

Public Comment on the New Mexico PFAS Protection Act and Statutory Exemptions

Submitted to: New Mexico Environment Department

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I submit these comments in support of the strongest possible implementation of New Mexico's PFAS Protection Act and the elimination or substantial narrowing of exemptions that allow products containing intentionally added PFAS to remain in commerce.

PFAS are persistent, mobile and bioaccumulative. PFOS and PFOA are among the best-known members of this chemical family, but New Mexico's protections must address the entire class. Regulating one compound at a time allows manufacturers to replace a restricted PFAS chemical with a closely related substitute that may present similar risks.

NMED acknowledges that repeated exposure to even small amounts can matter and that PFAS exposure has been associated with cancer, reproductive harm, increased cholesterol and other serious health effects. Once these chemicals enter groundwater, wastewater, soil, wildlife and the human body, removing them is extraordinarily difficult and expensive.

A "Protection Act" that delays protection

The title "PFAS Protection Act" becomes an Orwellian description if the law's implementation is used to delay regulation, expand exemptions and substitute labeling for actual protection.

New Mexico already knows that PFAS are persistent, mobile, bioaccumulative and dangerous at extremely low concentrations. Yet the Act allows major restrictions to be postponed until 2032 while manufacturers seek exemptions and "currently unavoidable use" determinations. During that delay, PFAS-containing products may continue entering homes, workplaces, landfills, wastewater-treatment plants, groundwater and human bodies.

A label does not prevent exposure. A manufacturer's report does not remove PFAS from drinking water. An exemption does not make the chemical safe.

The exemption process risks reversing the burden of proof. Communities should not have to prove that each PFAS use will harm them. Manufacturers seeking to continue using these

chemicals should be required to prove—with independently verifiable evidence—that the use is genuinely essential, that no safer alternative exists and that the PFAS will not be released during manufacture, use, disposal, fire, accident or degradation.

Nor should “economic impact” be treated as a reason to continue contamination. The economic analysis must include the full public cost of contaminated wells, advanced water treatment, medical monitoring, lost property value, environmental damage and decades of remediation. A product may be inexpensive only because its manufacturer is allowed to transfer those costs to residents and taxpayers.

The deepest contradiction is that New Mexico is considering exemptions for continued PFAS use while people who may already have been exposed in La Cieneguilla still lack access to a comprehensive public blood-testing and medical-monitoring program. That is not precautionary regulation. It is a contamination-first system in which government regulates products slowly, tests people selectively and acts only after the damage becomes undeniable.

If this law is genuinely intended to protect New Mexicans, exemptions must be exceptional, temporary and independently justified; deadlines must be accelerated; PFAS must be regulated as a chemical class; and exposed communities must receive testing, notification and medical follow-up now—not years from now.

My experience in La Cieneguilla

This issue is personal.

From approximately 1998 through 2003, I lived at a home in La Cieneguilla associated with the highest PFAS measurement reported in that community. The property was downstream of the Santa Fe National Guard facility, the former sewage-sludge application fields and the Santa Fe wastewater-treatment system’s effluent discharge.

People living in this area may have been exposed through private wells, soil, food, dust or other environmental pathways long before the public was warned about PFAS.

NMED now offers private-well testing and water assistance in La Cienega and La Cieneguilla. That is important, but water testing today does not answer what happened to people who lived there during earlier periods of potential exposure. Former residents have not been offered the same publicly supported PFAS blood-testing program available to eligible adults who lived or worked near Cannon Air Force Base.

A person should not lose access to testing merely because they moved away before the contamination was fully investigated or publicly disclosed.

I request that NMED:

1. Establish free, voluntary PFAS blood testing for current and former residents of La Cienega and La Cieneguilla who may have been exposed.
2. Conduct comprehensive historical exposure and groundwater-pathway analysis covering the Santa Fe National Guard facility, sludge-application fields, wastewater effluent and affected private wells.
3. Publish all validated PFAS sampling results in an accessible, searchable format, while protecting residents' personal information.
4. Notify current and former residents directly when sampling identifies elevated PFAS in a well or property with which they were associated.
5. Provide medical guidance and long-term health follow-up for people with elevated blood levels.

Testing water without addressing exposed people is an incomplete public-health response.

Exemptions must be narrow, temporary and publicly justified

The purpose of the PFAS Protection Act will be undermined if broad exemptions become permanent escape routes for industries claiming that PFAS use is convenient, economically preferable or technologically useful.

A “currently unavoidable use” should mean precisely that: no safer technically feasible alternative presently exists for a function essential to health, safety or the operation of critical infrastructure. It should not mean that substitution would cost more, require redesign, disrupt an established supply chain or reduce corporate profit.

