

**MICHELLE LUJAN GRISHAM, GOVERNOR**

James C. Kenney, Cabinet Secretary

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*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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**U.S. Environmental Protection Agency approves New Mexico's petition to list PFAS as a hazardous substance***Listing provides full authority to require cleanup of PFAS-contaminated sites*

**SANTA FE** — The U.S. Environmental Protection Agency (EPA) announced two new proposed rules today to ensure that certain per- and polyfluoroalkyl substances (PFAS), also known as “forever chemicals,” are classified as hazardous waste under federal law. This action is in direct response to a petition from Governor Michelle Lujan Grisham to take bold action on the emerging threat that communities in New Mexico and across the nation face from decades of use of forever chemicals.

“Here’s what today means: New Mexico just clarified the national regulatory landscape for forever chemicals, one of the most important environmental issues of our time,” said **New Mexico Environment Department Cabinet Secretary James Kenney**. “Communities will benefit from these rules which require polluters to clean-up and dispose of toxic PFAS.”

New Mexico began addressing PFAS chemicals when they were discovered in high concentrations surrounding Cannon and Holloman Air Force Bases, most likely from the use of Aqueous Film Forming Foam (AFFF), a firefighting foam containing PFOA and PFOS. PFAS contamination negatively impacted adjoining communities, including Art Schapp, a fifth-generation dairy farmer in Clovis who was forced to euthanize his entire herd of 3,665 cows because of PFAS contamination. Despite this, New Mexico faces continued roadblocks from federal facilities who have failed to act quickly in response to PFAS contamination. Even though PFAS meets the statutory definition of a hazardous waste, the U.S. Department of Defense (DOD) filed an action in federal district court challenging New Mexico’s legal authority to compel PFAS cleanup pursuant to the Resource Conservation and Recovery Act (RCRA) and attempting to reshape congressional intent and state authority.

“We’ve been forced to fight the federal government for more than five years since it destroyed our family’s dairy. Gov. Lujan Grisham and her team have never stopped fighting for dairy farms and communities in New Mexico when it comes to addressing the devastating impacts of forever chemicals,” said **Highland Dairy owner Art Schaap**. “This administration has taken the fight to hold the Department of Defense accountable from Clovis to Washington, D.C. and today her advocacy resulted in common sense protections for Americans in every corner of our nation.”

EPA is proposing to clarify the definition of hazardous waste as it applies to cleanups of contamination from permitted hazardous waste facilities. This clarification is consistent with EPA and state regulator’s authority to require full cleanup of substances that the RCRA intended, including PFAS and other emerging chemicals of concern that may pose a substantial hazard to human health or the environment.

Currently, the regulations don't clearly reflect EPA or states' full legal authority to require investigations and cleanups.

EPA is also proposing to amend its RCRA regulations to add multiple PFAS compounds as hazardous constituents. These PFAS would be added to the list of substances identified for consideration in facility assessments and, where necessary, further investigation and cleanup through the corrective action process at hazardous waste treatment, storage, and disposal facilities.

“Managing PFAS contamination under Hazardous Waste laws is the only sensible way to protect human health and the environment,” said **Scott Faber, Senior Vice President of Government Affairs at the Environmental Working Group**. “We applaud the EPA for taking this important step and commend New Mexico for bringing these safeguards to states across the nation.”

Corrective action under RCRA requires facilities that treat, store, or dispose of hazardous waste to protect health and the environment by investigating and cleaning up hazardous wastes and constituents released into soil, groundwater and surface water that can include drinking water supplies and the air people breathe. Cleanups are a crucial part of EPA's focus on environmental justice and help to address disparities in accessing a clean and safe environment.

PFAS are widely used, long-lasting chemicals which break down very slowly over time. PFAS chemicals have been used in many different consumer, commercial and industrial products. Scientific studies show that exposure to some PFAS in the environment may be linked to harmful health effects in humans and animals.

Under the leadership of the Governor, the New Mexico State Legislature provided the New Mexico Environment Department (NMED) vital funding in multiple budget cycles to address PFAS in communities across the state. This funding has allowed NMED to hold the U.S. Department of Defense accountable for PFAS contamination, funded a study of [PFAS in private wells](#) across the state, and multiphase studies of known plumes near bases. The department [announced](#) that it will offer Clovis residents living near Cannon Air Force Base and Base personnel the opportunity to have their blood tested for PFAS substances later this spring. NMED is also [assisting New Mexico's public water drinking systems with funding](#) to address emerging contaminants, such as PFAS, in drinking water under the Bipartisan Infrastructure Law.

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