

News

PFAS CLEANUP: TWO STATES PURSUIT OF COMMERCIAL AIRPORTS

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BCLP Partner Tom Lee was quoted in [Inside EPA](#) regarding whether state PFAS cleanup actions like those underway in Michigan and Washington offer any predictive value for how EPA may pursue cleanup actions under CERCLA.

Both states have designated certain PFAS as hazardous substances, enabling cleanup requirements and legal actions. EPA has similarly listed two PFAS compounds as Hazardous Substances under CERCLA. However, it has also published an enforcement discretion memorandum, suggesting that it would not pursue cleanup actions at certain types of municipally owned facilities and other passive receivers of PFAS.

“State actions related to hazardous substance designations offer a crystal ball for how action on EPA’s recent Superfund rule designating two PFAS as hazardous substances could play out,” Tom said. “But the challenge with hazardous substances is that these processes take a long time to unfold. Typically, a regulator requires potentially responsible parties (PRPs) to undertake testing, examine data and evaluate whether remedial action is required. But that can take months to years,” he added— noting that litigation among PRPs often follows remedial action.

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