PFOA/PFOS/CERCLA: U.S. EPA Addresses Hazardous Substance Designation Impact on Brownfields Program

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The United States Environmental Protection Agency ("EPA") published a Frequently Asked Questions ("FAQs") titled:

What EPA's Designation of PFOA and PFOS as CERCLA Hazardous Substances Means for EPA's Brownfields and Land Revitalization Program.

The intent of the FAQs is to provide background information on EPA's designation of PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

Of particular focus is how the designation impacts liability protections at Brownfield sites.

Brownfields are often referred to as property (improved and unimproved) the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of hazardous substances, pollutants, or contaminants. EPA in many states (including Arkansas) have statutes, regulations, and policies that are intended to address Brownfields. The EPA FAQs addresses issues associated with EPA's Brownfields and Land Revitalization Program.

The questions addressed include:

1. What actions did EPA take?
2. Are PFOA and PFOS still hazardous substances even though the rule is in litigation?
3. How does the designation of PFOA and PFOS as hazardous substances under CERCLA impact liability protections at brownfield sites?
4. Does EPA's PFOA and PFOS hazardous substance designation change whether Brownfields funding could be used to address PFOA and PFOS?
5. Are entities which are potentially responsible for PFOA or PFOS contamination, or continued releases, eligible for Brownfields Grant funding?
6. Does EPA's PFOA and PFOS hazardous substance designation impact screening or cleanup levels of PFOA and PFOS at brownfield sites?
7. Where can I find more resource about these changes?

A copy of the FAQs can be found here.