

UNITED STATES COURT OF APPEALS  
FOR DISTRICT OF COLUMBIA CIRCUIT

**UNITED STATES COURT OF APPEALS FOR  
MAY -6 2013 THE DISTRICT OF COLUMBIA CIRCUIT**

**RECEIVED**

PORTLAND CEMENT ASSOCIATION,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY and BOB PERCIASEPE, Acting  
Administrator, U.S. Environmental  
Protection Agency,

Respondents.

No. 13-1156

**PETITION FOR REVIEW**

Pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure and Section 7006(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, the Portland Cement Association ("PCA") hereby petitions this Court for review of the final rule of the U.S. Environmental Protection Agency (docket number EPA-HQ-RCRA-2008-0329), entitled *Non-Hazardous Secondary Materials That Are Solid Waste; Final Rule*, 78 Fed. Reg. 9112 (February 7, 2013)

(the "NHSM" rule).<sup>1</sup> Respondents issued this final rule pursuant to sections 2002(a)(1) and 1004(27) of RCRA, as amended, 42 U.S.C. 6912(a)(1) and 6903(27). The rule is to be codified in 40 C.F.R. part 241. PCA has members that will be directly regulated by this rule.

Dated: May 6, 2013

Respectfully submitted,



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<sup>1</sup> In the same Federal Register notice in which the NHSM rule is published, EPA also published a rule under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.* The instant petition for review relates only to the NHSM rule EPA issued under RCRA.

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**IN THE UNITED STATES COURT OF APPEALS FOR CLERK  
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**RULE 26.1 STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioner makes the following Disclosure:

The Portland Cement Association ("PCA") is a not-for-profit association that represents companies in the United States and Canada engaged in the manufacture of Portland cement. The PCA conducts market development, engineering, research, education, technical assistance and public affairs programs on behalf of its member companies. Its mission focuses on improving and

expanding the quality and uses of cement and concrete, raising the quality of construction, and contributing to a better environment.

The PCA is a "trade association" within the meaning of Circuit Rule 26.1(b). It has no parent corporation, and no publicly held company owns a 10 percent or greater interest in the PCA.

Dated: May 6, 2013

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Petition for Review and Rule 26.1  
Statement have been served by U.S. first-class mail this 6<sup>th</sup> day of May 2013, upon  
each of the following:

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
Correspondence Control Unit  
Office of General Counsel (2311)  
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BOB PERCIASEPE  
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U.S. Environmental Protection Agency  
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ERIC H. HOLDER, JR.  
Attorney General  
U.S. Department of Justice  
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