, "beginning January 1, 2032, a manufacturer shall not sell, offer for sale, distribute or distribute for sale in this state, directly or indirectly or through intermediaries, a product containing an intentionally added per- or poly fluoroalkyl substance, unless the board has adopted a rule providing that the use of the per- or poly-fluoroalkyl substance in that product is a currently unavoidable use." Products containing intentionally added PFAS that are not exempt pursuant to

⁴ ANSI/ASHRAE Standard 34-2024

Subsection A are subject to prohibition beginning on January 1, 2032. If the Department proposes to remove the exemptions for HVACR equipment and SNAP-approved substances, manufacturers will be prohibited from selling their products that contain an intentionally added PFAS, like refrigerants. And, for the Department, without the exemptions, the Department may potentially violate its responsibilities to allow the “use of a refrigerant that is designated as an acceptable alternative or substitute” or “the installation or listing of equipment that contains a refrigerant designated as acceptable ... and meets nationally recognized standards for the safe design, construction, installation and operation of refrigeration systems and the appropriate listing standard.”⁵

The EPA has designated the use of certain substances as acceptable pursuant to SNAP for certain applications, such as in HVACR equipment. AHRI encourages the Department to consider the potential conflict with New Mexico HB 379-2023 and not restrict the use of substances designated as an acceptable alternative by the U.S. EPA.

AHRI Requests a Realistic Compliance Timeline if the Exemptions are Modified

If the Department does recommend modifications or removal to the exemptions for HVACR equipment, refrigerants, and fluoropolymers, AHRI requests that the Department ask the State Legislature to grant a realistic compliance timeline for the affected industries. The removal of the exemptions could require manufacturers to begin reporting information regarding PFAS in their products, apply for a Currently Unavoidable Use (CUU) designation, and/or prepare for a sales prohibition. It is imperative that manufacturers have the necessary time to ensure compliance with these regulatory requirements.

AHRI requests the Department recommend a realistic compliance timeline to the State Legislature if it recommends modification or removal of the exemptions.

Conclusion

AHRI requests that the Department’s Final Report recommend to the New Mexico legislature to maintain the exemptions for HVACR equipment, products with uses that are acceptable pursuant to the U.S. EPA SNAP, and fluoropolymers.

AHRI appreciates the opportunity to submit these comments and welcomes the opportunity to discuss this issue further.

Sincerely,



Morgan Anderson
Manager, Policy
Email: manderson@ahrinet.org

⁵ New Mexico HB 379-2023.