



April 6, 2023

The Honorable Tom Carper
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito:

The U.S. Chamber of Commerce has serious concerns regarding the Environmental Protection Agency's (EPA's) proposed designation of PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). If the proposal is made final, such an unprecedented action will lead to significant and avoidable unintended consequences and costs for communities and companies. Moreover, we believe the proposal is vulnerable to serious legal challenges that call into question the durability of any rule based on the proposal.¹

For these reasons, attached is our analysis of alternative authorities that EPA should consider utilizing under existing law to meet cleanup goals without the burdensome impacts from a CERCLA hazardous substance designation. Options include the following:

- CERCLA authorities at existing sites.
- Resource Conservation and Recovery Act corrective action authorities and Section 7003 omnibus authority at facilities.
- Safe Drinking Water Act Section 1431 emergency powers.

We also draw your attention to recent expert modelling of the nonfederal cleanup costs report ([linked here](#)), the Chamber's transmittal letter to OMB ([linked here](#)), and a corresponding short overview ([linked here](#)) that support looking carefully at the broad impacts of a CERCLA designation decision.

Finally, in 2021 we shared several suggestions on proposed [principles related to per- and polyfluoroalkyl substances \(PFAS\)](#), which remain relevant to the ongoing debate. The following items underscore these issues and our 2023 priorities:

- Accelerate cleanup of PFAS pollution in communities.
- Highlight that all PFAS are not the same and should be assessed individually or in subcategories.
- Focus on policies based on the best science and risk.
- Support consensus legislation on a PFAS definition and moonshot R&D on replacement, destruction, and treatment technologies.

¹ See [Coalition Comments on EPA's Proposed Rule of the Designation of Perfluorooctanoic Acid \(PFOA\) and Perfluorooctanesulfonic Acid \(PFOS\) as CERCLA Hazardous Substances | Global Energy Institute](#), why in brackets?

We welcome the opportunity to discuss these issues with you and your staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Chaitovitz", is written over a light gray rectangular background.

Chuck Chaitovitz
Vice President
Environmental Affairs and Sustainability
U.S. Chamber of Commerce

cc: Members of the Senate Committee on Environment and Public Works
The Honorable Shalanda Young, Director, Office of Management and Budget

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