

PFAS/CERCLA: New Mexico Department of Justice Files Contribution Claim Against the U.S. Departments of the Air Force/Army



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The New Mexico Department of Justice (“NMDOJ”) amended a complaint in the United States District Court against the United States, the United States Department of the Army, the United States Department of the Airforce alleging they contaminated natural resources and endangered public health with PFAS.

The amended complaint is notable because it utilizes the United States Environmental Protection Agency’s (“EPA”) rule that recently designated perfluorooctanoic acid and perfluorooctanesulfonic acid as Comprehensive Environmental Response Compensation Liability Act (“CERCLA”) hazardous substances. See 89 Fed. Reg. 39, 124 (May 8, 2024).

EPA’s designation of certain PFAS as a hazardous substance triggers certain corresponding requirements such as:

- Application of the potentially responsibility liability categories.
- Hazardous substance release reporting requirements.

NMDOJ’s amended complaint adds to its previous claims:

- Other PFAS contaminated sites out of certain United States Airforce bases.
- Lists the United States Department of the Army as a new defendant to the complaint for alleged culpability regarding PFAS contamination.
- Seeks costs, damages, and other relief from the United States Department of Defense under EPA’s PFAS hazardous substance designation.

A copy of the amended complaint can be downloaded [here](#).