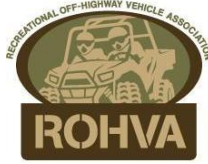




**MOTORCYCLE
INDUSTRY
COUNCIL®**



The Honorable James C. Kenney
New Mexico Environment Department
Harold Runnels Building
1190 St. Francis Dr., Suite N4050
Santa Fe, NM 87502-5469

Re: House Joint Memorial 3 – Evaluation of PFAS Protection Act Exemptions

Dear Secretary Kenney,

The Motorcycle Industry Council (MIC)¹, the Specialty Vehicle Institute of America (SVIA)², and the Recreational Off-Highway Vehicle Association (ROHVA)³ (jointly referred to as the powersports industry) appreciate the opportunity to provide comments to the New Mexico Environment Department (NMED) regarding House Joint Memorial 3 (HJM 3) and NMED's evaluation of the exemptions contained in the New Mexico PFAS Protection Act.

Recommendations

Based on the considerations below, MIC, SVIA, and ROHVA respectfully recommend NMED:

1. **Maintain the existing motor vehicle exemption under the PFAS Protection Act.**
2. **Ensure that off-highway motorcycles, ATVs, and off-highway vehicles are captured by the motor vehicle exclusion.**
3. **Ensure that necessary warranty, service, and replacement parts and components remain covered by the exemption** so that vehicles can be safely maintained throughout their lives. Without that exemption, our vehicles may not be able to be properly maintained to ensure safe operation and compliance with state and federal regulations.
4. **Recognize the essential role of fluoropolymers in motor vehicles and other complex durable goods.**
5. Evaluate fluoropolymer applications **based on their specific use, function, exposure potential, and environmental profile** rather than treating all PFAS applications as equivalent.
6. Consider **vehicle safety, reliability, durability, repairability, and product longevity** as part of the public health, environmental, and economic analysis.

¹ The Motorcycle Industry Council (MIC) is a not-for-profit, national trade association representing several hundred manufacturers, distributors, dealers and retailers of motorcycles, scooters, motorcycle parts, accessories and related goods, and allied trades.

² The Specialty Vehicle Institute of America (SVIA) is the national not-for-profit trade association representing manufacturers, dealers, and distributors of all-terrain vehicles (ATVs) in the United States. SVIA's primary goal is to promote safe and responsible use of ATVs.

³ The Recreational Off-Highway Vehicle Association (ROHVA) is a national, not-for-profit trade association formed to promote the safe and responsible use of recreational off-highway vehicles (ROVs – sometimes referred to as side-by-sides or UTVs) manufactured or distributed in North America. ROHVA is also accredited by the American National Standards Institute (ANSI) to serve as the Standards Developing Organization for ROVs. More information on the standard can be found at <https://rohva.org/ansi-standard/>.

7. Consider the **full lifecycle impacts of material substitution**, including manufacturing, component replacement, waste, and product disposal.
8. Require evidence that a technically, commercially, and economically feasible alternative exists before recommending removal or narrowing of an existing exemption.
9. Avoid policies that could unintentionally shorten the life of complex durable goods or make necessary warranty, service, and replacement parts unavailable.

The powersports industry supports efforts to protect public health and the environment and recognizes the importance of appropriately addressing PFAS where their use presents a demonstrated risk. At the same time, PFAS is a broad class of substances with significantly different chemical and physical properties, uses, exposure pathways, and risk profiles. Accordingly, regulatory decisions should be based on the specific PFAS application and the actual risk associated with that use rather than treating all PFAS-containing products or applications as the same.

For these reasons, MIC, SVIA, and ROHVA urge NMED to **maintain the existing motor vehicle exemption under the PFAS Protection Act and ensure the exemption continues to include powersports vehicles and the components, warranty, service, and replacement parts necessary to maintain those vehicles throughout their life.** NMED should also consider the important role fluoropolymers play in motor vehicles and other complex durable goods and recognize that, for many applications, suitable alternatives are not currently available.

