June 29, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Submitted electronically to: https://www.regulations.gov/

RE: Comments of the New Mexico Environment Department on the Environmental Protection Agency's Notice of Availability for Public Comment Docket ID No. EPA-HQ-OLEM-2020-0527

Dear Administrator Zeldin,

The New Mexico Environment Department (NMED) appreciates the opportunity to submit comments on the U.S. Environmental Protection Agency's (EPA) *Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances*—Docket ID No. EPA-HQ-OLEM-2020-0527. New Mexico maintains a direct interest in the legal and policy implications of this document, as well as the structural definitions, environmental persistence, and toxicological pathways of PFAS waste streams.

While NMED acknowledges the technical analysis compiled within this updated text, we urge the EPA to transition from non-binding descriptions toward a federally enforceable regulatory posture that is consistent with Congressional intent and supported by federal laws. The stated non-binding nature of the current text limits its efficacy at a time when national waste infrastructure shifts under severe capacity constraints, regional imbalances, and significant technological uncertainties regarding products of incomplete destruction. Further, the EPA needs to clarify that this document is binding for the U.S. Department of Defense. Specific comments attached outline NMED's technical concerns and encourage the EPA to utilize its statutory mandates to regulate discarded PFAS and enforce complete mineralization and prevent secondary environmental contamination.

Thank you for listening to state environmental agency leaders who implement the nation's environmental laws while representing the interest of the communities. I ask for EPA to address our comments individually and for your support by incorporating our input into subsequent revisions of the guidance.

Sincerely,

James C. Kenney
Cabinet Secretary

Cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham
Jonathan J. Tso, Office of Superfund and Emergency Management

New Mexico Environment Department Comments on EPA's 2026 Interim PFAS Destruction and Disposal Guidance

Background: The technical challenges associated with the destruction and end-of-life management of PFAS stem from the unique stability of the synthetic carbon-fluorine (C-F) bond. PFAS do not occur naturally and are synthesized globally for their exceptional oil-, water-, and stain-repelling properties, which has led to their ubiquitous application across dozens of primary and secondary manufacturing sectors. Consequently, these substances are generated in large industrial quantities and inevitably accumulate within multiple high-priority environmental media streams identified under Section 7361 of the National Defense Authorization Act (NDAA) for Fiscal Year 2020, including legacy aqueous film-forming foam (AFFF) concentrates, municipal wastewater biosolids, contaminated soils, industrial textiles, spent water treatment filters, and landfill leachate. For many years, conventional municipal wastewater and solid waste treatment systems operated under the assumption that these wastes could be handled using standard protocols, but recent chemical monitoring illustrates that conventional approaches fail to break down parent compounds and often accelerate the transformation of precursor materials into hyper-mobile perfluoroalkyl acids (PFAAs).

In this 2026 Version, the EPA focuses on three large-capacity technologies: thermal treatment, landfilling, and underground injection wells. The updated guidance introduces newly available field data from 2024 testing campaigns conducted at permitted hazardous waste combustors in Utah and Texas, as well as recent academic literature regarding landfill liner gas permeability and sewage sludge incinerator kinetics. While these additions improve the characterization of parent compound destruction and removal efficiencies (DRE), they simultaneously expose data gaps regarding the formation of volatile fluorinated products of incomplete combustion (PICs) and products of incomplete destruction (PIDs). Since up to 15 percent of mobile PFAS landfilled in municipal solid waste facilities is projected to migrate into the ambient environment via leachate and gas emissions, and that low-temperature combustion actively regenerates shorter-chain hazardous homologues, NMED advocates for a federal strategy that prioritizes absolute mineralization over phase-transfer containment.

Comment 1. Reconcile the Contradiction Between Non-Binding Guidance and Primacy Programs.

The EPA frequently cites its commitment to fulfilling Congressional mandates—such as the Fiscal Year 2020 National Defense Authorization Act (NDAA) directive to publish and update this Interim Guidance —yet simultaneously refuses to establish the regulatory mechanisms necessary to actually implement it. Specifically, the EPA's recent May 2026 withdrawal of the proposed rule to list specific PFAS as hazardous constituents under RCRA undermines the utility of this entire document.

It is contradictory to expend federal resources developing a meticulous, science-backed guidance document for destruction and disposal while actively retreating from the enforceable regulatory framework that would compel polluters to utilize these methods. By choosing to rely on guidance over formal RCRA hazardous waste listings, the EPA has created a "how-to" manual without a mandate. This approach ultimately shifts the burden of enforcement back onto state environmental agencies and leaves the protection of human health and environment to the discretion of individual facility operators.

As a result, NMED requests EPA clearly state the intended use of this document, whether state environmental agencies should rely upon this document for implementing primacy programs, specifically under the Clean Air Act, Clean Water Act, and RCRA.

