

Donovan Ringo

The Auto Care Association (the Association) submits these comments on the New Mexico Environment Department's (the Department) report to the Legislature under House Joint Memorial 3 (HJM3) on implementation of the Per- and Poly-Fluoroalkyl Substances (PFAS) Protection Act (the Act).

The Association represents manufacturers, distributors, and retailers of aftermarket motor vehicle parts doing business in New Mexico. Many of these companies are working in good faith to comply with the Act and cannot get answers from the Department on basic compliance questions. The implementation record to date does not support enforcement on the current timeline without further clarity from the Department.

1. Guidance to regulated parties has been inconsistent.

At the August 18-19 stakeholder webinar, the Department first sought to limit public comment to the legislative report, then reversed that position after stakeholders objected. When stakeholders asked specific compliance questions, including whether labeling requirements apply to industrial as well as consumer products, the Department declined to answer publicly. It directed attendees to individual meetings and described the ambiguity as a legislative drafting issue it could not resolve through guidance. A tool the Department announced to support label submissions made under other states' programs has not gone live. Regulated parties are being asked to meet sales prohibitions and labeling deadlines before the Department's own public process has defined those obligations.

2. The labeling mandate faces an active legal challenge.

A federal lawsuit challenging the Act's labeling mandate was filed July 1, 2026, and heard August 27, 2026. It remains unresolved. The Department has not said publicly whether it will enforce the labeling requirement while the case is pending, which leaves companies unable to judge whether compliance investments made now will hold.

3. Exemption scope is undefined for motor vehicle air conditioning refrigerant.

Stakeholders have asked whether the Act's categorical exemptions cover motor vehicle air conditioning refrigerant, which the U.S. Environmental Protection Agency (EPA) regulates under its Significant New Alternatives Policy (SNAP) program. The Department has not issued a public position. Companies cannot determine from any published guidance whether an exemption applies to their products. That record does not support enforcement.

4. Requested report recommendations

The Association asks that the Department's report to the Legislature:

- (a) recommend a formal enforcement discretion or delay period until the Department has issued written guidance resolving open exemption-scope questions, including the refrigerant question above, and has completed the stakeholder consultations it has offered;
- (b) acknowledge the pending litigation and its bearing on whether the labeling requirement can be enforced; and
- (c) recommend that exemptions D, G, and L be retained as categorical exemptions, not converted to time-limited designations, and clarified as set out below.

5. Proposed clarifying language for exemptions D, G, and L

Exemption D. Clarify that the exemption includes the service gas needed to maintain covered equipment. Proposed text:

"Cooling, heating, ventilation, air conditioning, or refrigeration equipment containing intentionally added PFAS or refrigerants listed by the EPA as acceptable, acceptable subject to use conditions, or acceptable subject to narrowed use limits under the SNAP program at 40 CFR Part 82 Subpart G, and service gas needed to maintain the equipment as sold for the use for which the refrigerant is listed."

Exemption G. Clarify that the exemption includes motor vehicle air conditioning refrigerant and parts needed for servicing. Proposed text:

"A motor vehicle or motor vehicle equipment regulated under a federal motor vehicle safety standard, as defined at 49 U.S.C. 30102(a)(10), including parts and refrigerant needed for servicing, except that the exemption does not apply to any textile article included in or as a component part of such products."

Exemption L. Clarify that the exemption covers all products and sectors listed under SNAP, including products used to maintain that equipment. Proposed text:

"A product containing intentionally added PFAS with uses currently listed as acceptable, acceptable subject to use conditions, or acceptable subject to narrowed use limits under the SNAP program at 40 CFR Part 82 Subpart G, including products needed to service or maintain equipment for those listed uses."

The Association welcomes the Department's offer of stakeholder meetings and asks to schedule one before the report is finalized. Questions may be directed to Donovan Ringo, Director of State Affairs & Grassroots, Auto Care Association, at donovan.ringo@autocare.org or 240-333-1075.

