American Coatings ASSOCIATION

September 17, 2026

New Mexico Department of Environment
New Mexico Environmental Improvement Board
Harold R. Runnels Building
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

Submitted online at: https://nmed.commentinput.com/?id=x2khCUR9pK

Dear Secretary Kenney, Chair Ely and Members of the Board:

The American Coatings Association ("ACA")[1] appreciates the opportunity to provide information in support of the continuation of the fluoropolymer exemption in New Mexico's *PFAS Protection Act* (the Act). The Association's membership represents 90% of the U.S. paint and coatings industry, including downstream users (or processors) of chemicals. ACA appreciates your willingness to engage stakeholders in this process. ACA has also provided public comment at various stages of this rulemaking and appreciates the opportunity to continue engaging with the agency and the Board.

Fluoropolymers safely provide critical functionality to high-performance coatings necessary to a clean energy economy, sustainable infrastructure, electronics, defense and other critical applications. Most are specialty, non-consumer applications. Without a clear exemption for fluoropolymers, some manufacturers of fluoropolymer resins may misinterpret the statute's ambiguous language addressing product "components" as including resins used as raw materials during coating manufacture, even when not used in a consumer product, requiring product labeling and/or other restrictions.

[1] ACA is a voluntary, non-profit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services. ACA's membership represents over 90 percent of the total domestic production of paints and coatings in the country.

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Coatings PRESERVE.
Coatings PROVIDE.

Additional information describing critical use and safety of fluoropolymers is included below to support continued exemptions from prohibitions and registration requirements of the Act and to support a fluoropolymer exemption from the labeling requirement.

I. NMED has recognized that fluoropolymers in products do not present a health or environmental risk.

Fluoropolymers are considered "polymers of low concern" (PLC) recognized by several regulators, since they are chemically stable, non-toxic, non-bioavailable, non-water soluble and non-mobile. Washington Department of Ecology, when considering fluoropolymers as part of its review of PFAS under *its Safer Products for Washington* program, concluded:

> *Fluoropolymers have been found to have thermal, chemical, photochemical, hydrolytic, oxidative, and biological stability (Henry et al., 2018; Korzeniowski & Buck, 2019a). They are almost insoluble in water and not subject to long-range transport. With very high molecular weight (greater than 100,000 Da), fluoropolymers cannot cross the cell membrane. They are neither bioavailable nor bioaccumulative. Clinical studies of their use in medical devices has [sic] demonstrated lack of chronic toxicity or carcinogenicity and no reproductive, developmental, or endocrine toxicity.*[2]

Ecology cites studies from *Henry, et. al*. and *Korzeniowski*. These evaluated criteria to conclude that fluoropolymers are not mobile, bioavailable or bioaccumulative. Further, they do not transform into long chain, non-polymeric chemistries associated with PFAS contamination. Fluoropolymers are a fundamentally different chemistry from non-polymeric PFAS chemicals associated with contamination. Because of these qualities, fluoropolymers have been classified as "polymers of low concern."

The U.S. DoE (Department of Energy) also concluded that fluoropolymers are distinct from non-polymeric PFAS chemicals.[3] DoE explains that due to relatively smaller molecular weight, non-polymeric PFAS are mobile in a variety of media, increasing particle dispersion. In contrast, the significantly higher molecular weight of fluoropolymers make them stable and non-water soluble compared to non-polymeric forms. The report notes that literature suggests that fluoropolymers are generally non-

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[2] *See* Washington Department of Ecology, *Per- and Polyfluoroalkyl Substances Chemical Action Plan*, p. 97, Sept. 2022 revision of original publication from April 4, 2021, available online at: https://apps.ecology.wa.gov/publications/documents/2104048.pdf.

[3] U.S. Department of Energy, *Assessment of Fluoropolymer Production and Use with Analysis of Alternative Replacement Materials,* Report No. SRNL-STI-2023-00587 (published January 2024), available online at: Assessment of Fluoropolymer Production and Use With Analysis of Alternative Replacement Materials (Technical Report) | OSTI.GOV

mobile and cannot permeate the cell membrane. Some reports disputing these conclusions note evidence related to polymers rather than fluoropolymers.