Comment 2: Acknowledge Congressionally Mandated Use of this Guidance Document by the U.S. Department of Defense

Section 7361 of the 2020 NDAA directed the EPA to publish and update Interim Destruction and Disposal PFAS Guidance. Further, Section 330 of the same Act explicitly governs the U.S. Department of Defense's disposal of materials containing PFAS and aqueous film-forming foam (AFFF). Section 330 explicitly dictates that the Secretary of Defense shall ensure that these materials are disposed of: *"in accordance with the guidance published by the Administrator of the Environmental Protection Agency under section 7361."* Therefore, the EPA's statement on the cover of the document contradicts federal law at U.S. Department of Defense facilities. The EPA must revise the Interim Destruction and Disposal PFAS Guidance document and cover page disclosure statement to reflect Congressional intent to structurally embed the EPA's guidance document as a statutory obligation for the U.S. Department of Defense waste streams.

Comment 3: Clarify the Intended Use of this Guidance Document for Comprehensive Environmental Resource Compensation and Liability Act (CERCLA) Applicability

As the lead agency for investigating and cleaning up installations under CERCLA and Defense Environmental Restoration Program (DERP), the U.S. Department of Defense must select remedies that are protective of human health and the environment and comply with Applicable or Relevant and Appropriate Requirements (ARARs).

Therefore, NMED requests the EPA clarify whether this guidance document contains ARARs or informs the "To Be Considered" (TBC) criteria for the remedial design phase. If the U.S. Department of Defense proposes a destruction or disposal method at a Superfund site or federal facility that falls short of the EPA's guidance, does the remedy fail the CERCLA protectiveness threshold, providing grounds for EPA non-concurrence on the Record of Decision (ROD)?

Comment 4: Mandate Enforceable Destruction Over Phase-Transfer Disposal to Prevent Environmental Cycling

NMED objects to the EPA's continued categorization of land disposal (RCRA Subtitle C and Subtitle D landfills) and deep-well underground injection as equivalent primary alternatives to thermal mineralization. New data incorporated into the 2026 guidance confirms that landfilling poses significantly higher long-term environmental release risks than previously estimated in 2024, showing that up to 15 percent of mobile PFAS escape via leachate and gas collection systems. Landfilling does not satisfy the structural definition of destruction; it merely sequesters persistent compounds within an engineered cell that remains vulnerable to eventual geological, structural, or cap failures over long timescales. EPA must adopt a federal policy that restricts landfilling of high-concentration wastes and

mandates the implementation of destruction technologies capable of destroying all C-F bonds to prevent environmental rerelease of PFAS through wastewater treatment systems and landfill leachate networks.

Comment 5. Disallow DRE as a Standalone Metric and Require Full Fluorine Mass Balances

The guidance correctly acknowledges that a high Destruction and Removal Efficiency (DRE) for a parent compound is a deceptive metric that fails to account for hazardous chemical transformations. However, the EPA continues to rely on DRE data from recent 2024 commercial facility testing to imply that adequate destruction is being achieved. NMED urges the EPA to explicitly disallow DRE as a standalone indicator of performance in all state and federal waste management permits. Empirical research highlights that even when parent molecule destruction exceeds 99.99 percent, inadequate thermal conditions below 1,000°C lead to substantial generation of volatile, fluorinated PICs and PIDs that are heavily toxic and structurally stable. The final guidance must dictate that operators execute full fluorine mass balances—combining non-targeted analysis (NTA), extractable organofluorine (EOF) metrics, and Other Test Methods (OTM-45 and OTM-50)—to prove complete mineralization to hydrogen fluoride, carbon dioxide, and water before any facility is credited with successful destruction.

Comment 6. Prohibit PFAS Combustion in Sewage Sludge Incinerators (SSIs) and Municipal Waste Combustors (MWCs)

The EPA's presentation of low-temperature combustion units (MWCs and SSIs) operating between 680°C and 1,000°C introduces an unacceptable degree of risk to public health. The 2026 update reveals that laboratory and full-scale investigations of SSIs detected widespread incomplete mineralization, resulting in measurable stack emissions of highly persistent short-chain volatile perfluoroalkanes (such as CF4, C2F6, and C3F8) and the active regeneration of shorter perfluorocarboxylic acids as PICs. Because these low-temperature units completely lack the capacity to break down complex fluorinated structures, their use represents an active mechanism for converting localized solid wastes into airborne regional contamination plumes. NMED requests that the EPA issue an unequivocal prohibition on the thermal treatment of any PFAS-containing media in SSIs and MWCs, restricting thermal operations exclusively to hazardous waste combustors operating at verified, well-mixed temperatures exceeding 1,100°C.