To: New Mexico Environment Department

Re: Public Comment on HJM3 Implementation Report (PFAS Protection Act)

Submitted via: NMED comment portal (nmed.commentinput.com/?id=x2khCUR9pK)

September 16, 2026

The Auto Care Association submits this comment to raise a direct concern: the implementation record to date does not support moving forward with enforcement on the current timeline without additional clarity from the Department. The Association represents manufacturers, distributors, and retailers of aftermarket motor vehicle parts operating in New Mexico, many of whom are attempting to comply with the Act in good faith and are unable to get answers from the Department on critical compliance questions.

1. The Department has not provided consistent guidance to regulated parties

At the August 18-19 stakeholder webinar, the Department initially sought to limit public comment to the legislative report only, then reversed that position after stakeholder pushback. When stakeholders raised specific compliance questions, including whether labeling requirements apply to industrial versus consumer products, the Department declined to answer publicly and instead directed attendees to individual 1:1 meetings, characterizing the ambiguity as a legislative drafting issue rather than one the Department could resolve through guidance. A tool announced to support other-state label submissions has not yet gone live. Regulated parties are being asked to comply with sales prohibitions and labeling deadlines while the Department's own public process has not settled what those obligations require.

2. The labeling mandate is under active legal challenge

A federal lawsuit challenging the Act's labeling mandate was filed July 1, 2026, with a hearing held August 27, 2026. The outcome remains unresolved as of this comment. The Department has taken no public position on whether enforcement of the labeling requirement will proceed against that backdrop, leaving industry to guess whether compliance investment made now will hold.

3. Categorical exemption scope remains undefined for at least one major product category

Stakeholders have specifically asked whether the Act's categorical exemptions extend to motor vehicle air conditioning refrigerant, a product category regulated separately at the federal level under EPA's SNAP program. The Department has not issued a public position on this question. An implementation environment where regulated parties cannot determine, from any published Department guidance, whether a given exemption applies to their product is not an environment ready to support enforcement.

4. Requested actions

The Association requests that the Department's report to the Legislature recommend a formal enforcement discretion or delay period until the Department has (a) issued written guidance resolving open exemption-scope questions, including the one described above, and (b) completed its offered stakeholder consultations. The Association further requests that the report acknowledge the pending litigation and its bearing on the labeling requirement's enforceability.

Auto Care also requests that NMED retain and improve exemptions D, G, and L as follows.

Action proposed for D: Expand language to clarify that this exemption includes service gas needed to maintain equipment (and/or note that this is already covered in Exemption L below) and remain Exemption with no renewal date required.

PROPOSED New D: Cooling, heating, ventilation, air conditioning, or refrigeration equipment containing intentionally added PFAS or refrigerants listed by the Environmental Protection Agency as acceptable, acceptable subject to use conditions, or acceptable subject to narrowed use limits under the Significant New Alternatives Policy program at 40 CFR Part 82 Subpart G, **and service gas needed to maintain the equipment** as sold for the use for which the refrigerant is listed. This is a Permanent Exemption.

Action proposed for G: Clarify language that this exemption is inclusive of Refrigerant for MVAC and includes service gas needed to maintain equipment (and/or note that this is already covered in Exemption L below) and remain Exemption with no renewal date. Make Permanent Exemption.

PROPOSED NEW G: A motor vehicle or motor vehicle equipment regulated under a federal motor vehicle safety standard as defined at 49 U.S.C. 30102(a)(10) included parts and refrigerant needed for servicing, except that the exemption does not apply to any textile article or refrigerant included in or as a component part of such products. This is a Permanent Exemption.

Action proposed for L: Clarify language that this exemption is inclusive of all products and sectors covered under SNAP and includes products covered under SNAP used to maintain equipment and products (and/or note that this is already covered in Exemption L below) and remain Exemption with no renewal date. Make Permanent Exemption.

PROPOSED NEW L: A product containing intentionally added PFAS with uses currently listed as acceptable, acceptable subject to use conditions, or acceptable

subject to narrowed use limits under the Significant New Alternatives Policy program, **and products needed to service such products** provided the PFAS is being used as a substitute for an ozone-depleting

We thank you for the opportunity to provide comment. Please let us know if you have any questions.

Respectfully submitted,

A handwritten signature in black ink that reads "Donovan Ringo". The script is fluid and cursive, with the first letters of each word being capitalized and larger than the rest of the letters.

Donovan Ringo
Director, State Affairs & Grassroots
Auto Care Association