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LG Energy Solution Michigan, Inc. (LGESMI) respectfully submits the attached comment letter regarding the continued applicability of Exemptions (M) and (P) under the PFAS Protection Act for NMED's consideration in preparing its HJM 3 report.

NMED HJM 3 Exemption Review

LGESMI Comment Points

Date: September 17, 2026
Re: Public Comment on HJM 3 Exemption Evaluation — PFAS Protection Act
Submitted by: LG Energy Solution Michigan, Inc. (LGESMI)

Introduction

The New Mexico Environment Department (**NMED**) is conducting a legislative study pursuant to House Joint Memorial 3 (**HJM 3**), evaluating the statutory exemptions codified at 20.13.2.10 NMAC under the PFAS Protection Act. HJM 3 directs NMED to assess each exemption across three dimensions—*public health risk*, *environmental risk*, and *economic risk*—and to recommend to the legislature whether each exemption should be continued, modified, or removed. LG Energy Solution Michigan, Inc. (**LGESMI**) is a member of the LG Energy Solution group and manufactures lithium-ion battery cells, modules, packs, and energy storage systems (**ESS**). **Exemption (M)** is directly relevant to LGESMI because it covers products used for the generation, distribution, or storage of electricity, including LGESMI's battery and ESS products sold in New Mexico. **Exemption (P)** is relevant because certain LGESMI components contain qualifying solid fluoropolymers, including PTFE used in internal gaskets, seals, and insulating components. LGESMI respectfully submits these comment points for NMED's consideration in preparing its report. **LGESMI supports the continuation of Exemptions (M) and (P) without modification.**

Section 1: Exemption (M) — Products Used for the Generation, Distribution, or Storage of Electricity (20.13.2.10(M))

1.1 Public Health Risk — Low Under Intended Use Conditions

- PFAS in LGESMI battery and ESS products — including PVDF as a cathode binder, PTFE in gaskets and seals — is contained within sealed cell casings and module/pack enclosures.
- There is no consumer contact with PFAS-containing materials during intended use over the product's useful life. PFAS is structurally bound in solid or sealed form, not in liquid, aerosol, or consumer-applied form.
- Battery cells are fully enclosed, and PFAS-containing materials used in modules and packs are present as component materials or constituent parts. These materials are not accessible to end users under normal use conditions.

- Grid ESS products are generally installed and operated in controlled commercial or industrial environments, not consumer households, further limiting potential direct-contact pathways during intended use.
- Residential ESS products are enclosed systems whose PFAS-containing internal components are not intended to be accessed or serviced by consumers.
- Even under a labeling waiver analysis (20.13.2.13(F)), sealed battery products satisfy the condition that *no PFAS-containing material will ever come into direct contact with a consumer during intended use.*

1.2 Environmental Risk — Low / Manageable Under Intended Use Conditions

- PFAS-containing materials in batteries are incorporated into internal components located within cell casings and module/pack enclosures. During intended use and normal handling, the product architecture limits potential release pathways to air, water, or soil.
- Battery products are subject to existing end-of-life management programs, including federal hazardous waste handling requirements and state extended producer responsibility frameworks.
- The primary environmental concern with PFAS is environmental release through water, soil, or air pathways. During intended use and normal handling, finished battery products limit these release pathways. LGESMI's manufacturing operations are also subject to applicable environmental, health, and safety controls, including controlled handling, ventilation, and waste management. LGESMI does not manufacture battery products in New Mexico.
- In addition, potential environmental exposure at end-of-life is further limited through existing and emerging battery collection and recycling schemes. End-of-life battery products, including fluoropolymer-containing components, are generally directed to specialized collection, recycling, or other appropriate waste management channels. These processes are designed to recover valuable materials and manage components requiring specialized handling.
- **Removing the exemption would not reduce environmental risk from these products** — it would only increase the regulatory compliance burden without, by itself, changing the product's design, PFAS content, or environmental profile.

1.3 Economic Risk of Removal — High

- The electricity storage exemption covers an entire product category critical to New Mexico's clean energy transition — grid-scale ESS, residential ESS, and battery products that support renewable energy deployment.
- New Mexico has active utility-scale solar and wind projects, and battery storage supports the State's objectives regarding grid stability, resilience, and renewable-energy integration. Imposing PFAS reporting, CUU, and potential sales prohibition requirements on these products would create regulatory uncertainty and potential barriers to energy infrastructure investment and deployment.
- PVDF and PTFE are functionally essential to meeting specified performance and safety requirements of lithium-ion battery chemistry and construction. There are no commercially viable, performance-equivalent PFAS-free alternatives at scale for cathode binders or cell sealing applications.

