

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, INC., and NATIONAL
WASTE & RECYCLING ASSOCIATION,

Petitioners,

v.

Case No. 24-1193

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, and
MICHAEL S. REGAN, in his official
capacity as Administrator, United States
Environmental Protection Agency,

Respondents.

PETITION FOR REVIEW

Pursuant to Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613(a), Section 702 of the Administrative Procedure Act, 5 U.S.C. § 702, Rule 15(a) of the Federal Rules of Appellate Procedure, and Rule 15(a) of the D.C. Circuit Rules, the Chamber of Commerce of the United States of America, Associated General Contractors of America, Inc., and National Waste & Recycling Association hereby petition the United States Court of Appeals for the District of Columbia Circuit for review of the United States Environmental Protection Agency's final rule entitled "Designation of

Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances,” published in the Federal Register at 89 Fed. Reg. 39,124 (May 8, 2024). A copy of the final rule is attached as Exhibit A. This Court has jurisdiction and is a proper venue for this action pursuant to 42 U.S.C. § 9613(a).

Dated: June 10, 2024

Respectfully submitted,

/s/ Elbert Lin

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CERTIFICATE OF CORPORATE DISCLOSURE

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioners make the following disclosures:

1. The Chamber of Commerce of the United States of America (“Chamber”) is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to

represent the interests of its members in matters before Congress, the Executive Branch, and the courts.

The Chamber states that it is a non-profit, tax-exempt organization incorporated in the District of Columbia. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

2. The Associated General Contractors of America, Inc. (“AGC”) is the nation’s largest and most diverse trade association in the commercial construction industry, now representing more than 28,000 member companies that include general contractors, specialty contractors, and service providers and suppliers to the industry through a nationwide network of chapters in all 50 states, the District of Columbia, and Puerto Rico. AGC members are engaged in building, heavy, civil, industrial, utility, and other construction for both public and private property owners and developers. AGC works to ensure the continued success of the commercial construction industry by advocating for federal, state, and local measures that support the industry; providing education and training for member firms; and connecting member firms with resources needed to be successful businesses and responsible corporate citizens.

AGC states that it is registered as a 501(c)(6) organization. AGC has no parent corporation, but it does have two subsidiary corporations, Project Modeling, LLC

and ConsensusDocs, LLC. No publicly traded company owns 10% or more of AGC or 10% or more of AGC's subsidiaries.

3. **The National Waste & Recycling Association** ("NWRA") is the trade association representing the private sector recycling and waste industry. NWRA members operate in all fifty states and the District of Columbia. NWRA represents the interests of its members in matters before Congress, the Executive Branch, and the courts.

NWRA states that it is a non-profit, tax-exempt organization incorporated in the State of Illinois. NWRA has no parent corporation, and no publicly held company has 10% or greater ownership in the NWRA.

Dated: June 10, 2024

Respectfully submitted,

/s/ Elbert Lin

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2024, I caused one copy of the foregoing to be served on each of the following by certified United States mail, return receipt requested:

The Honorable Michael S. Regan
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/s/ Elbert Lin
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Exhibit A

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[EPA-HQ-OLEM-2019-0341; FRL-7204-03-OLEM]

RIN 2050-AH09

Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “Superfund”), the Environmental Protection Agency (EPA) is designating two per- and polyfluoroalkyl substances (PFAS)—perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers—as hazardous substances. The Agency reached this decision after evaluating the available scientific and technical information about PFOA and PFOS and determining that they may present a substantial danger to the public health or welfare or the environment when released. The Agency also determined that designation is warranted based on a totality of the circumstances analysis, including an analysis of the advantages and disadvantages of designation.

DATES: Effective July 8, 2024.

ADDRESSES: EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OLEM-2019-0341. All documents in the docket are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in <https://www.regulations.gov/>.

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Avenue NW, Washington, DC 20460; telephone number 202-564-0797; email address: strauss.linda@epa.gov.

SUPPLEMENTARY INFORMATION: Acronyms and Abbreviations: We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of the preamble and for reference purposes, EPA defines the following terms and acronyms here:

- AFFF Aqueous film-forming foam
- ARARs Applicable or Relevant and Appropriate Requirements
- ATSDR Agency for Toxic Substances and Disease Registry
- CDC Centers for Disease Control and Prevention
- CASRN Chemical Abstracts Service Registry Number
- COC Contaminant of Concern
- CDR Chemical Data Reporting
- CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
- CFR Code of Federal Regulations
- DoD Department of Defense
- DOE Department of Energy
- EA Economic Analysis
- ECF Electrochemical fluorination
- EJ Environmental justice
- EPA Environmental Protection Agency
- EPCRA Emergency Planning and Community Right-to-Know Act
- EU European Union
- FAA Federal Aviation Administration
- FDA Food and Drug Administration
- FR Federal Register
- ICR Information Collection Request
- LEPC Local Emergency Planning Committee
- MCL Maximum contaminant level
- MCLG Maximum Contaminant Level Goals (MCLGs)
- NAICS North American Industrial Classification System
- NCP National Oil and Hazardous Substances Pollution Contingency Plan
- NECI National Enforcement Compliance Initiative
- NHANES National Health and Nutrition Examination Survey
- NPDWR National Primary Drinking Water Regulation
- NPL National Priorities List
- NRC National Response Center
- OMB Office of Management and Budget
- PCBs Polychlorinated biphenyls
- PFAS Per- and polyfluoroalkyl substances
- PFOA Perfluorooctanoic acid
- PFOS Perfluorooctanesulfonic acid
- PFOSA Perfluorooctanesulfonamide
- PHGs Public health goals
- ppt parts per trillion
- PRG Preliminary remediation goal
- PRP Potentially responsible party
- PRSC Post-Removal Site Control
- PWS Public water system
- RCRA Resource Conservation and Recovery Act
- REA Regulatory Flexibility Act
- RfD Reference dose
- RQ Reportable quantity
- SAB Science Advisory Board
- SDWA Safe Drinking Water Act
- SERC State Emergency Response Commission

- SNURs Significant New Use Rules
- TEPC Tribal Emergency Planning Committee
- TERC Tribal Emergency Response Commission
- TRI Toxic Release Inventory
- TSCA Toxic Substances Control Act
- UCMR Unregulated Contaminant Monitoring Rule
- UMRA Unfunded Mandates Reform Act
- U.S. United States
- WWTP Wastewater treatment plant

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