II. Precedent in other jurisdictions support excluding fluoropolymers from NMED's PFAS Protection Act.

Fluoropolymers present distinct regulatory considerations due to their physical characteristics, management during manufacture and critical use in socially valuable coatings and other products. Because of these differences, NMED should continue to exclude fluoropolymers from the Act. Other countries establish precedent for this approach:

- In March 2025, Canada published a PFAS risk management approach where it excludes fluoropolymers from its strategy due to distinct regulatory considerations.[4]
- In April 2026, Germany published its "Chemicals Agenda 2045" that includes policy recommendations towards PFAS advocating for a risk-based approach that differentiates types of PFAS.[5]
- The EU Parliament published an independent study that "emphasize[s] the need for nuanced, sector-specific approaches rather than blanket restrictions, recognizing both the essential role PFAS play in critical European industries and the ongoing efforts to identify and develop viable alternatives."
- The United Kingdom Environmental Agency also recommends distinguishing fluoropolymers from non-polymeric PFAS when considering regulatory strategies.[6]
- Several U.S. agencies have also noted that fluoropolymers have critical uses and distinct regulatory considerations compared to non-polymeric PFAS.[7]

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[4] See *Risk Management for PFAS*, excluding fluoropolymers, available online at: https://www.canada.ca/en/environment-climate-change/services/evaluating-existing-substances/risk-management-approach-per-polyfluoroalkyl-substances.html

[5] The policy is available online at: https://www.bundesumweltministerium.de/pressemitteilung/nationale-chemieagenda-vorgelegt-fuer-eine-starke-und-wettbewerbsfaehige-chemieindustrie

[6] The report, *PFAS: sources, pathways and environmental data*, is available online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012230/Poly-_and_perfluoroalkyl_substances_-sources_pathways_and_environmental_data_-_report.pdf

[7] See

- Update of Critical PFAS Uses, U.S. Department of Defense, available online at https://www.denix.osd.mil/cmrmp/denix-files/sites/14/2025/07/2025-DoD-Update-on-PFAS-Critical-Uses.pdf
- Assessment of Fluoropolymer Production and Use With Analysis of Alternative Replacement Materials, U.S. Department of Energy, available online at: https://www.osti.gov/servlets/purl/2370520/
- *PFAS in Medical Devices*, U.S. Food and Drug Administration, available online at: https://www.fda.gov/medical-devices/products-and-medical-procedures/pfas-medical-devices?utm_medium=email&utm_source=govdelivery

III. Modern fluoropolymers used by the coatings industry are not sources of PFAS monomer contamination.

NMED should also be aware that the type of fluoropolymer, PVDF (polyvinylidene fluoride), used in most fluoropolymer-based coatings, is commonly manufactured without PFAS monomer processing aids, eliminating concerns for emissions or discharges of processing aids during PVDF manufacture. The lifecycle of fluoropolymers, including manufacture, are not associated with contamination. NMED's concerns related to PFAS monomer contamination, relevant to non-coatings sectors, and occurring in other states, are not addressed by a ban of fluoropolymers in New Mexico. Such a ban does not address manufacturing practices in other states. It merely restricts access in New Mexico.

As used in the coatings industry, fluoropolymers present little to no potential for PFAS discharges into the environment or impacts on human health. As noted above, PVDF, a common fluoropolymer used in coatings, is commonly manufactured without PFAS processing aids, eliminating potential emissions and discharges of PFAS processing aids during manufacture. Because of the higher durability of fluoropolymer coatings, these high-performance coatings have relatively low rates of deterioration. A study conducted in the desert of Arizona shows most fluoropolymer coatings had minimal erosion of approximately 1-2 microns or less after 15 years of desert exposure.

