

**MICHELLE LUJAN GRISHAM, GOVERNOR**

James C. Kenney, Cabinet Secretary

**NEWS RELEASE***For immediate release***July 8, 2024***The Environment Department's mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations.*

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## **New Mexico seeks costs and damages for PFAS contamination from the U.S. Department of Defense under new U.S. Environmental Protection Agency rule**

The New Mexico Environment Department (NMED), New Mexico Office of Natural Resources Trustee (NMONRT) and the New Mexico Attorney General (NMAG) today amended New Mexico's lawsuit against the United States regarding per- and polyfluoroalkyl substances (PFAS) contamination present in and around military communities across New Mexico.

Notably, the amended lawsuit utilizes a newly-finalized U.S. Environmental Protection Agency (EPA) rule that went into effect on July 8, 2024 that allows the State of New Mexico to recover the costs of clean-up actions and monetary damages for natural resources.

"For over five years, the U.S. Department of Defense failed to take accountability for PFAS clean-up in New Mexico – leaving New Mexicans with a legacy of toxic PFAS pollution to shoulder," NMED Cabinet Secretary James Kenney said. "Thanks to the U.S. Environmental Protection Agency's science-driven leadership on PFAS, New Mexico will now hold the U.S. Department of Defense accountable for the monetary costs of clean-up and damages to our environment."

The new EPA rule designated two widely used PFAS chemicals, perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), to ensure that polluters pay to clean up their contamination. The rule protects people from the health risks posed by "forever chemicals" in communities, as exposure to has been linked to cancers, impacts to the liver and heart and immune and developmental damage to infants and children.

The amended lawsuit seeks all past and future clean-up costs and all natural resource damages at Cannon Air Force Base, Holloman Air Force Base, Kirtland Air Force Base, White Sands Missile Range and Fort Wingate. New Mexico's original complaint was focused solely on the damage caused by Cannon and Holloman Air Force bases, but the amended complaint expands the lawsuit to include additional DOD sites in New Mexico.

The filing makes New Mexico the first state in the U.S. to take advantage of the EPA rule, effective Monday, and will allow the State to hold the DOD accountable for paying for the cleanup of those areas affected by PFAS, including public and private water sources both on and near federal military bases.

PFAS contamination will continue to present an imminent and substantial endangerment to public health and the environment unless the DOD takes immediate action.

“The releases of PFAS into the ground surrounding Cannon Air Force Base and other DOD facilities have injured the most valuable natural resource on Earth – our water. PFAS has now contaminated freshwater aquifers on which the communities and hardworking people of New Mexico depend,” ONRT Maggie Hart Stebbins said. “Our residents suffer when they can’t use that groundwater and it’s time for the federal government to compensate communities that are bearing the burden of its pollution.”

“We applaud the EPA’s listing of certain PFAS, or ‘forever chemicals,’ as hazardous substances under the Superfund statute,” New Mexico Attorney General Raúl Torrez said. “This enables us to pursue monetary damages and costs at federal facilities, as stated in our amended complaint. We are committed to holding all responsible parties, including federal agencies, accountable for their contamination to protect public health and safety.”

PFAS are a group of manmade chemicals used in a variety of products, including food packaging, nonstick pans and aqueous film forming foams (AFFF) used to extinguish fuel-based fires. Growing concerns about PFAS contamination are driven by evidence that exposure to some PFAS chemicals can lead to adverse health effects such as increased cholesterol, reproductive problems and cancer.

In addition to its effects on humans, PFAS have also been documented to affect wildlife, especially birds. Birds ingesting PFAS have resulted in decreased hatching rates and overall destabilization of fragile ecosystems.

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