
NEW MEXICO
COUNTIES
33 STRONG

NAPOLI SHKOLNIK
ATTORNEYS AT LAW

Representing National Rural Water

PFAS IN WATER & WASTEWATER, AIRPORTS, FIRE TRAINING CENTERS, LANDFILLS

Learn how your utility, at no cost, can lessen the financial burden on your rate payers with these Polluter Pays legal efforts.

PFAS CHEMICALS

- PFAS Chemicals: also known as “Forever Chemicals”
- Common sources: Firefighting foam (AFFF), non-stick coatings, industrial discharges
- Health risks: Cancer, reproductive issues, immune system harm

New Mexico grapples with its ‘forever’ chemicals

The City of Clovis has a water contamination problem but no easy way to fix it.

Laura Paskus

February 26, 2020

Has drinking water in New Mexico been tested for PFAS?

- NMED has taken proactive steps to begin evaluating PFAS impacts to public water supplies in New Mexico. As part of our efforts to protect communities PFAS in public drinking water, NMED, in collaboration with the U.S. Geological Survey (USGS) sampled drinking water supplies across the state. This sampling effort, which started in 2020 and continues today, has focused on multiple ground and surface water supplies across New Mexico.

- Results from nearly 80 public water systems, as well as multiple surface water sampling locations, are available **here**.

- Additionally, New Mexico public water systems are currently sampling for PFAS under the federal Fifth Unregulated Contaminant Monitoring Rule

Are PFAS regulated in drinking water in New Mexico?

- On April 10, 2024, the U.S. Environmental Protection Agency (EPA) announced the first-ever national drinking water standards for several PFAS in drinking water. The final rule, establishes maximum contaminant levels for PFOA, PFOS, PFNA, PFHxS, and HFPO-DA (also known as GenX) as individual contaminants, and will regulate PFNA, PFHxS, HFPO-DA, and PFBS as a mixture through a Hazard Index.

- This new rule will significantly reduce the level of PFAS in drinking water across the United States. Many states including New Mexico, have worked to monitor for PFAS exposure in drinking water. This rule builds on these efforts by incorporating the latest science and establishing a nationwide, long-term, health-protective level for these specific PFAS in drinking water.

- In New Mexico, 563 community water systems and 128 non-transient, non-community water systems will be required to comply with this new rule.

