

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

STATE OF UTAH, by and through)
its Governor, SPENCER J. COX,)
and its Attorney General,)
SEAN D. REYES,)
))
Petitioner,)
))
v.)
))
U.S. ENVIRONMENTAL PROTECTION)
AGENCY and MICHAEL S. REGAN,)
Administrator, U.S. EPA,)
))
Respondents.)

Case No. 23-1102

PETITION FOR REVIEW

Pursuant to Clean Air Act Section 307(b)(1), 42 U.S.C. § 7607(b)(1), the Administrative Procedure Act, 5 U.S.C. § 702, Federal Rule of Appellate Procedure 15(a), and D.C. Circuit Rule 15, the State of Utah (“Utah”) hereby petitions this Court for review of the final rule of the United States Environmental Protection Agency (“EPA”) titled “Air Plan Disapprovals; Interstate Transport of Air Pollution for the 2015 8-hour Ozone National Ambient Air Quality Standards,” published in the Federal Register at 88 Fed. Reg. 9,336 (February 13, 2023) (EPA Docket Nos. EPA-R08-OAR-2022-0315 and EPA-HQ-2021-0663). A copy of EPA’s final rule is attached to this Petition.

This Court has jurisdiction over Utah’s Petition under 42 U.S.C. § 7607(b)(1). However, because Utah seeks review of only the portion of EPA’s final rule disapproving Utah’s State Implementation Plan, under 42 U.S.C. § 7607(b)(1), the United States Court of Appeals for the Tenth Circuit is the proper venue to review EPA’s locally applicable final rule. *See* 42 U.S.C. § 7607(b)(1) (“A petition for review of the Administrator’s action in approving or promulgating any implementation plan under section 110 [42 U.S.C. § 7410], . . . which is locally or regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit.”). Accordingly, Utah has a pending petition for review in the Tenth Circuit. The Petition filed in this Court is filed solely to preserve Utah’s appeal rights should venue be deemed improper in the Tenth Circuit.

Dated: April 13, 2023.

Respectfully submitted,

/s/ Melissa A. Holyoak

Sean D. Reyes

ATTORNEY GENERAL OF UTAH

Melissa A. Holyoak

SOLICITOR GENERAL

Counsel of Record

Office of the Attorney General

Utah State Capitol Complex

350 North State Street Suite 230

Salt Lake City, UT 84114-2320

Ph. 801-538-9600

melissaholyoak@agutah.gov

William L. Wehrum
WEHRUM ENVIRONMENTAL LAW LLC
1629 K Street, NW, Suite 300
Washington, D.C. 20006
Ph. 302-300-0388
William_Wehrum@comcast.net

Emily C. Schilling
HOLLAND & HART LLP
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
Ph. 801-799-5753 / Fax 202-747-6574
ecschilling@hollandhart.com

Kristina (Tina) R. Van Bockern
Aaron B. Tucker
HOLLAND & HART LLP
555 Seventeenth Street, Suite 3200
Denver, CO 80202
Ph. 303-295-8107 / Fax 720-545-9952
trvanbockern@hollandhart.com
abtucker@hollandhart.com

Counsel for Petitioner State of Utah

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Petition for Review to be served by U.S. Mail, postage prepaid, addressed to the following:

Hon. Michael S. Regan
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Hon. Merrick Garland
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Office of General Counsel (2310A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: April 13, 2023

/s/ Melissa A. Holyoak
Melissa A. Holyoak
Counsel for the State of Utah