IV. Uses of fluoropolymer-based coatings

Fluoropolymers in coatings are used to maintain performance requirements in high-performance coatings, enhancing corrosion resistance, durability, weather and UV-resistance, thermal stability and flame resistance. Consumers or the general public would not handle specialty coatings where fluoropolymers are used.
A critical use of fluoropolymers includes those used to manufacture high-performance coatings for protection of bridges, water delivery systems and other critical infrastructure projects. In a market survey,[8] the OECD identifies the importance of fluoropolymer-based coatings in specialty applications and automotive paint. The OECD also identified the following specialized coatings applications:

- Powder coatings for cable wiring.
- Powder coatings for architectural uses.
- Radiation curable coatings.
- Anti-reflective coatings for the semi-conductor industry.
- Coatings used for renewable energy infrastructure.[9]

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[8] OECD, *Per- and Polyfluoroalkyl Substances and Alternatives in Coatings, Paints, and Varnish (CPVs)*, Report on the Commercial Availability and Current Uses, Series on Risk Management, No. 70

[9] OECD, *Per- and Polyfluoroalkyl Substances and Alternatives in Coatings, Paints, and Varnish (CPVs)*, Report on the Commercial Availability and Current Uses, Series on Risk Management, No. 70

PVDF is used in specialty coatings designed for demanding applications where durability is required. Many applications are key for a more sustainable future. Examples include: electric vehicles, energy storage, lithium-ion batteries, semiconductor manufacture, solar panel protection, medical devices, chemical process industry, water filtration, wire & cable protection and efficient buildings.

a. *Speciality architectural coatings applications of fluoropolymer coatings*

Due to their superior protective qualities, fluoropolymer coatings are ideal for building protection, revitalization and restoration of historic buildings. Examples include the historic Robey Hotel in Chicago, one of the city's first skyscrapers; the 45 Freemont Building of San Francisco; and Travelers Tower in Hartford, Connecticut. Globally, several iconic buildings are protected by fluoropolymer-based coatings, including: The Louvre (Paris), Grand Arche (Paris), Wimbledon (London), Scottish Exhibition Centre (Glascow), Globe Arena (Stockholm). The long-term durability of these coatings allows for continued public use and enjoyment without interference from recoating operations, requiring scaffolding, physical obstruction and limitations on use. The durability of the coating prevents leaching while requiring less resource use associated with recoating.

Specialty applications include protection of metallic building surfaces. Fluoropolymer coatings meet the AAMA's (American Architectural Manufacturers Association's) highest standard for architectural coatings on metal substrates (AAMA 2605), which specifies performance levels based on South Florida outdoor exposure and laboratory accelerated testing. Generally, fluoropolymer - PVDF and FEVE coatings - are used on metal roofing, metal curtain-wall systems, windows, skylights, panel systems, storefronts, and doors—basically any exterior architectural products manufactured from steel or aluminum coils or aluminum extrusions.[10]

Viable alternatives for these specialty applications have not been identified by the coatings industry. In the report cited above, the OECD concludes that performance characteristics of coatings with fluoropolymers make them more desirable products than their non-performing alternatives. Use of coatings with fluoropolymers is limited by need, where a buyer is willing to pay additional costs for high-performance characteristics. When considering bridge paint, the OECD concludes that,

> *[I]t would cost approximately 26% more with the FP (fluoropolymer) based coating compared to polyurethane. However, after 30 years it was concluded that the total cost for the polyurethane coating would cost 16 % more than the FP-based coating, owing to the faster degradation of the*

[10] Fluoropolymer Coatings for Architectural Applications, available online at: https://www.paint.org/coatingstech-magazine/articles/fluoropolymer-coatings-for-architectural-applications/

non-PFAS coating and therefore a need for more frequent recoating, with associated labour and material costs[11]

b. Fluoropolymers in coil coatings

Coil coatings are formulated using similar fluoropolymer technology as specialty architectural paint, to obtain desired performance characteristics. Alternatives have not yet been identified for fluoropolymer coil coatings, including:

- Automotive paint,
- Powder coatings for cable wiring,
- Powder coatings for architectural uses,
- Radiation curable coatings,
- Anti-reflective coatings for the semi-conductor industry, and
- Coatings used for renewable energy infrastructure.