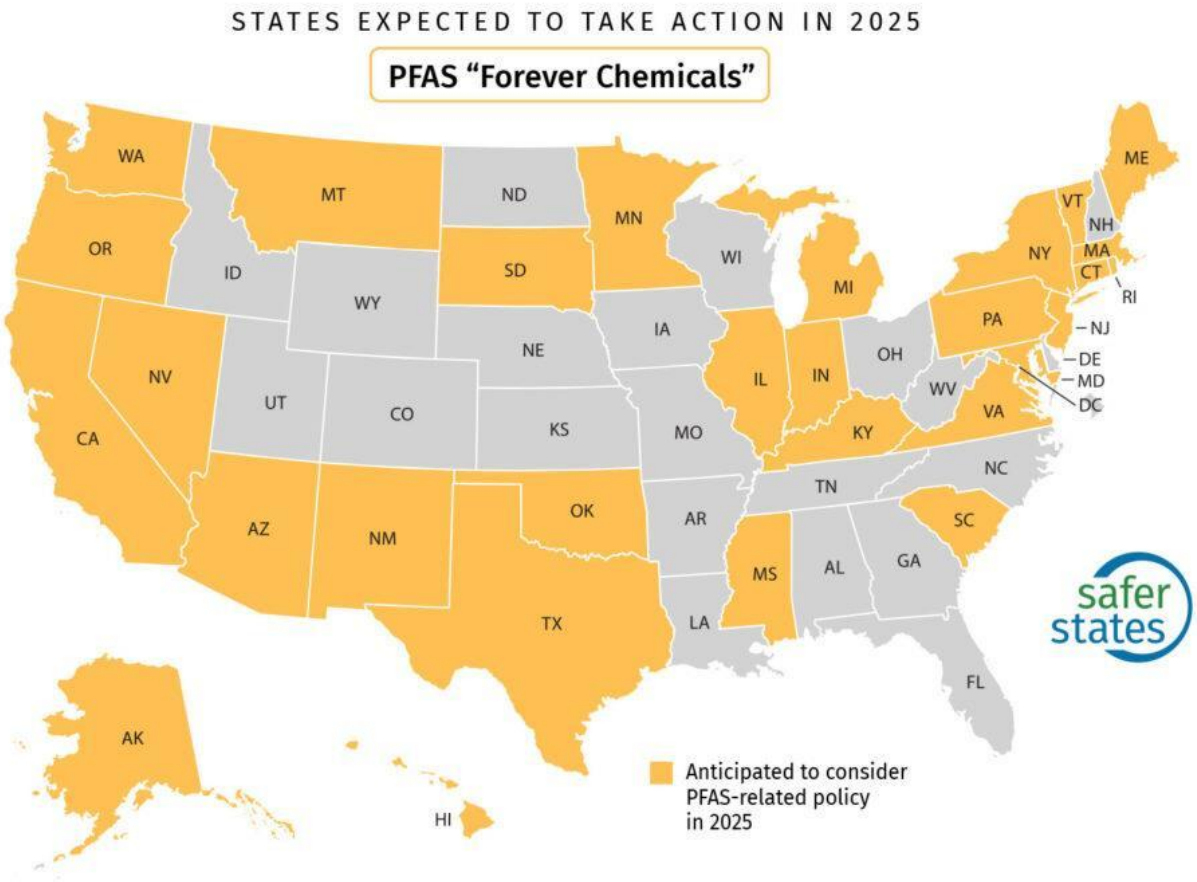
PFAS Detection in New Mexico: Municipal Water Utilities and Local Governments

Overview:
Per- and polyfluoroalkyl substances (PFAS) have been detected in both public and private water supplies across New Mexico. Detection efforts have involved the New Mexico Environment Department (NMED), the U.S. Geological Survey (USGS), and local utilities, with a focus on both urban and rural communities. Below is a summary of where PFAS has been found in municipal water systems and the localities involved.

EPA Announces the New Mexico Environment Department to Receive $18.9 Million to Detect and Address PFAS and other Emerging Contaminants

May 23, 2024

NMED will perform sampling of public water systems to assess the extent of PFAS contamination throughout the state. During the sampling process, which the NMED anticipates will take two years to complete, the state will evaluate communities to determine which areas need critical assistance. The NMED will also plan and coordinate outreach efforts for communities during this time. Remediation and mitigation efforts will begin once sampling and evaluation is complete, with an emphasis on small and disadvantaged communities


STATES EXPECTED TO TAKE ACTION IN 2025
PFAS "Forever Chemicals"
WA
OR
CA
NV
ID
MT
WY
UT
AZ
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ND
SD
NE
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FL
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RI
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DE
MD
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AK
HI
Anticipated to consider PFAS-related policy in 2025
safer states

New Mexico Becomes Third U.S. State to Prohibit PFAS in Products

2027 and 2028 Restrictions on Certain Categories of Consumer Products

Beginning January 1, 2027, House Bill 212 prohibits the sale, offer for sale, distribution, and distribution for sale in New Mexico the following products if they contain intentionally added PFAS:

- Cookware;
- Food packaging;
- Dental floss;
- Juvenile products;
- Firefighting foam.

Municipal Water Utilities and Local Governments with PFAS Detections

Clovis (EPCOR Water Utility)

EPCOR, the private utility operating the Clovis water system, detected low levels of PFAS in several municipal wells. This marked the first time PFAS contaminants were found in a public drinking water supply in New Mexico. The levels detected were below federal health advisory limits, but their presence is significant for the state. The contamination is believed to be related to stormwater features and possibly wastewater and from nearby Cannon Air Force Base

City of Las Cruces (Doña Ana County)

- Slight traces of PFAS were detected in a City of Las Cruces groundwater well.
- Portales (Roosevelt County)
- PFAS was found in a municipal well in Portales, Roosevelt County.