HJM 3 Calls for a Science- and Risk-Based Evaluation of the Existing Exemptions

HJM 3 directs NMED to evaluate exemptions in the PFAS Protection Act using scientific literature and through the public health, environmental, and economic lenses. This process provides an important opportunity to distinguish between the wide range of PFAS uses rather than evaluating all PFAS solely based on the presence of PFAS in a product.

When evaluating existing exemptions, it is essential to recognize the differences between non-polymer and polymer PFAS. The term “PFAS” encompasses a broad range of substances with significantly different physical and chemical properties and different potential impacts on human health and the environment. As the OECD explained in its [2021 report](#), “the term ‘PFASs’ does not inform whether a compound is harmful or not, but only communicates that the compounds under this term share the same trait for having a fully fluorinated methyl or methylene aliphatic carbon moiety.” A science- and risk-based evaluation should therefore distinguish between different types of PFAS and should not assume that the presence of a substance falling within a broad PFAS definition necessarily presents the same potential for exposure, bioaccumulation, or environmental release.

This distinction is particularly important for fluoropolymers, which are polymerized PFAS with properties that differ significantly from many non-polymer PFAS. Fluoropolymers possess characteristics that make them valuable in applications requiring exceptional chemical and temperature resistance, low friction, durability, electrical insulation, and resistance to wear. Unlike PFAS that may readily enter the environment, fluoropolymers generally have very low potential

for human or environmental exposure because they are not bioavailable, are not water soluble, have very low mobility, and do not bioaccumulate.⁴

For the powersports industry, fluoropolymers are essential in many applications, including fuel and electric systems, powertrains, brakes, semiconductors, and cables and wires. These materials perform critical functions that support vehicle safety and reliability, increase component service life, reduce maintenance costs for consumers, and contribute to improved fuel economy and reduced emissions. Fluoropolymers also enable the use of alternative fuels and power-storage batteries. In many of these applications, the material is incorporated into a durable component and is not reasonably expected to come into direct contact with an individual.

The presence of intentionally added PFAS should not determine whether an application presents an unacceptable risk or whether an exemption should be removed. Instead, NMED's evaluation under HJM 3 should consider the specific PFAS at issue, the potential for its release and exposure throughout the product's lifecycle, the function it performs, and the consequences of requiring substitution.

This approach is particularly important given the experience of other states that have adopted overly broad PFAS restrictions without adequately distinguishing among PFAS uses and applications. Following significant implementation challenges associated with its broad PFAS law, Maine enacted LD 1537/SP 610, which excluded several categories of products—including motor vehicles, motorcycles, all-terrain vehicles, and recreational off-highway vehicles—from its PFAS-in-products prohibition. New Mexico's science- and risk-based evaluation under HJM 3 provides an opportunity to avoid similar unintended consequences by carefully evaluating whether particular uses, including fluoropolymers in motor vehicles and their components, present a meaningful risk of human or environmental exposure before removing existing exemptions.

For these reasons, fluoropolymers should be evaluated separately from other types of PFAS, and the existing exemptions should not be removed as the scientific evidence demonstrates that the application has a low potential for release, exposure, and environmental harm and where technically and commercially feasible alternatives are not available.

Public Health Considerations Support Maintaining the Motor Vehicle Exemption

Public health considerations should include not only potential chemical exposure but also the safety and reliability of products on which consumers depend. Powersports vehicles contain numerous components that must perform reliably under demanding operating conditions, including exposure to significant heat, vibration, water, fuels, oils, chemicals, mechanical stress, and repeated friction and wear. Additionally, any prohibition on **PFAS in juvenile products should expressly carve out youth ATVs and other youth OHVs because of the significant safety risks that could result from eliminating appropriately sized vehicles for children.** Youth OHVs are specifically designed and powered for children and prohibiting them could create a more immediate health and safety risk if children instead operate larger adult-sized vehicles. Please consider the comments made by the U.S. Consumer Product Safety Commission (CPSC) while discussing the risks associated with lead exposure from youth ATVs pursuant to the passage of the Consumer Product Safety Improvement Act, which banned certain limits of lead in children's

