

Alison Riley

September 17, 2026

To: New Mexico Environment Department
Email: NMED-PFAS@env.nm.gov

From: New Mexico Chamber of Commerce

Re: HJM 3 Review of Exemptions under the Per- and Poly-Fluoroalkyl Substances Protection Act

Dear New Mexico Environment Department Staff:

The New Mexico Chamber of Commerce appreciates the opportunity to comment on the Department's review under House Joint Memorial 3. The Chamber supports protecting public health and the environment through policies grounded in sound science, demonstrated exposure and risk, and practical implementation.

Based on the scientific and technical information currently available, the Chamber respectfully recommends that New Mexico retain the PFAS Protection Act's existing exemptions, including the exemption for qualifying fluoropolymers, and preserve the currently unavoidable use process. The Department should not recommend modifying or removing an exemption without a clear, use-specific scientific and technical record demonstrating that such a change is warranted.

Maintain the Existing Science-Based Framework

PFAS describes thousands of substances with widely different physical, chemical and toxicological characteristics. A broad categorical approach can obscure those differences. Fluoropolymers are high-molecular-weight, solid materials that are generally insoluble, chemically stable and resistant to heat and degradation. Peer-reviewed reviews have found that qualifying fluoropolymers have limited bioavailability and low potential to bioaccumulate compared with the smaller, mobile PFAS compounds that have driven many health and environmental concerns.

Their properties, exposure pathways and lifecycle should therefore be evaluated directly rather than inferred from the characteristics of unrelated PFAS chemistries.

New Mexico's current exemptions reflect this distinction and provide a reasonable, risk-informed framework. They do not prevent oversight of manufacturing emissions, waste streams or other environmental releases. Instead, they recognize that the presence of a fluorinated chemistry alone does not establish a common hazard or exposure profile. Existing environmental permitting, emissions controls and waste-management requirements remain available to address demonstrated risks. Maintaining the exemptions while science continues to develop is the sounder course than removing them based on a broad chemical definition.

The currently unavoidable use process is equally important. Whether an alternative is viable depends on the specific product and function. A nominal substitute may fail to meet temperature, pressure, chemical-resistance, electrical, durability, safety or certification requirements. A

meaningful use-specific process allows regulators to consider necessity, product performance, lifecycle impacts, availability, scalability, qualification requirements, supply-chain constraints and transition time. That approach protects public health without forcing premature substitutions that could reduce product safety or reliability.

Protect Critical Infrastructure and National Defense

Fluoropolymers and fluoroelastomers support critical applications in aerospace, defense, energy, semiconductors, telecommunications, healthcare, transportation and water systems. They are used in seals, gaskets, O-rings, hoses, wire and cable insulation, coatings, valves and other components because they continue to perform under conditions that degrade many other materials. These are often small components, but their failure can disable a much larger system.

National defense deserves particular attention. The U.S. Department of Defense has identified PFAS-dependent applications, including lines, hoses, seals, gaskets, O-rings and tapes, for which continued research and qualification of alternatives are necessary. Defense systems and their supply chains must satisfy demanding federal performance, reliability and safety specifications. Replacing a material can require redesign, testing, certification and requalification. An alternative with a shorter service life can also increase maintenance demands or introduce additional risks to system reliability.

State policy should recognize the full scope of materials and equipment necessary to support aerospace and defense activities. The proposed aircraft definition should explicitly include aircraft parts and components, ensuring that critical components and materials used in the construction, maintenance, repair and operation of aircraft are appropriately covered.

Similarly, the equipment exemption for manufacturing and development should expressly include the materials, consumables and processes necessary to manufacture, develop, test and qualify products and systems. These inputs can be integral to the manufacturing and development process even when they are not themselves the final piece of equipment.

State policy should not disrupt access to materials required to meet Department of Defense, Department of Energy, Federal Aviation Administration, National Aeronautics and Space Administration, Department of Homeland Security or other federal standards. Retaining the existing exemptions, while clarifying their application to aircraft parts and components and to the materials, consumables and processes used in manufacturing and development, helps protect New Mexico's national laboratories, military installations, aerospace sector and defense-industrial base while allowing agencies to address substantiated risks.

Avoid Unnecessary Economic and Supply Chain Disruption

Removing or narrowing an exemption involves far more than exchanging one raw material for another. Manufacturers may need to redesign products, qualify suppliers, modify tooling and processes, conduct durability and performance testing, obtain third-party certifications, revise inventories and documentation, and maintain replacement-part systems. These costs can affect businesses of every size and may ultimately reduce product availability or increase costs for New Mexico consumers, employers and public entities.

These considerations are particularly important for industries operating within highly regulated federal supply chains. Products used in aerospace, defense, energy, healthcare and other critical sectors may be subject to federal specifications or customer-specific qualification requirements. A material change can therefore require substantially more than simply identifying a commercially available substitute.

The Department's report should distinguish between legacy contamination concerns and the risk profile of finished products containing qualifying fluoropolymers. It should also weigh the full consequences of substitution, including whether a replacement performs as safely and reliably, lasts as long, is available at commercial scale, and creates different environmental or resource costs over its lifecycle.

In the absence of compelling evidence that a particular exemption or use presents an unreasonable risk that cannot be managed under existing authorities, regulatory stability is appropriate.

Chamber Recommendation

The Chamber respectfully asks the Department to recommend retaining the Act's existing exemptions and a workable currently unavoidable use process. The Chamber further recommends that the Department:

1. Retain the existing exemption for qualifying fluoropolymers.
2. Retain the currently unavoidable use process and ensure that it remains practical, use-specific and grounded in technical evidence.
3. Clarify that the aircraft exemption includes aircraft parts and components, including materials necessary for the construction, maintenance, repair and operation of aircraft.
4. Clarify that the manufacturing and development equipment exemption includes materials, consumables and processes necessary to manufacture, develop, test and qualify products and systems.
5. Ensure that state policy does not interfere with access to materials necessary to satisfy federal standards and specifications, including those established by the Department of Defense, Department of Energy, Federal Aviation Administration, National Aeronautics and Space Administration and Department of Homeland Security.
6. Consider national-security, economic and supply-chain consequences before modifying an exemption, particularly where affected products are incorporated into federally regulated or federally qualified systems.
7. Require that any future proposal to modify a specific exemption be supported by a transparent, use-specific scientific and technical record; analysis of economic, supply-chain and national-security consequences; confirmation that qualified alternatives are reasonably available; and an additional opportunity for affected stakeholders to comment on the Department's draft findings.

New Mexico can protect its residents and environment while preserving materials that remain essential to safe, reliable and federally required products. On the record available today, the existing framework appropriately balances those objectives and should remain in place.

Sincerely,
Alison Riley

New Mexico Chamber of Commerce