

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

ENVIRONMENTAL DEFENSE FUND,	)	
	)	
Petitioner,	)	Case No. 23-1166
	)	
v.	)	
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY and MICHAEL	)	
REGAN, Administrator of the United States	)	
Environmental Protection Agency,	)	
	)	
Respondents.	)	
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**PETITIONER ENVIRONMENTAL DEFENSE FUND’S  
NON-BINDING STATEMENT OF ISSUES**

Petitioner Environmental Defense Fund petitions this Court for review of the final agency action of Environmental Protection Agency (“EPA”) entitled “Confidential Business Information Claims Under the Toxic Substances Control Act (TSCA)” (“Rule”), published on June 7, 2023, in the Federal Register, at 88 Fed. Reg. 37155. Pursuant to this Court’s order, Petitioner submits the following preliminary and non-binding statement of issues to be raised in this petition.

1. Whether EPA’s Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law because it would allow submitters to assert

confidential business information (“CBI”) claims to shield the information from the public that TSCA makes categorically ineligible for CBI protection.

2. Whether EPA’s Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law because it would not require substantiation or EPA review of a CBI claim that was asserted before a chemical’s commercialization, for information that identifies the specific substance (called a “specific chemical identity”), once the chemical is commercialized.
3. Whether EPA’s Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law because it unlawfully adopts a regulatory definition of “health and safety study” that is narrower than TSCA’s definition, denying TSCA-mandated public access to important information on chemicals.
4. Whether EPA’s Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law because the Agency purports to give itself unlawfully broad discretion through its regulations where TSCA imposes a duty on the Agency.
5. Whether EPA’s Rule is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law because it reduces the transparency previously required under EPA’s CBI review procedures without adequate justification.

DATED: August 21, 2023

Respectfully submitted,

/s/ Samantha Liskow

Samantha Liskow

Colin Parts

ENVIRONMENTAL DEFENSE FUND

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**CERTIFICATE OF SERVICE**

I certify that today I filed this document with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit, through the Electronic Case Filing (ECF) system.

DATED: August 21, 2023

/s/ Samantha Liskow  
Samantha Liskow