Municipal Water Utilities and Local Governments with PFAS Detections

Alamogordo (Otero County)

- A groundwater well in Alamogordo tested positive for PFAS (10.9 ppt).
- Santa Fe
  - PFAS was detected in a Santa Fe well, though the main municipal system (Albuquerque Bernalillo County Water Utility Authority) reported no PFAS in its system based on 2015 and subsequent testing.

Melrose (Curry County)

- A Melrose well in Curry County showed PFAS presence.
- Oasis State Park (Roosevelt County)
  - A well at Oasis State Park tested positive for PFAS.

Other Notable Locations

- Five private wells in the La Cieneguilla and La Cienega communities of Santa Fe County also tested positive for PFAS, though these are not municipal systems

Fort Wingate

On a document dated June 30, 2020, the Pentagon added Fort Wingate to its list of more than 700 military installations nationwide that might have PFAS contamination.

Holloman Air Force Base

- PFAS levels in the waters below Holloman AFB just outside Alamogordo are up to 1,294,000 parts per trillion—more than 27,000 times the lifetime advisory level.

Cannon Air Force Base

- PFAS levels below Cannon AFB were found at levels more than 370 times what the U.S. Environmental Protection Agency considers safe for an entire lifetime of exposure

Army National Guard Armory - Rio Rancho

- 4001 Northwest Loop NE, Rio Rancho, NM 87144
- The Pentagon is currently supposed to be assessing whether activities at the Army National Guard Armory in Rio Rancho have contaminated groundwater with PFAS.

Army National Guard Armory - Roswell

- 1 W Earl Cummings Loop, Roswell, NM 88203
- The Pentagon is currently supposed to be assessing whether activities at the Army National Guard Armory in Roswell have contaminated groundwater with PFAS.

Army Aviation Support Facility

Santa Fe Huey Rd, Santa Fe, NM 87507

The Pentagon is currently supposed to be assessing whether activities at the Army Aviation Support Facility in Santa Fe have contaminated groundwater with PFAS.

White Sands Missile Range

The Pentagon is currently supposed to be assessing whether activities White Sands Missile Range have contaminated groundwater with PFAS.

NMED-USGS PFAS SAMPLING 8/20-6/24

Curry County
Melrose Water System
Texico Water System
Turquoise Estates Water Co Op