⁴ [Henry et al. 2018](#), [Korzeniowski et al. 2022](#)

products. Youth ATVs were subsequently excluded from such lead limits by P.L. 112-28 in part due to CPSC's statement that banning youth ATVs would pose a **“serious and immediate risk of injury or death”** for children under 12 who would instead ride larger and faster adult-size ATVs. (See 74 Fed. Reg. 22154.) Other states have similarly recognized this distinction: Maine excludes motor vehicles from its PFAS law, while Minnesota and Vermont recently excluded youth off-highway vehicles and all-terrain vehicles from their state's definition of juvenile products.

Fluoropolymers are used in certain vehicle applications because they provide a combination of properties that can be difficult to achieve with other materials, including in seals and gaskets, hoses and tubing, wire and cable insulation, fuel-system components, and components exposed to heat, fuels, oils, or other chemicals. In these applications, replacing a fluoropolymer with a material that does not provide equivalent performance could result in premature degradation, increased maintenance, reduced reliability, or other unintended consequences. Accordingly, NMED's public health evaluation must consider the **potential consequences of material substitution on vehicle safety and reliability.**

Environmental Analysis Must Consider Product Durability and the Full Lifecycle

The environmental benefits of eliminating a chemical must be evaluated alongside the environmental consequences of replacing it. Fluoropolymers are used in demanding applications because of their durability and resistance to heat, chemicals, friction, and degradation, which can extend component and product life. Replacing them with less durable alternatives could increase replacement frequency, resource consumption, manufacturing and transportation impacts, and waste. NMED should therefore evaluate whether an alternative reduces overall environmental impacts over the product's life, rather than focusing solely on PFAS elimination.

This lifecycle analysis is particularly important in the context of waste prevention, circular economy, and extended producer responsibility (EPR) policies. EPR seeks, in part, to encourage waste prevention, better product design, and reduced environmental impacts throughout a product's lifecycle.⁵ If a restriction shortens product life, it could increase material consumption and the volume of products requiring collection, recycling, treatment, or disposal, placing additional pressure on waste-management systems and landfills. Durability should therefore be considered an environmental attribute, particularly for complex durable goods where a single component can affect the life of the larger product.

The OECD's 2025 report on fluoropolymers reinforces the importance of evaluating these materials across their full lifecycle, including production, use, environmental releases, and end-of-life management.⁶ NMED should similarly consider the full lifecycle impacts of both existing materials and proposed alternatives, including durability, replacement rates, resource consumption, waste generation, recyclability, and end-of-life management. The environmental impact of removing PFAS must therefore be considered in this broader context; a restriction should not be viewed as an environmental improvement if it simply shifts impacts elsewhere or increases resource consumption and waste.

⁵ https://www.oecd.org/en/publications/extended-producer-responsibility_67587b0b-en.html

⁶ https://www.oecd.org/en/publications/synthesis-report-on-understanding-fluoropolymers-and-their-life-cycle_35b035df-en.html

Economic Considerations for Complex Durable Goods

Motor vehicles are complex durable goods composed of hundreds or thousands of individual components. Changes to a single material or component can have consequences throughout the supply chain. A suitable alternative must not only exist in theory; it must be capable of being manufactured consistently, meet the applicable specifications, withstand the intended operating conditions, and be available in sufficient quantities. Material substitution will require: engineering and product redesign; supplier changes; tooling changes; extensive durability testing; validation and qualification; regulatory review; supply-chain adjustments; and significant investment in manufacturing processes.

These considerations are particularly important for warranty, service, and replacement parts. Powersports vehicles can remain in service for many years. Consumers depend on the continued availability of replacement components to repair and maintain such vehicles. A restriction that prevents manufacturers or suppliers from providing necessary components could increase repair costs, reduce parts availability, increase vehicle downtime, and shorten the life of otherwise serviceable vehicles.