V. Environmental benefits of fluoropolymer-based coatings

Fluoropolymer-based coatings have significantly greater durability compared to other alternatives, resulting in low environmental impact, measurable in kg CO_2. An LCA (lifecycle assessment) demonstrates 75% lower CO_2 equivalent emissions for PVDF coil coatings than for polyester coatings over a 50-year building lifespan for a new metal-clad building.[12] The durability of fluoropolymer coatings also result in cost savings, in addition to their environmental benefits. A fluoropolymer-based system can result in a 50% cost decrease when compared to non-fluoropolymer alternatives over the fluoropolymer coating's 50-year lifespan.[13] Extended durability and reduced maintenance, repairs and recoating results in lower overall lifecycle costs when compared to their non-fluoropolymer alternatives.

Fluoropolymers provide greater environmental benefits, and they are cost effective. ECCA (European Coil Coating Association), engaged an external consultant that conducted an in-depth life cycle assessment of the various coil coating systems to compare with fluoropolymer-based coatings. This work concluded that PVDF (fluoropolymer) coatings, when compared with other systems used by the coil coating industry, has the lowest environmental impact – 74% lower than commonly-used

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[11] OECD, *Per- and Polyfluoroalkyl Substances and Alternatives in Coatings, Paints, and Varnish (CPVs)* at p. 65-66, Report on the Commercial Availability and Current Uses, Series on Risk Management, No. 70

[12] See p. 35 of Fluoropolymers in Infrastructure and Construction, Performance Fluoropolymer Partnership, available online at: https://fluoropolymerpartnership.com/wp-content/uploads/2023/12/PFP-White-Paper-on-Fluoropolymers-in-Infrastructure-and-Construction.pdf

[13] See *Submission to the Public Consultation on the Proposed PFAS Restriction: The Use of PVDF and FEVE Fluoropolymers in the European Coil Coating Industry*, by Dr T.J.Goodwin, Sustainability Director, ECCA; (21st August 2023).

polyester coating.[14] As noted in this study, the lower environmental impact is driven by durability of PVDF coatings, which has double the life expectancy at 30 years compared to polyester coatings, estimated at 15 years. Additional material and manufacturing costs associated with non-fluoropolymer alternates have an environmental impact from increased use of raw materials, energy consumption, waste production and disposal, etc.

The Solar Impulse Foundation has recognized environmental benefits of fluoropolymer-based coatings due to their longer lifespan, significant reduction in Volatile Organic Compound (VOC) content, and energy-savings enabled by reflective fluoropolymer, based coatings. The Solar Impulse Foundation explains the benefits of fluoropolymer-based coatings as follows:

- 300% or 400% longer life than traditional chemistries in cool roof and restoration coatings. PVDF is well known for many decades to deliver this performance.
- 90%+ reduction in VOC compared to traditional PVDF solutions. 3x to 5x+ longer life than traditional acrylic cool roof polymers.
- Produced entirely without the use of PFAS surfactants, eliminating potential for PFAS monomer release during manufacturing.
- Enables cool roof coatings that reduce building air conditioning by approximately 25%. Lasts 3x to 5x+ times longer than traditional acrylic technology.
- 80% reduction in energy required to produce and use compared to traditional fluoropolymers.
- 90%+ reduction in VOC compared to traditional PVDF solutions. 50% lower life cycle emissions vs acrylic chemistry
- Approx. 50% reduction in lifetime VOC's (fewer recoats) compared to traditional acrylics. 25% reduction in air conditioning (and associated CO2 footprint).[15]

As noted above, the U.S. DoE (Department of Energy) concluded that fluoropolymers are distinct from non-polymeric PFAS chemicals, with distinct safety and environmental benefits.[16] Fluoropolymer coatings can reduce building cooling costs and improve energy efficiency by up to 22%. Fluoropolymer coatings reduce building

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[14] See *Submission to the Public Consultation on the Proposed PFAS Restriction: The Use of PVDF and FEVE Fluoropolymers in the European Coil Coating Industry*, by Dr T.J.Goodwin, Sustainability Director, ECCA; (21st August 2023).