Bernalillo County
Forest Park Property Owners Co-Op

Grant County
Baynard Municipal Water Supply

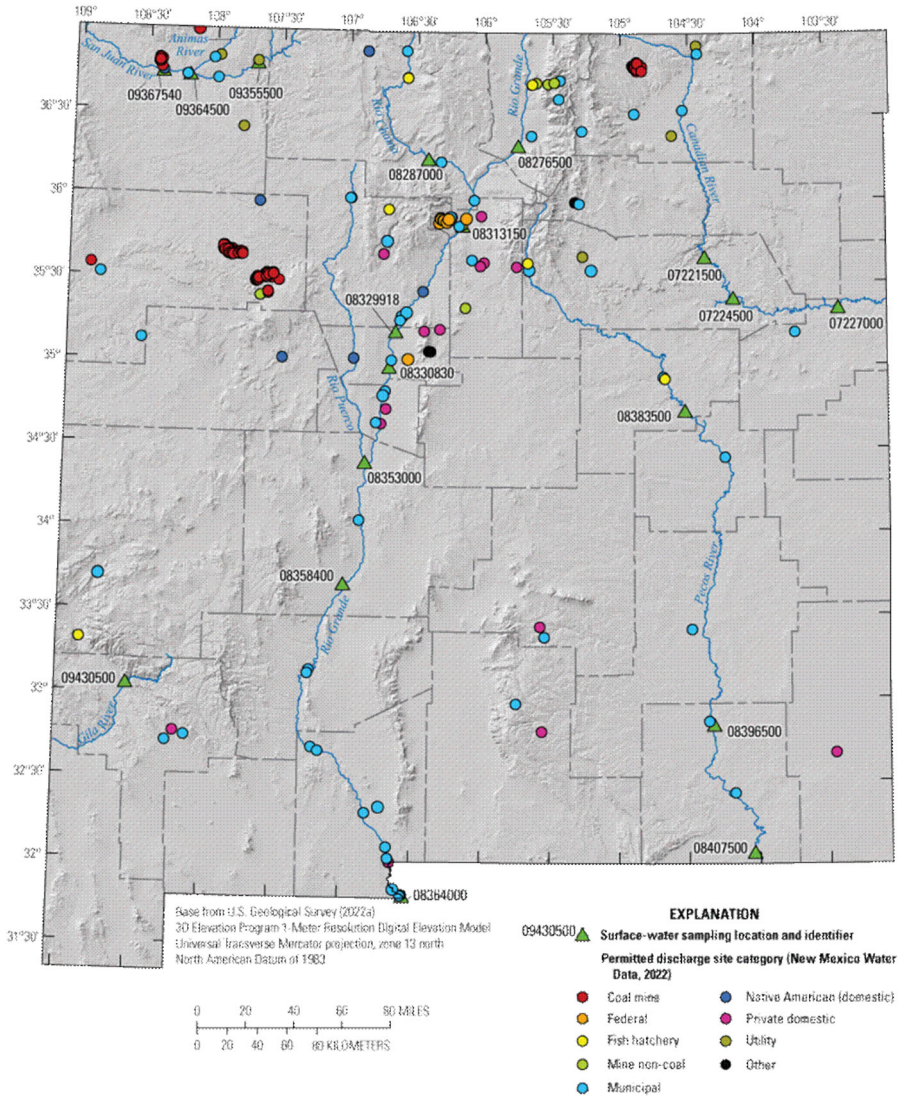
Otero County
Alamogordo Domestic Water System
Cloudcraft Water System

Santa Fe
La Vista Homeowners Association

Statewide Testing and Findings

- As of early 2024, the NMED and USGS have sampled nearly 80 public water systems, with PFAS detected in five out of 49 public water systems tested under federal monitoring programs.
- PFAS has been detected in all major rivers in New Mexico, with urban areas, especially Albuquerque, being significant contributors to PFAS in the Rio Grande.
- A statewide USGS study found PFAS in 27 out of 117 groundwater sites, including both public and private wells, springs, and surface waters. However, there were no exceedances of the 2016 EPA health advisory in these samples

PFAS Detections in New Mexico by Industry



COMPLAINT FOR PERMIT ENFORCEMENT AND VIOLATIONS OF THE NEW MEXICO HAZARDOUS WASTE AC

Dated: June 23, 2025

STATE OF NEW MEXICO
COUNTY OF SANTE FE
FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO ex rel.
RAÚL TORREZ, ATTORNEY
GENERAL, and the NEW MEXICO
ENVIRONMENT DEPARTMENT,
Plaintiffs,
v.
UNITED STATES OF AMERICA, and
the UNITED STATES DEPARTMENT
OF THE AIR FORCE,
Defendants.

In addition to cleaning up the decades of ongoing PFAS releases and paying civil penalties, the June 2025 State lawsuit seeks to order the USAF to:

- End all use of PFAS-containing firefighting foam at Cannon for anything other than emergency purposes
- Provide water treatment systems to residents whose water has been affected by PFAS contamination
- Install drinking water lines for any willing residents currently serviced by private wells in the spill area
- Hold regular public meetings with the community
- Install stormwater controls and retention basins to prevent offsite migration of PFAS from contaminated media
- Valuate nearby private property affected by PFAS contamination
- Compensate the owners of said property for losses resulting from PFAS contamination

Holding Polluters Responsible

$15.431 BILLION WATER SETTLEMENTS

- 3M for $12.5 billion
- DuPont for $1.185 billion
- Tyco/Chemguard for $750 million
- BASF for $312 million
- Kidde –Fenwal Bankruptcy for $540 Million
- Global Carrier for $129.2 million

