

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

CHEROKEE CONCERNED CITIZENS,

*Petitioner,*

v.

No. 23-1096

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY and MICHAEL  
REGAN, Administrator, United States  
Environmental Protection Agency,

*Respondents.*

**PETITIONERS' NON-BINDING STATEMENT OF ISSUES**

In this proceeding, Petitioner Cherokee Concerned Citizens challenges EPA's final order, issued under section 5 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2604, (the "Order"), authorizing Chevron U.S.A. Inc. ("Chevron") to manufacture, process, distribute in commerce, use, and dispose of new chemical substances associated with Premanufacture Notice ("PMN") Numbers P-21-0144-0147, P-21-0148-0150, P-21-0152-0154, P-21-155-0158, and P-21-0160-0163 (the "New Chemical Substances"). Pursuant to this Court's order of April 11, 2023, Cherokee Concerned Citizens submits the following non-binding statement of issues to be raised in their challenge to the Order:

1. Whether EPA's issuance of the Order is arbitrary, capricious, contrary to TSCA, and not supported by substantial evidence because, as to certain New Chemical Substances for which EPA concluded that manufacturing, processing, distribution, use, and/or disposal of the chemical presents unreasonable risk to human health or the environment, the Order lacks prohibitions and/or limitations that are sufficient to protect against that unreasonable risk.

2. Whether EPA's issuance of the Order is arbitrary, capricious, contrary to TSCA, and not supported by substantial evidence because, as to certain of the New Chemical Substances for which EPA concluded that it lacked sufficient information to determine the risks the chemical presents to human health, the Order does not require the development of information needed to assess those risks and does not impose prohibitions and/or limitations to protect against unreasonable risk pending development of that information.

3. Whether EPA's issuance of the Order is arbitrary, capricious, contrary to TSCA, and not supported by substantial evidence because EPA failed to determine whether numerous non-cancer health risks associated with the New Chemical Substances—including skin and eye irritation; acute toxicity; neurotoxicity; adverse effects on the liver, kidney, blood, spleen, and other organs; and reproductive toxicity—are unreasonable and failed to establish prohibitions and/or limitations to protect against any unreasonable risk.

4. Whether EPA's issuance of the Order is arbitrary, capricious, contrary to TSCA, and not supported by substantial evidence because EPA failed to determine the risks the New Chemical Substances present to all relevant potentially exposed or susceptible subpopulations and failed to establish prohibitions and/or limitations to protect against any unreasonable risk to those higher-risk subpopulations.

5. Whether EPA violated TSCA by failing to timely publish notice of receipt of the PMNs for the New Chemical Substances and by withholding or redacting information concerning the New Chemical Substances that does not qualify for confidentiality protection under TSCA, including but not limited to information concerning the New Chemical Substances' effects on human health and the environment.

DATED: May 11, 2023

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing document on this date with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit using the Appellate Electronic Filing system.

DATED: May 11, 2023

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