

Dan Moyer

See attached document for full comments with references.

September 17, 2026

The Honorable James C. Kenney
Secretary
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87505

Re: Comments on Report 2 for House Joint Memorial 3 (2026)

Dear Secretary Kenney:

On behalf of the Consumer Technology Association ("CTA"), thank you for the opportunity to provide these comments on House Joint Memorial 3 ("HJM3") and the New Mexico Environment Department's ("NMED's") forthcoming report examining the exemptions codified in the Per- and Poly-Fluoroalkyl Substances Protection Act (the "Act"). CTA is North America's largest technology trade association. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs.

As part of HJM3, NMED is seeking public comment on the public health, environmental, and economic risks associated with the exemptions in the Act, to inform NMED's report to the legislature on whether those exemptions should be retained, modified, or removed. In response, CTA provides the comments below explaining why the Act's existing exemptions for semiconductors, non-consumer electronics, and fluoropolymers should be retained; why exemption treatment should be extended to electronic components more broadly; and what additional stakeholder engagement CTA believes this process warrants going forward. The exemptions the report will examine directly impact CTA members because PFAS includes a broad class of thousands of chemicals, some of which are necessary for the manufacture and function of electronics products.

Existing Exemptions Under the Act

CTA respectfully asks NMED to recommend that the legislature retain the Act's current exemptions for semiconductors, non-consumer electronics, equipment used to manufacture those products, and products containing fluoropolymers.

Electronic products are a part of everyday life and essential to the functioning of modern society, supporting communications, healthcare, education, public safety, and commerce. Other jurisdictions have similar exemptions regarding electronics PFAS uses. Maine's law governing PFAS in products contains exemptions for semiconductors, non-consumer electronics, and equipment used in their manufacture.¹ Canada's federal PFAS regulatory framework excludes fluoropolymers from its risk management approach, based on a finding that fluoropolymers have a different exposure and hazard profile than other PFAS.² The European Union has reached a similar conclusion in the European Chemicals Agency's updated August 2025 PFAS restriction proposal which specifically names

electronics and semiconductors as a sector warranting continued, controlled PFAS use, and expands the proposed derogations for fluoropolymers.³ Canada and the EU have concluded that fluoropolymers and semiconductor-related PFAS uses warrant distinct treatment. New Mexico's exemptions fit within this consensus, and NMED should recommend that the legislature retain these exemptions.

The Act's implementation remains in its earliest stages. The final rule governing the Act only took effect in July 2026, and the first product prohibitions and labeling requirements do not go into effect until January 1, 2027. CTA respectfully suggests that it would be premature to remove any of the Act's existing exemptions until a record develops showing the impact and effects of the current law. Removing exemptions would require acting on assumptions about the program rather than evidence drawn from actual compliance experience. CTA encourages NMED to draw on the experience of other jurisdictions that have already grappled with these same questions rather than acting on a limited record with the current program.

Other Exemptions

While CTA urges keeping the Act's existing exemptions, CTA also recommends that NMED and the legislature consider additional exemptions for the electronics sector.

In 2025, Minnesota amended its law governing PFAS so that its 2025 restrictions do not apply to products that contain intentionally added PFAS in their electronic components or internal components or packaging.⁴ Minnesota's Pollution Control Agency has also recognized the importance of PFAS in electronics and the difficulty in finding viable alternatives.⁵ The EU's proposed PFAS restrictions in products reflect similar exemptions. We ask that the Department look closely at adopting the derogations present in the European Chemicals Agency's (ECHA) August 2025 PFAS restriction proposal.⁶ The ECHA process reflects several years of study by European national authorities, and ECHA engaged in significant stakeholder consultations to determine these proposals to regulate PFAS in products. This proposal discusses the essential uses of PFAS in electronics and the needed exemptions for electronic devices. We respectfully ask that NMED consider recommending a similar approach for New Mexico with an exemption for all electronic components and their packaging to ensure the Act's exemptions achieve their intended purpose.

In addition, CTA recommends that NMED extend the existing exemptions to the labeling requirements for those products with current exemptions (e.g. semiconductors, non-consumer electronics, equipment used to manufacture those products, and products containing fluoropolymers) as well as products with Currently Unavoidable Use (CUU) approval.

Requiring PFAS labeling for products already exempt from prohibitions and reporting obligations neither reduces potential consumer health risks, given the negligible or non-existent exposure potential, nor decreases potential PFAS exposure in the environment. However, it would impose a significant compliance burden on the entire supply chain of these products and industry sectors.

Additional Comments

CTA understands that HJM3 directs the creation of two distinct reports: a status report from the Environmental Improvement Board ("EIB") evaluating the effectiveness of the Act's rules, and NMED's report examining the risks associated with the Act's exemptions. CTA respectfully requests that NMED outline how it intends to coordinate with the EIB on stakeholder engagement for the EIB's upcoming report. CTA recommends the EIB establish and publish a clear process and

timeline for public input on that report.

Additionally, CTA respectfully asks that NMED clarify the stakeholder engagement process for the creation of its report. Given the significance of this report's recommendations, we believe that stakeholders would benefit from more than a short comment period at the start of the process. We request that stakeholders be given further engagement opportunities, such as a comment period on preliminary findings, before the report is finalized.

Conclusion

CTA appreciates NMED's efforts to implement the Act and seek feedback from stakeholders as it develops its report for HJM3. For the reasons discussed above, CTA urges NMED to recommend that the legislature retain the Act's existing exemptions for semiconductors, non-consumer electronics, manufacturing equipment, and fluoropolymers. We also ask that NMED recommend that the legislature extend exemptions to electronic products and components more broadly.

Thank you for this opportunity to comment. Please do not hesitate to contact me at dmoyer@cta.tech with any questions regarding our comments.

Sincerely,

/s/

Dan Moyer
Senior Manager, Environmental Law and Policy
Consumer Technology Association



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¹ <https://legislature.maine.gov/statutes/38/title38sec1614.html>

² <https://www.canada.ca/en/environment-climate-change/services/evaluating-existing-substances/risk-management-approach-per-polyfluoroalkyl-substances.html>; <https://www.canada.ca/en/environment-climate-change/news/2025/03/protecting-canadians-health-and-canadas-environment-from-forever-chemicals.html>

³ European Chemicals Agency, *ECHA publishes updated PFAS restriction proposal* (Aug. 20, 2025), <https://www.echa.europa.eu/-/echa-publishes-updated-pfas-restriction-proposal>. For additional background, ECHA general PFAS updates page: <https://echa.europa.eu/en/hot-topics/perfluoroalkyl-chemicals-pfas>

⁴ <https://www.pca.state.mn.us/air-water-land-climate/2025-pfas-prohibitions>

⁵ <https://www.pca.state.mn.us/sites/default/files/lrc-pfc-5sy25.pdf> Minnesota Pollution Control Agency January 2025 Report to the Legislature on "Recommendations for products containing lead, cadmium, and PFAS"

⁶ See *supra* footnote 3.

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