

EPA Designates Two PFAS Chemicals as Hazardous Substances Under CERCLA

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The U.S. Environmental Protection Agency (EPA) on April 19, 2024 finalized [a new rule](#) designating two widely used PFAS chemicals as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), also known as Superfund. Specifically, the newly designated substances are perfluorooctanoic acid ("PFOA") and perfluorooctanesulfonic acid ("PFOS"). The new rule could impose huge financial liabilities on major chemical manufacturers and users of these substances, making them potentially liable for the remediation of contaminated sites. The EPA also stated that it will focus its enforcement on parties who significantly contributed to the release of PFAS chemicals into the environment, including parties that have manufactured PFAS or used PFAS in the manufacturing process, federal facilities, and other industrial parties. The EPA's action follows its recent establishment of stringent federal drinking water standards for certain PFAS.

As a result of the EPA's actions, PFOA and PFOS will also be considered as hazardous substances under Pennsylvania's Hazardous Sites Cleanup Act ("HSCA"). With a few limited exceptions, parties that arranged for the disposal of these substances, transported the substances to disposal sites selected by them, or who owned the disposal sites are liable for the costs to cleanup these sites under both CERCLA and HSCA.

PFAS are a class of synthetic chemicals used since the 1940s to make water, heat and stain resistant products such as cookware, carpets, clothing, furniture fabrics, paper packaging for food, and other resistant materials. These chemicals are persistent in the human body and throughout the environment. PFAS are believed to cause adverse health effects but are classified by scientists as emerging chemicals because the risks they pose to human health and the environment are not completely understood.

If you have any questions regarding this EPA action or how it may impact your business, please contact [Martin R. Siegel](#) or any attorney in the [Barley Snyder Environment & Energy Industry Group](#).

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