[15] See Solar Impulse Foundation, *A Waterborne, low VOC PVDF emulsions that enable extremely long-life cool roof coatings*, available online at: https://solarimpulse.com/solutions-explorer/kynar-fluoropolymer-emulsions-1

[16] See *Assessment of Fluoropolymer Production and Use with Analysis of Alternative Replacement Materials* (published January 2024). Benefits of fluoropolymer usage in building construction and infrastructure are covered in Section 2.4.3, page 2-11 of DoE's Report.

maintenance by extending building life, even in harsh environments, while enhancing overall stability. Fluoropolymer coatings also are resistant to dirt adhesion enhancing their solar reflective and protective properties.

The DoE report further explains that,

> *The unique characteristics of fluoropolymers can enhance product durability, sustainability and safety. Products that are lighter and longer-lasting will generally have lower life cycle costs, embodied energy, transportation-related emissions, and safety risks.*[17]

Fluoropolymer-based coatings clearly provide environmental benefits when considering overall lifecycle and durability of the fluoropolymer-based coating.

VI. Performance standards that require high-performance of fluoropolymers

The paint and coatings industry has not identified a technically feasible non-fluoropolymer-based coating for specialty applications. PVDF-based coatings have a proven 60-year track record of performance capability. For the applications that require fluoropolymer-based coatings, a range of performance standards must be met. Common performance standards require fluoropolymer-based coatings in order to perform in the manner specified include:

- AAMA 2605-20 *Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels (with Coil Coating Appendix);*
- *SSPC Paint 47, Highly Weatherable Fluoropolymer Topcoat, Performance-Based; and*
- *Qualicoat 3.0* – Performance standard.

VII. Rules implementing the PFAS Protection Act establish an impractical timeline for labeling and product prohibitions.

NMED's requirement to label products manufactured as of January 2027, five years prior to the general ban of products containing intentionally added PFAS, taking effect January 1, 2032, presents an impractical timeline. Companies are in the process of evaluating and planning for compliance with the January 1, 2032, prohibition. In many instances, a company may choose to withdraw a product from the market prior to January 2032. Revising product labels is costly and logistically prohibitive, especially for products that will eventually be withdrawn from the market. In any case, the timeframe for label changes is unworkable. The significant costs of relabeling do not justify a short-term labeling change.

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[17] See *Assessment of Fluoropolymer Production and Use with Analysis of Alternative Replacement Materials* (published January 2024)

One ACA member estimates costs in excess of $800,000 to revise labels for about 500 products. Compliance costs could easily be greater than $800,000, varying by the number of affected products. Based on prior experience, another member estimates costs at around $3 million. This company would need to update label plating templates at $250 per product across several thousand products, resulting in a cost of around $2 million. The company would also dispose of pre-ordered label stock for products that would be manufactured after the implementation date at a cost of $875,000. The upfront compliance cost would be roughly $3 million for a widespread label change. This would not include labor costs associated with relabeling.

ACA strongly recommends moving the label compliance date to after the product prohibition date of January 1, 2032. This would allow companies time to plan for label changes and/or removal of certain products from the market. Considering that widespread PFAS labels are not providing information about imminent harm, NMED does not need to urgently require labels as of January 2027.

VIII. Conclusion

ACA appreciates the opportunity to provide comment regarding NMED and EIB's reports to the legislature addressing exemptions and rules implementing the *PFAS Protection Act*. The lack of environment and safety risk coupled with the need for fluoropolymers in specialty coatings indicate that New Mexicans would benefit from maintaining the act's current exemptions for fluoropolymers, while also exempting fluoropolymers from the labeling requirement implemented in the rule. Considering safety with environmental and other benefits, labeling these products as "PFAS" is fundamentally misleading. If New Mexico implements a labeling requirement, ACA strongly recommends that the implementation date for product labeling be extended beyond the product phase out date of January 2032. New Mexico is not facing extenuating circumstances addressed by product labels. Rapid implementation is infeasible and impractical for manufacturers planning to withdraw products from the market.

Please feel free to contact me if I can provide any additional information.

Respectfully submitted,

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