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# PFAS/CERCLA: Recycled Materials Association (Formerly Institute of Scrap Recycling Industries, Inc.) Files Judicial Challenge to U.S. Environmental Protection Agency Hazardous Substance Designation

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The Recycled Materials Association (formerly the Institute of Scrap Recycling Industries, Inc.) (“ISRI”) filed a Petition before the United States Court of Appeals for the District of Columbia on July 30th challenging the United States Environmental Protection Agency’s (“EPA”) designation of perfluorooctanoic acid (“PFOA”) and perfluorooctane sulfonic acid (“PFOS”) as Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”) hazardous substances.

The EPA final rule being challenged is styled Perfluorooctanoic Acid and Perfluorooctane Sulfonic Acid as CERCLA Hazardous Substances. 89 Fed. Reg. 39, 124 (May 8, 2024).

ISRI and other organizations have expressed concern about CERCLA liability because designation of PFAS and PFOS triggers certain corresponding report requirements such as:

- Application of the potentially responsible liability categories.
- Hazardous substance release reporting requirements.

ISRI in a news release states that designating these two chemicals as hazardous substances under CERCLA will impose significant liabilities for recyclers even though they do not generate, transport, or use PFAS or PFOS in their recycling processes.

A copy of the Petition without Appendix A (the Federal Register Preamble) can be found [here](#).

A link to the Federal Register Preamble can be found [here](#).