

ISRI 2023 Fly-in Talking Points Extend PFAS Liability Protections

THE ASK:

- Extend liability protections to the recycled materials industry as passive receivers of PFAS/PFOS substances (so called “forever chemicals”) that do not design or produce the materials containing these substances.

Topline Message:

- The EPA’s designation of PFAS/PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) has caused concerns within the recycled materials industry that companies will now be held liable when receiving materials that may contain these substances as part of normal operations.
- The wide-spread use of these chemicals has raised public health and environmental concerns resulting in their prohibition through federal and state legislation. Subsequently, liability concerns from inadvertent or unintended exposure to employees and nearby communities (through air, water, or soil) and remediation activities is a major concern for the recycled materials industry.

Why it Matters:

- PFAS/PFOS are a large class of chemicals with resistant properties to heat, oils, stains, grease, and water that have been used to manufacture countless industrial and commercial products from automobiles to food packaging, such as microwave popcorn bags. And many of these products ultimately end up in the recycling stream.
- ISRI has demonstrated that recycling is a significant component of the nation’s manufacturing supply chain that supports economic stability and protects the environment.
- We produce recycled materials that are critical to U.S. manufacturing and must be protected given our important role in ensuring a stable and sustainable domestic and global supply chain.
- We have consistently demonstrated our deep commitment to the safety of our workers as well as the communities where we operate, and to operating environmentally responsible facilities.

State of Play:

- U.S. Senator Cynthia Lummis (R-WY) introduced several bills co-sponsored by numerous Environment and Public Works Committee members to protect certain industries from possible CERCLA liability as “passive receivers.” These bills include:
 - Agriculture PFAS Liability Protection Act (S. 1427)
 - Airports PFAS Liability Protection Act (S. 1433)
 - Fire Suppression PFAS Liability Protection Act (S.1432)
 - Water Systems PFAS Liability Protection Act (S.1430)
- The U.S. House of Representatives does not currently have similar legislation

Political Situation:

- Lawmakers in both political parties recognize they must address the liability concerns of numerous industries that could have unknowingly received PFAS substances over the years.