PFAS: The New Asbestos Every GC Needs to Understand

By LESLIE P. SMITH, Ph.D. and JEFF MARSHALL

In nearly every environmental assessment, the conversation turns to PFAS, or per- and polyfluoroalkyl substances.

Whether the work involves a developer looking at old farmland, a contractor preparing to break ground near an airstrip or a building owner reviewing its onsite fire suppression systems, the question is the same: who is responsible for identifying and addressing PFAS?

The development of PFAS regulations (e.g., by the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration) remains in its infancy,

and many issues – such as waste classification and occupational exposure standards – remain unresolved. We anticipate that PFAS technical and regulatory development will continue for many years, as the issues are complex.

This uncertainty is precisely why general contractors need to pay close attention: if they wait to be informed, they could bear some, if not all, of the liability.

What Are PFAS and Why Should GCs Care?

PFAS are widely encountered, primarily due to historical uses common to many industrial and consumer products dating back to the 1950s. Firefighting foams – especially aqueous film-forming foam – were used for decades at airports, military installations, refineries and firefighting training facilities. Beyond AFFF, PFAS were also used in coatings, sealants and waterproofing products, as well as in industrial processes and land-applied biosolids. PFAS are a large family of synthetic “forever” chemicals that resist natural breakdown and can persist in the environment or the human body. PFAS can migrate through soil and groundwater, infiltrating downstream water supplies and sensitive ecosystems. Exposure has been linked to cancer and other serious health problems.

In July 2024, the EPA finalized a rule designating two of the most common PFAS substances (PFOA and PFOS) as hazardous substances under CERCLA, the federal Superfund law. Under Superfund, any party connected to the release of a hazardous substance can be held liable for cleanup costs.

Consider the implications for a GC hauling excavated soil offsite. If that soil contains PFAS and the receiving landfill

is later designated a Superfund site, the contractor could be held responsible for a portion of the cleanup costs, even if the site wasn't tested. As one speaker put it during a recent Associated General Contractors' convention session on the topic, PFAS is the new asbestos. And as history has shown with asbestos, ignoring the issue is not a viable strategy.

The Trump Administration has left this rule alone and to date, shows no real signs of going away. In connection with the CERCLA designation, EPA issued an enforcement discretion policy indicating that it will prioritize parties that significantly contributed to PFAS releases, such as manufacturers and industrial users. While this provides some comfort to other sites, it does not protect against private-party claims.

This means contractors face mounting challenges: limited disposal options, rapidly increasing treatment costs and expanded legal exposure.

Where PFAS Shows Up

Part of the challenge is the wide range of sites where PFAS may be present. Based on environmental assessment data, the most common sites containing them include:

- Military bases or airfields
- Firefighting training sites
- Sites where AFFF was used during fire response
- Current and former agricultural land
- Manufacturing facilities
- Wastewater treatment plants
- Landfills

With PFAS now designated as a hazardous substance, Phase I environmental site assessments are required to

address these compounds as part of environmental due diligence. Environmental professionals must evaluate and report likely releases of PFOA and PFOS, which, in many cases, necessitate progression to Phase II investigations of soil and groundwater testing. Such testing is becoming the norm and reflects appropriate risk management. In March 2026, the EPA released a study indicating that at least 172 million people live in communities where drinking water has tested positive for PFAS.

Where the Liability Falls

One plausible scenario involves a GC bidding on demo or earthwork activities where PFAS characterization was not initially required. If the site is subsequently investigated – months or even years later -and is found to be contaminated, the GC may be identified as a responsible party and held liable for additional assessment and remediation costs.

Another area of concern is worker exposure. Unlike acute chemical releases, PFAS exposure can present a chronic risk pathway; dermal contact and inhalation of contaminated dust have been associated with carcinogenic outcomes. Litigation related to PFAS exposure among workers is already advancing through the courts in other industries, and it *will* reach the construction sector as well. As a result, exposure mitigation measures such as dust suppression, covering disturbed soil at day's end and keeping crews informed of risks should be implemented as best management practices to reduce future liability.

From an operational and financial standpoint, contractors are facing increasing risk and measurable market constraints. Landfills are increasingly turning away soils with suspected PFAS impacts, forcing contractors to

transport material to out-of-state facilities and incurring hazardous material surcharges. Concurrently, expenditures for PFAS testing, environmental consulting and insurance coverage are rising, and some insurance policies now include PFAS exclusion clauses. In response to this uncertainty, some GCs are reducing or discontinuing soil recycling to avoid handling and transporting uncharacterized material.

What Industry Is Doing Now

Thankfully, AGC has been proactively discussing concerns with the EPA ahead of the Superfund law's finalization. Most recently, AGC put out a practical resource for working contractors: *General Contractors: Questions and Considerations Related to PFAS*, which offers contractors with pre-construction screening questions, guidance on site testing, insights into dewatering and disposal risk and key contract considerations before project start. These resources enable contractors to identify potential PFAS-related risks early in the project lifecycle, delineate liability and contractual responsibilities and mitigate the likelihood of unforeseen compliance, disposal or remediation costs during construction.

Beyond these considerations, GCs should implement the following best practices:

- Identify site categories with elevated PFAS risks
- Review existing soil management plans, if available
- Address PFAS explicitly during pre-bids
- Obtain independent environmental review where warranted
- Incorporate PFAS-related risk into bid pricing
- Implement BMPs proactively to reduce worker exposure

Although the regulatory picture around PFAS is unclear, it's important to note that certain regions carry greater challenges. Florida, for example, is complicated by legacy industrial corridors and water management challenges, due to its extensive network of interconnected waterways that facilitate the long-range transport of these "forever chemicals." The industry is currently in a ramp-up phase, but conditions are expected to stabilize over time, as with asbestos and lead.

Liability exposure is not waiting for regulatory or market stabilization. Contractors need to address PFAS during contract reviews proactively, integrate PFAS considerations into the preconstruction process and establish internal awareness and training protocols to manage the evolving risk.

Resources for GCs:

AGC PFAS Resource Center: Check Out AGC's PFAS Resource Center

PFAS Site Assessments—Managing Environmental Business Risk: PFAS Site Assessments: Manage Environmental Business Risk

U.S. Environmental Protection Agency (EPA). PFAS Explained and CERCLA Designation for PFOA and PFOS.

U.S. Environmental Protection Agency (EPA). PFAS Enforcement Discretion and Settlement Policy Under CERCLA.

Leslie P. Smith, Ph.D. and PE, is a senior project manager and environmental engineer consultant. Jeff Marshall, PE, is a vice president and chemical engineer with 44 years of experience in environmental compliance issues.