

# PUBLICATION

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## New York Incineration Alleged to Cause Toxic Contamination

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**The incineration of toxic firefighting foam at a plant near Albany, New York, has been alleged to have contaminated nearby communities with polyfluoro alkyl substances (PFAS). PFAS have become a major environmental problem in the U.S. and other countries due to their widespread use in a variety of products for decades. Aqueous fire fighting foam (AFFF), first produced in the 1960s, blankets flammable liquids like petroleum and natural gas, preventing the spread of oxygen and smothering a fire. But the same compounds — PFOA and PFOS — that made AFFF such an effective fire suppressant are now also known to be toxic.**

Because of the human health impacts, manufacturing AFFF with PFOA or PFOS became illegal in the U.S. in the early 2000s, leaving fire departments around the country with stockpiles of so-called "legacy foams." PFAS, the chemical family that PFOA and PFOS belong to, are also called "forever chemicals" as they do not easily break down, accumulating in soil, water and the human body. Many unknowns remain about the health effects of the thousands of fluorinated chemicals used in hundreds of everyday products.

Only recently have governments and individuals come to appreciate the scope of the problem. Hundreds of private lawsuits have been filed against the major manufacturers of PFAS and federal, state, and local governments have gotten involved in enforcement of environmental laws, and often find themselves being sued as a result of contamination at their facilities.

The United States Department of Defense and 25 states, including Vermont, shipped old foam to the Norlite incinerator in an effort to get the hazardous material off the shelves of military bases and local fire departments. But the traces of PFAS chemicals found in soil and water samples downwind of the plant – about a 45-minute drive from Bennington – indicate that incineration did not fully break down toxins in the foam.

The Norlite incinerator uses two recycled fuel-fired kilns to turn shale into a ceramic aggregate used in construction and horticulture. New York and Vermont environmental officials say initial reviews of the lab results appear to show PFAS levels in line with those found in urban areas.

Environmental and community justice groups sued the Department of Defense earlier this year over Norlight's incineration practices, claiming that the military should have conducted more environmental review before entering into contracts to incinerate millions of gallons of foam.

PFAS gained notoriety in Vermont in 2016 after the state discovered that emissions from two former ChemFab Corp. plants had contaminated hundreds of wells in Bennington with one particularly toxic member of that group, PFOA.

The type and relative amounts of PFAS compounds found in the samples near the Norlite incinerator are consistent with reports of groundwater contamination from the foam. The Norlite incinerator has been fined for air pollution in the past. The hazardous waste incinerator sits right next to Saratoga Sites – a 70-unit affordable housing project.

The New York Department of Environmental Conservation (DEC) is still reviewing the data. The Environmental Protection Agency (EPA), which has come under scrutiny for not moving swiftly enough to regulate PFAS compounds, wrote in a brief last year that the effectiveness of using incineration to destroy PFAS compounds is "not well understood."

The EPA also says that it does not have a good handle on how much PFAS-containing waste is being incinerated around the country because the compounds are not regulated as hazardous waste or as air pollutants.

For more information, please contact any member of [Baker Donelson's Environmental Team](#).

[See](#), Elizabeth Gribkoff, May 4, 2020, [Bennington professors say NY incineration caused toxic contamination](#), VTDigger.org.