NMED must consider the economic consequences of removing an exemption not only for manufacturers of new vehicles but also for **consumers, dealers, repair businesses, suppliers, and owners of vehicles already in service.**

Safety and Regulatory Compliance Considerations for Motor Vehicles

Powersports vehicles, like other motor vehicles, must meet a range of federal and state safety and emissions requirements. Removing PFAS from an internal component of a motor vehicle — including motorcycles, off-highway vehicles, and side-by-sides — could affect the component's ability to meet applicable safety, performance, durability, and flammability requirements. Components may require materials with specific heat- and flame-resistant properties to maintain vehicle safety and compliance.

PFAS are used in motor vehicles to ensure compliance with flammability requirements by enhancing fire resistance, thermal stability, and material performance under high temperature conditions. Key applications include: 1) wire and cable insulation, where fluoropolymer coatings help resist ignition, limit flame propagation, and maintain integrity in dense electrical systems; 2) fuel system components, such as lines, seals, and gaskets, where PFAS materials provide chemical resistance and reduce the risk of flammable leaks; and 3) engine components, where PFAS-containing plastics are used in high-heat environments due to their resistance to degradation and ignition. Removal of PFAS from any of these critical applications may compromise system performance and create a risk of noncompliance with applicable federal flammability standards.

PFAS are used in motor vehicles to support compliance with Section 202 Clean Air Act requirements by controlling evaporative and tailpipe emissions and maintaining system durability over time. Key functions include: 1) fluoropolymers are used in fuel lines, tanks, seals, and gaskets to significantly reduce fuel permeation, which limits the release of volatile organic compounds (VOCs) that are regulated under evaporative emissions standards; 2) durable sealing in fuel and exhaust systems to prevent leaks that could increase emissions; and 3) PFAS in wiring insulation

help ensure reliable operation of emissions-control technologies, which is necessary for compliance.

Overall, PFAS contributes to Federal Clean Air Act compliance by minimizing evaporative emissions, preventing system leaks, and ensuring long-term durability of emissions-control components.

A reasonably available alternative may not exist in all cases because a substitute suitable for one application may not be viable for another. Although some alternatives have been identified in Europe, many still present their own health or performance concerns. For example, wax and silicone may provide water repellency in textiles but do not offer comparable chemical resistance. As a result, manufacturers would need to address unmet performance requirements with other, potentially untested solutions, introducing uncertainty and risk. Given the wide range of products, uses, and performance standards involved, it is unclear how the state could independently determine appropriate alternatives. PFAS are used in powersports vehicles because they meet critical performance requirements to address durability, water and chemical resistance, flexibility, complex chemical blends, temperature resistance, flammability standards, etc.

The powersports industry supports a science-based approach to PFAS regulation that protects public health and the environment while recognizing the important role PFAS-based materials can play in critical applications.

HJM 3 provides NMED with an opportunity to evaluate PFAS exemptions based on the actual risks and benefits associated with specific uses. That evaluation should recognize the fundamental differences between PFAS applications and should give particular consideration to fluoropolymers used in motor vehicles and other complex durable goods. For powersports manufacturers and consumers, maintaining the existing motor vehicle exemption is necessary to ensure that powersports vehicles can continue to be manufactured, repaired, and maintained safely and reliably.

MIC, SVIA, and ROHVA therefore urge NMED to retain the existing motor vehicle exemption, ensure that it encompass on-highway and off-highway powersports vehicles, including necessary warranty, service, and replacement parts, and recognize that fluoropolymers remain essential to numerous vehicle and complex durable goods applications for which suitable alternatives may not currently be available.

Sincerely,



Scott P. Schloegel
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Motorcycle Industry Council
Specialty Vehicle Institute of America
Recreational Off-Highway Vehicle Association