- Ongoing Litigation - 12 additional companies

Holding Polluters Responsible

PAYOUT PHASE I

DuPont – One Time Payment

3M - First payments 1st quarter of 2025
Annual payments through 2036

BASF – One Time Payment

Tyco/Chemguard – Two payments (Date TBD)

Holding Polluters Responsible

ESTIMATED RANGE OF AWARDS

	3M	DUPONT	TYCO
High	**$28,771,300**	**$3,409,409**	**$2,167,854**
Low	**$3,824**	**$453**	**$286**
Average	**$1,607,481**	**$169,368**	**$129,076**

SETTLEMENT DEADLINES

3M SETTLEMENT

Phase 1 Deadline Passed

Phase II Deadline June 30, 2026
System tested after June 22, 2023

DUPONT SETTLEMENT

Phase I Deadline Passed

Phase II Deadline July 31, 2026
System tested after June 30, 2023

TYCO & BASF SETTLEMENT

TYCO - Testing must have taken place by May 15, 2024
Deadline for submission – April 8, 2025

BASF – Impacted water as of May 15, 2024
Deadline for submission – April 8, 2025

WATER REGULATIONS

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4 ppt (also expressed as ng/L)
PFOS	Zero	4 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (GenX Chemicals)	10 ppt	10 ppt
Combinations of two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

DATA NEEDED TO FILE A CLAIM

- Numerical Lab Results
- IRS W-9
- Remedial Action Taken if Applicable
- 2013-2022 Flow Records per source
- Maximum permitted flow rate or withdrawal per source

REGISTER NOW FOR PHASE II

Stephen Acquario
(518) 466-0370
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No Award – ZERO Cost to your utility

Looking **Ahead ...**

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PFAS IN WASTEWATER SYSTEMS

→ PFAS MIGHT BE CONTAMINATING YOUR WATER, **EVEN AFTER TREATMENT**

Wastewater Regulations

In late April 2024, the Environmental Protection Agency's ("EPA") announced their decision to classify Perfluorooctanoic Acid ("PFOA") and Perfluorooctane Sulfonate ("PFOS") as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

EPA in process of establishing discharge limits, bio-solid disposal

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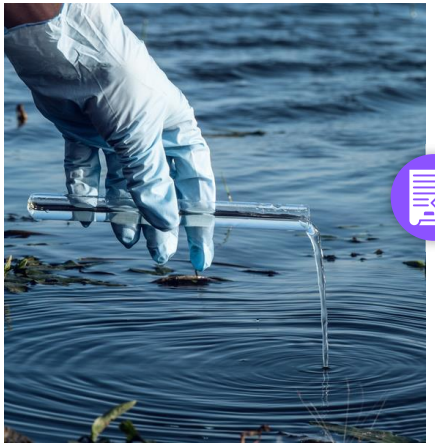

Proposed Discharge Standards

Table 1. Draft Human Health Criteria (HHC) for Three PFAS.

PFAS	Water + Organism HHC (ng/L; ppt)[1]	Organism Only HHC (ng/L; ppt)[1]
PFOA	0.0009	0.00036
PFOS	0.06	0.07
PFBS	400	500

[1] Values are provided in ng/L units to aid in comparison to method detection limit (MDL).

AFFF Contamination of Airports

→ PFAS MANUFACTURERS SHOULD BE HELD ACCOUNTABLE FOR THE DAMAGES INCURRED BY AIRPORTS USING THEM

New Mexico Local Government PFAS Best Practice Tips

1. Test all water/wastewater sources
2. File settlement claims by deadlines
3. Update firefighting foam policies
4. Engage NMED's Drinking Water Bureau

CERCLA: ANOTHER TOOL FOR LOCAL GOVERNMENTS

- Cost Recovery: Sue responsible parties (e.g., manufacturers, federal facilities) to recover PFAS cleanup costs.
- Enforcement Actions: Partner with EPA to compel polluters to fund or conduct cleanups.
- Access to Federal Funds: Apply for Superfund grants/loans for PFAS site assessments
- Reporting Leverage: Mandatory 24-hour spill reporting for releases ≥1 lb of PFOA/PFOS

YOUR PARTNER TEAM

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Thank You

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