

Washington PFAS Soil Standards

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To start off the new year, Washington introduced its “[Draft Guidance](#) for Investigating and Remediating PFAS Contamination In Washington State”, which provides guidance principles for companies looking to remediate land of six specific types of PFAS – PFOA, PFOS, PFNA, PFHxS, PFBS, and GenX. The Washington PFAS soil [standards](#) follow similar guidance documents by [New Jersey](#) (2022) and [Pennsylvania](#) (2021). None of the three states have soil standards that would be used for the purposes of identifying potential responsible parties. As other states follow suit, though, it is likely that other states will begin setting PFAS soil standards that include both a remediation guideline and liability purpose. Companies are well-advised to closely follow developments at the state level with respect to PFAS soil standards.

PFAS Soil Standards In Washington

Washington’s guidance would, if approved, be able to be utilized for both private cleanups (or diligence initiatives) and state-led remediation efforts. The draft guidance document cautions that even if finalized, parties engaged in site cleanup need to be aware that the science and regulations with respect to PFAS are changing, so coordination with the state is key. The state would still need to approve proposed remediation plans, even if in line with the Guidance document, as state approval of remediation proposals is highly fact-specific. In addition, the state will look at proposed plans through the lens of future reopener issues, and will aim to work with parties at the outset to avoid such issues.

Impact On Businesses

As noted above, the PFAS soil standards do not create liability if soil is discovered to contain levels of PFAS above the noted limits. Instead, the regulations provide guidance to site remediators, to provide clarity as to the extent and scope of PFAS remediation necessary from contaminated sites. Nevertheless, companies in Washington are advised to use the limits in the regulations as baselines testing during the diligence phase of any property or corporate acquisition. It is critical to determine whether or not sites owned by the businesses or sites that companies may inadvertently be polluting with PFAS have elevated levels of PFAS such that future liability concerns may arise.

Businesses outside of Washington must be aware of the regulations and closely follow legislation and regulatory action in discussion with respect to PFAS soil standards. While drinking water and wastewater have certainly received the most attention from a PFAS regulatory perspective, efforts

are being made in several states to collect data with respect to PFAS soil contamination, with the long-term goal of enacting science based PFAS soil standards.

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