

# NJ sues federal government, saying ‘forever chemicals’ at military bases polluted drinking water

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**NJ** njspotlight.com/2021/01/nj-sues-federal-government-forever-chemicals-pfas-military-bases-joint-base-mcguire-dix-lakehurst-firefighting-foam-contaminated-public-drinking-water

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New Jersey sued the federal government, charging it with contaminating public drinking water supplies with toxic PFAS chemicals on and around three New Jersey military bases by continuing to use a type of firefighting foam that contains the chemicals.

Two of the so-called “forever chemicals” have entered groundwater on and surrounding the Joint Base McGuire-Dix-Lakehurst and at two other bases at Trenton and Earle at levels that sharply exceed New Jersey’s legally required upper limits for safe human consumption, the state says in its lawsuit filed Thursday.

The federal government waived sovereign immunity by agreeing to follow New Jersey’s standards for the chemicals’ safe levels in drinking water, the lawsuit says, but has “not addressed the imminent and substantial endangerment to the human health of New Jersey’s residents” from the contamination of water supplies by the two chemicals, PFOS (perfluorooctanesulfonic acid) and PFOA (perfluorooctanoic acid).

Nationwide, the military has long used the chemicals in firefighting foam because of their fire-resistant properties, and the substance has washed into water sources on and off military bases after training exercises and actual fires. In response to health concerns and growing evidence that the foam is contaminating groundwater around the country, the Department of Defense is phasing out use of the Aqueous Film-Forming Foam but has been given until 2024 to do so.

## **Chemicals found in groundwater**

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In 2019, the DOD found the chemicals in groundwater at 651 military bases nationwide. They include the sprawling joint base in New Jersey where testing in 2016 found combined levels of the two chemicals as high as 264,300 parts per trillion (ppt). That’s thousands of times higher than the 70 ppt set by the U.S. Environmental Protection Agency as a “Lifetime Health Advisory” for safe human consumption, and even further above New Jersey’s recently set levels of 13 ppt for PFOS and 14 ppt for PFOA.

In communities around the base, the tests found three private drinking water wells containing combined levels of the chemicals as high as 1,688 ppt.

At a fire training school attached to the Naval Weapons Training base in Earle, Monmouth County, tests found the two chemicals at up to 2,900 ppt; two private water wells outside the base were found to exceed the EPA’s health limit.

And at the former Naval Air Warfare Center in Trenton, 23 wells were found to contain the two chemicals at between 178 and 27,800 ppt, the suit said.

## **Lax regulation until recently**

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The action is the latest attempt to curb PFAS in New Jersey, which has some of the nation's highest concentrations of the chemicals because of its long industrial heritage, and until recently, lax regulation. In the last five years, the state has set some of the nation's strictest health standards for PFOS, PFOA and a related chemical, PFNA (perfluoronanoic acid).

In November last year, the state sued Solvay Specialty Polymers, a Gloucester County chemical company, for allegedly polluting local groundwater with PFNA. In 2019, it issued a directive to that company and four others that it said had contaminated water supplies for years and done little to clean them up.

The latest suit was filed in federal court in South Carolina, where related actions are being consolidated. It says the federal government has violated federal and state laws on safe drinking water, and asks the court to order the government to investigate and pay for the cleanup of the PFAS contamination in and around its New Jersey facilities. It also asks the court to order the federal government to pay for the medical monitoring of people in affected areas.

PFAS chemicals are linked to serious medical conditions including some cancers, immune-system impairments, ulcerative colitis, and elevated cholesterol.

PFAS, originally used in heat-resistant consumer products such as Teflon and Scotchgard, have been dubbed forever chemicals because they don't break down in the environment and accumulate in the body. Scientists say the chemicals can be found in the body of virtually every American.

## **Protecting health of 'military and civilian families'**

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"With today's lawsuit, we are inviting the federal government to finally take the risks posed by PFAS chemicals as seriously as New Jersey does, and to take appropriate steps to protect the health of military and civilian families who live near our military bases," said Attorney General Gurbir Grewal, in a statement Thursday.

The action was taken jointly with the Department of Environmental Protection, whose soon-to-retire commissioner, Catherine McCabe, said the federal government must "do the right thing" by investigating and remediating the chemicals on military bases.

Neither the Department of Defense nor officials representing New Jersey's joint base immediately responded to a request for comment on the suit. In 2016, the DOD issued a directive to stop using the foam for training, testing and maintenance, and said that if it needed to use the foam for saving lives, the affected soil would be treated and removed.

The suit was welcomed by the Environmental Working Group, a national advocate that has pressed the federal government to set strict standards for the chemicals in drinking water.

## **Military 'understood the risks'**

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"For decades, the military understood the risks from PFAS in firefighting foam but failed to warn service members or take action to restrict discharges into the environment," said Melanie Benesh, an attorney for the Environmental Working Group. "As a result, DOD is

responsible for contaminating hundreds of communities and exposing countless services members, their families, and members of nearby communities to PFAS. State lawsuits are an important mechanism for holding DOD accountable for these harms.”

New Jersey’s suit follows another by the State of New Mexico which sued the U.S. Air Force in March last year to stop using Aqueous Film-Forming Foam.

Tracy Carluccio, a longtime campaigner for stricter state and national PFAS standards, welcomed the suit as a “bold and righteous” legal action.

“New Jersey is rightly insisting the federal government address the groundwater and drinking water pollution they have caused at federal facilities in the state to protect the public from exposure and to force the cleanup of the sources of contamination,” said Carluccio, deputy director of the environmental group Delaware Riverkeeper Network.