

NJDEP Releases New Interim PFAs Soil Remediation Standards

On October 17, 2022, the NJDEP posted its interim soil remediation, indoor air, and migration to groundwater standards for four types of PFAs: perfluorononanoic acid (PFNA), perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS) and GenX. These standards are effective immediately for all site remediation and can pose a significant increase to the cost and time to conduct new investigations of site soils and remediation. Such costs may not have been previously planned for or considered for many sites in New Jersey in budgeting or to meet mandatory time frames. The new interim standards apply for all four PFAS in soil and soil leachate at all sites subject to site remediation and will require that these PFAs be remediated to prevent exposure at concentrations above the new standards. Notably, NJDEP included GenX with the three other prevalent PFAs in the interim standards because it is being used as a substitute for PFAs, but some studies suggest GenX may be just as toxic as PFAs.

Further, for any future site development of projects or remediation requiring off-site disposal of excess soils, disposal facilities will likely start to require waste characterization to include these PFAs and could significantly increase the cost of disposal of soils previously considered non-hazardous but now hazardous due to these PFAs or GenX (and the standards are very low).

Moreover, PFAs will need to be considered when undertaking any due diligence investigation as part of any property transaction by consultants and prospective purchasers, using the specific standards.