Every exemption or currently unavoidable use determination should:

- Apply to a specifically identified chemical, product and function—not an entire industry or broad product class.
- Require disclosure of the PFAS chemical, concentration, purpose and anticipated releases throughout the product's life cycle.
- Include independent evidence that safer alternatives were evaluated.
- Be limited in duration and subject to periodic reconsideration.

- Require pollution-prevention, worker-protection, disposal and end-of-life management plans.
- Remain subject to reporting and public disclosure.
- Be denied when the applicant withholds chemical identities as confidential business information.
- Require the manufacturer, not taxpayers or affected communities, to bear monitoring and cleanup costs.

An exemption from a product prohibition must never become an exemption from disclosure, environmental monitoring, waste controls or liability.

Military and industrial uses cannot remain a blind spot

New Mexico's PFAS crisis demonstrates what happens when military necessity and industrial convenience are allowed to override precaution. Firefighting foams used at military installations have contaminated groundwater, wildlife, agriculture and neighboring communities. NMED itself recognizes that New Mexico contains some of the nation's most extensive PFAS contamination near military bases.

Evidence from other countries also demonstrates that PFAS contamination does not remain within a facility boundary. It accumulates in fish, birds, mammals and plants and moves through entire ecosystems. Wildlife can serve as a warning of human exposure, but by the time widespread contamination is found in animals, prevention has already failed.

The PFAS review should therefore address not only ordinary retail consumer products but also products purchased, used or discarded by government agencies, defense contractors and industrial facilities. State procurement rules should prohibit intentionally added PFAS whenever safer alternatives are available.

Federal involvement or a national-security claim should not prevent New Mexico from requiring disclosure, baseline testing, environmental monitoring and emergency-response planning within the full extent of state authority.

Project Ranger illustrates the protection gap

Project Ranger, Castelion Corporation's hypersonic missile and solid-rocket-motor manufacturing and testing complex west of Rio Rancho, illustrates why New Mexico cannot limit its attention to consumer products.

The facility is expected to manufacture, store and test energetic materials, including solid rocket propellants containing ammonium perchlorate. Fire and explosion response at a high-hazard facility also raises the question of what firefighting foams and suppression chemicals will be stored or used.

Yet Project Ranger was allowed to proceed without a publicly released comprehensive Environmental Impact Statement and without publicly available independent baseline testing of groundwater, shallow subsurface water, soil, air and dust. There has been no adequate public accounting of potential PFAS use, firefighting-foam storage, wastewater management, perchlorate pathways or long-term groundwater consequences.

Rio Rancho municipal wells are located near the project area, and the West Mesa's arroyos connect industrial sites with downstream watersheds and drinking-water infrastructure. The claim that groundwater is deep does not eliminate the danger. PFAS and perchlorate are both highly mobile in water, and contamination discovered after operations begin can be extremely difficult to trace and remediate.

NMED should require, before rocket-motor production or testing begins:

- Full disclosure of every PFAS-containing product, process material and firefighting agent that will be stored or used at Project Ranger.
- A prohibition on PFAS firefighting foam except when its use is legally unavoidable during an actual emergency.
- Independent baseline testing for PFAS, perchlorate and other rocket-manufacturing contaminants in groundwater, soil, sediment, air and dust.
- Monitoring of municipal wells and appropriate sentinel wells around and downgradient of the facility.
- Public disclosure of sampling locations, laboratory methods, detection limits and results.
- A comprehensive hydrologic and contaminant-transport analysis.
- Financial assurance sufficient to fund emergency response, long-term monitoring and cleanup.
- A publicly accessible environmental and incident-reporting system.

These protections should apply to Project Ranger and to any comparable defense, aerospace, munitions or high-hazard industrial facility in New Mexico.

Do not repeat the contamination-first model

New Mexico has repeatedly allowed contamination to occur first and required communities to spend decades fighting for testing, disclosure and cleanup afterward. That model transfers risk to residents and cleanup costs to the public while the responsible institution retains the benefit of the activity that caused the contamination.

The PFAS Protection Act offers an opportunity to reverse that pattern.

I ask NMED and the Environmental Improvement Board to recommend that the Legislature narrow or eliminate unnecessary exemptions, preserve mandatory reporting and labeling, adopt class-based PFAS restrictions, expand testing for exposed communities and close the industrial and military-use gaps revealed by La Cieneguilla, Cannon Air Force Base, Holloman Air Force Base and Project Ranger.

The state should not wait until PFAS or perchlorate appears in another drinking-water well before requiring baseline science and enforceable protections.

Prevention is not an unreasonable burden. It is the minimum responsibility government owes communities whose water, bodies and futures bear the consequences when regulation fails.

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