Comment 7. Establish Explicit and Minimum Standardized Operating Parameters for Hazardous Waste Combustors

It is unacceptable that the EPA declines to explicitly specify baseline operating conditions required for the adequate destruction of PFAS, leaving these critical parameters to solely site-specific determinations. This regulatory hesitation creates a dangerous, fragmented framework for state enforcement agencies and the public. While the EPA notes that pilot-scale data and 2024 commercial tests show promise when kilns operate above 1,097°C and secondary combustion chambers exceed 1,120°C, it must solidify these findings into mandatory national standards. The EPA must define rigorous operating envelopes within the final guidance, explicitly requiring a minimum combustion temperature

of 1,100°C, a minimum gas residence time of two seconds, optimized turbulent mixing, and a mandatory stoichiometric excess of hydrogen radicals relative to fluorine to suppress radical-radical recombination and prevent PIC synthesis.

Comment 8. Account for Regional Capacity Shortfalls and Class I Deep-Well Logistics Constraints

The guidance characterizes permitted Class I underground injection wells as a low-release option for high-concentration liquid wastes but fails to address severe logistical barriers and geographical inequities. The inventory of active, permitted Class I hazardous and non-hazardous injection wells is extremely small and concentrated in a limited number of states, which creates massive logistical barriers for states like New Mexico. Relying on this technology requires transporting hundreds of thousands of gallons of hazardous liquids across thousands of miles of public highway infrastructure, dramatically escalating the probability of transit accidents, handling spills, and secondary community exposure. The EPA must expand its infrastructure considerations to include regional capacity metrics and establish rigorous safety criteria for cross-border waste transportation before endorsing deep-well injection as a preferred management route.

Comment 9. Impose Uniform Monitoring of Solid and Liquid Effluents in Air Pollution Control Devices (APCDs)

NMED is concerned by the EPA's admission that the behavior of PFAS and associated PICs within post-combustion pollution control devices remains largely uncharacterized. Recent full-scale testing at commercial facilities revealed that contaminated process water utilized in quenching unit and wet electrostatic precipitators serves as an active source of PFAS re-emission and environmental release. When acid gas scrubbers successfully capture hydrogen fluoride, they generate heavily contaminated secondary waste streams, including scrubber blowdown liquids and fly ash cake. If these solid and liquid effluents are disposed of in standard landfills or discharged without advanced treatment, the contamination cycle is re-initiated. The EPA must update Appendix A to mandate continuous, uniform targeted and non-targeted chemical monitoring of all scrubber water, fly ash, bottom ash, and carbon bed residuals using high-resolution mass spectrometry across all permitted facilities.

Comment 10. Coordinate Destruction Guidance with TSCA and NPDES Frameworks to Close Regulatory Loopholes

NMED is concerned that the destruction and disposal of PFAS-containing waste streams remains almost entirely unregulated at the federal level, operating through a network of non-binding recommendations. While the EPA notes that historical rulemakings like the TSCA Section 8(a)(7) reporting requirements or the National Primary Drinking Water Regulations (NPDWR) will generate useful tracking datasets, these programs do not possess the statutory mandates required to regulate end-of-life waste management. This regulatory gap allows public water systems and industrial manufacturers to transfer high-concentration single-use ion exchange resins, spent granular activated carbon, and reverse osmosis brine concentrates directly to landfills or standard municipal wastewater facilities that cannot handle them. The EPA must utilize its statutory authority under RCRA to list PFAS as a hazardous waste class,

immediately closing these commercial disposal loopholes and aligning national destruction policies with Clean Water Act and Safe Drinking Water Act goals. NMED supports the EPA in implementing an aggressive, science-based, and legally enforceable national framework for PFAS destruction and disposal. We urge EPA to fully integrate these technical recommendations into subsequent versions of the guidance to ensure complete mineralization and human health protection.

Comment 11. Deploying Proven Treatment Technologies to Address Emerging Contaminants in Wastewater Infrastructure

While Section 2.e of the EPA's *Interim Guidance on the Destruction and Disposal of PFAS* focuses on spent materials generated within drinking water systems, identical, high-performance treatment configurations should be deployed within municipal and industrial wastewater treatment plants. Well-established physical separation and extraction mechanisms—specifically granular activated carbon, ion exchange resins, and high-pressure membranes—successfully remove PFAS from aqueous streams. Because conventional wastewater treatment plants are not designed to treat PFAS, they act as unintentional conduits, concentrating PFAS into highly organic biosolids or discharging mobile fractions directly into downstream surface waters and underground sources of drinking water. NMED encourages the EPA to maintain its forward momentum by rapidly advancing proactive rules, funding mechanisms, and technology-validation frameworks tailored specifically for the wastewater sector. Federal guidance should not only include drinking water paradigms and should seek to establish comprehensive protections across media that reduce PFAS contamination.