

Oral Argument Held in D.C. Circuit Litigation on PFOA and PFOS CERCLA Hazardous Substance Designation

January 22, 2026

Washington, DC and Pittsburgh, PA

Environmental Alert

(by [Sloane Wildman](#) and [Alex Graf](#))

After EPA announced that it would retain the CERCLA hazardous substance designations for PFOA and PFOS on September 17, 2025, it filed a motion to lift the abeyance from the ongoing litigation regarding the designations in the D.C. Circuit in *Chamber of Commerce of the United States of America v. EPA*, No. 24-1193 (D.C. Cir.). The case was initiated in June 2024 when the U.S. Chamber of Commerce and other industry groups challenged the Biden administration's final rule designating PFOA and PFOS as CERCLA hazardous substances in the D.C. Circuit. In February 2025, after the Trump administration took office, EPA requested that the court hold the case in abeyance while it considered whether it would take a different position on the designation.

After briefing concluded, oral argument was held before a panel of three D.C. Circuit judges on January 20, 2026. Although the parties' oral arguments largely focused on the cost-benefit analysis conducted by EPA in promulgating the final rule, the ultimate issue in the case is whether EPA properly exercised its authority under CERCLA Section 102(a) to list PFOA and PFOS as hazardous substances, since they were not already designated under another environmental statute. The court is likely to issue an opinion sometime later this year.

Please see Babst Calland's September 19, 2025 [Environmental Alert](#) for more information on EPA's retention of the PFOA and PFOS hazardous substance designations.

Babst Calland's Environmental Practice Group is closely tracking EPA's PFAS actions and related litigation, and our attorneys are available to provide strategic advice on how developing PFAS regulations may affect your business. For more information or answers to questions, please contact Sloane Wildman at (202) 853-3457 or

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