- Removing the exemption would require battery manufacturers to report detailed PFAS composition data (individual PFAS identity by CASRN and concentration) for products that contain thousands of components sourced through multi-tier global supply chains. This would create substantial compliance costs without a demonstrated proportionate public health or environmental benefit given the sealed nature of the products.
- The exemption was adopted with the understanding that electricity storage products serve a *critical public function* and that PFAS in these products does not present the same risk profile as PFAS in consumer-applied products like textiles, cookware, or cosmetics.
- Removing or narrowing (M) would put New Mexico out of step with the policy objective of the PFAS Protection Act, which targets products where PFAS exposure pathways are meaningful, not products where PFAS is permanently enclosed.

Section 2: Exemption (P) — Fluoropolymer Products (20.13.2.10(P))

2.1 Public Health Risk — Low in the Identified Battery Applications

- The (P) exemption covers products containing fluoropolymers with a per- or polyfluorinated carbon-only backbone or perfluorinated polyether backbone that is solid at standard temperature and pressure.
- PTFE is the most relevant fluoropolymer in LGESMI products addressed by these comments, and is used in gaskets, seals, and insulating components within battery cells and modules.
- In these applications, solid fluoropolymers such as PTFE are incorporated into internal components and are not designed or intended for direct consumer contact or release during normal use. LGESMI's support for Exemption (P) is based on these application-specific characteristics rather than a broader assertion that all fluoropolymers have identical toxicological or environmental profiles.
- Fluoropolymers have been widely recognized by regulatory bodies and scientific literature as presenting a distinct and lower risk profile compared to other PFAS categories (e.g., PFOA, PFOS, short-chain PFASs).

2.2 Environmental Risk — Low in the Identified Battery Applications

- Solid fluoropolymers such as PTFE are generally characterized by low water solubility and low volatility under normal conditions of use. In the LGESMI battery applications described above, PTFE is also incorporated into internal components located within the cell or module, further limiting potential release pathways during intended operation.
- PTFE in battery applications is incorporated into the component of the cell or module. It is not ordinarily accessible as a separate material that could enter the waste stream independently.
- End-of-life battery products, including fluoropolymer-containing components, are generally directed to specialized collection, recycling, or other appropriate waste management channels. These processes are designed to recover valuable materials and manage components requiring specialized handling.
- Environmental concerns associated with PFAS regulation are particularly significant where the relevant substances or applications create reasonably foreseeable pathways for release to water, soil, or air. Solid

fluoropolymers incorporated into internal battery components should therefore be evaluated based on their physical form, location and function within the product, conditions of use, and reasonably foreseeable release pathways.

2.3 Economic Risk of Removal — High

- PTFE and other solid fluoropolymers are used across numerous industrial applications. Removing the exemption (P) could therefore affect manufacturers and products beyond the battery sector.
- There are no commercially available PFAS-free substitutes for PTFE that match the combination of chemical resistance, thermal stability, and sealing performance required for the identified battery applications.
- Requiring manufacturers to report on, seek CUU determinations for, or potentially cease using solid fluoropolymers would impose substantial compliance, product-development, and requalification costs across New Mexico's industrial base without a demonstrated proportionate reduction in PFAS exposure or environmental release from these applications.
- The (P) exemption reflects **sound regulatory design** — it distinguishes between high-risk PFAS applications (consumer-applied, mobile, water-soluble) and low-risk applications (solid, inert, encapsulated polymers).

Section 3: Recommendation

LGESMI respectfully recommends that NMED's report to the legislature recommend **continuing both Exemption (M) and Exemption (P) without modification**. These exemptions are well-calibrated to the actual risk profiles of the covered products. Removal would impose significant economic costs on New Mexico's clean energy supply chain and industrial base without a demonstrated proportionate public health or environmental benefit. The PFAS in electricity storage products and solid fluoropolymer components is incorporated into internal components and is not ordinarily accessible during intended use, thereby limiting reasonably foreseeable direct contact and environmental release pathways that the PFAS Protection Act is designed to address.

LGESMI supports the continued application of both exemptions as originally adopted and urges NMED to affirm their effectiveness in its HJM 3 report.

Respectfully submitted,

LG Energy Solution Michigan, Inc.