

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

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**SINCLAIR WYOMING REFINING** )  
**COMPANY,** )  
) )  
**Petitioner,** )  
) )  
**v.** )  
) )  
**UNITED STATES ENVIRONMENTAL** )  
**PROTECTION AGENCY,** )  
) )  
**Respondent.** )

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**Case No. 19-1196**

**PETITION FOR REVIEW**

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure, the Sinclair Wyoming Refining Company (“Sinclair”) hereby petitions this Court for review of the following final agency action, attached hereto as Attachment A, issued by the United States Environmental Protection Agency (“EPA” or “Respondent”) on August 9, 2019:

*Decision on 2018 Small Refinery RFS Exemption Petition – Sinclair Wyoming*

Sinclair has filed a petition for review of this same action in the United States Court of Appeals for the Tenth Circuit because Sinclair believes that jurisdiction and venue are proper in the Tenth Circuit. Sinclair is filing this

petition as a protective measure because EPA has filed a motion to dismiss in the Tenth Circuit case arguing that the case must be heard in the DC Circuit.

Section 307(b)(1) of the Clean Air Act requires that any final agency action “which is locally or regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit.” 42 U.S.C. § 7607(b)(1). The action in this case applies only to one refinery that is located in Wyoming and is a wholly-owned subsidiary of a parent company located in Utah. Notwithstanding this fact, EPA argues that its action is “nationally applicable” under Section 307(b)(1) of the Clean Air Act because a senior EPA official sent a short memorandum to another EPA official saying that she had granted thirty-one small refinery RFS exemption petitions and denied six others. Although Sinclair was not mentioned in this memorandum, and the memorandum contained no justification for denying Sinclair’s petition, EPA argues that the memorandum was a nationally applicable action in which Sinclair’s petition was denied. *See* EPA’s Motion to Dismiss, *Sinclair Wyo. Ref. Co. v. EPA*, ECF No. 10680004, Case No. 19-9562 (10th Cir. Sept. 19, 2019).

In summary, although Sinclair believes its petition for review is properly before the Tenth Circuit, Sinclair is filing this petition for review out of an abundance of caution, as a protective measure, and without waiving any arguments that jurisdiction and venue are proper in the Tenth Circuit.

Date: September 20, 2019

Respectfully submitted,

/s/ Jeffrey R. Holmstead

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**Case No. 19-1196**

**RULE 26.1 CERTIFICATE OF CORPORATE DISCLOSURE OF  
SINCLAIR WYOMING REFINING COMPANY**

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Sinclair Wyoming Refining Company certifies it is a wholly-owned subsidiary of Sinclair Oil Corporation, which is a wholly-owned subsidiary of The Sinclair Companies. The Sinclair Companies is a privately held corporation with no parent corporation.

Date: September 20, 2019

Respectfully submitted,

*/s/ Jeffrey R. Holmstead*

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**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Appellate Procedure 15(c), I hereby certify that I have this day caused the foregoing Petition for Review and Rule 26.1 Corporate Disclosure Statement to be delivered by first-class mail, postage prepaid, on each of the following:

Hon. Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

Correspondence Control Unit  
Office of General Counsel (2311)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20560

Mr. Jeffrey Bossert Clark  
Assistant Attorney General  
U.S. Department of Justice  
Law and Policy Section  
Environment and Natural Resources  
Division  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Mr. Matthew Z. Leopold  
General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

The Honorable William P. Barr  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Date: September 20, 2019

Respectfully submitted,

*/s/ Jeffrey R. Holmstead*

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Jeffrey R. Holmstead

**19-1196**  
**ATTACHMENT A**

Sent: Friday, August 09, 2019 4:00 PM

To: Clint Ensign

Subject: EPA decision on 2018 small refinery RFS exemption petition (CONTAINS CONFIDENTIAL BUSINESS INFORMATION) - Sinclair Wyoming

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The purpose of this email is to notify you that EPA has evaluated your petition for a one-year extension for 2018 of the small refinery exemption from the requirements of the renewable fuel standard (RFS) program for the Sinclair Wyoming refinery. Based on the information submitted in your petition, EPA's consultation with the Department of Energy (DOE), and the recommendation DOE provided, EPA Acting Assistant Administrator for Air and Radiation Anne Idsal has decided to deny your request for exemption for 2018. This means that from January 1, 2018, through December 31, 2018, your refinery's gasoline and diesel production remain subject to the percentage standards of 40 CFR 80.1405, and remains subject to the requirements of an obligated party for fuel produced at the refinery during that period.

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Byron Bunker  
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Office of Transportation and Air Quality  
Environmental Protection Agency  
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