

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

WYNNEWOOD REFINING CO., LLC,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No. 23-1210

PETITION FOR REVIEW

Pursuant to Section 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), and Federal Rule of Appellate Procedure 15(a), Petitioner Wynnewood Refining Company, LLC (“Wynnewood” or “Petitioner”) petitions this Court for review of the final action of the Administrator of the United States Environmental Protection Agency (“EPA”) issued on July 14, 2023, entitled “July 2023 Denial of Petitions for RFS Small Refinery Exemptions,” EPA-420-R-23-007 (July 14, 2023) (the “July 2023 Denial Action”) (attached as **Exhibit A**). Notice of this action was published in the Federal Register on July 20, 2023. 88 Fed. Reg. 46795 (July 20, 2023) (attached as **Exhibit B**). The July 2023 Denial Action purported to deny the petition submitted by Wynnewood for a small refinery exemption under the Renewable Fuel Standard program for the 2022 compliance year. Ex. A, at 1.

This petition is timely filed within 60 days of the notice published in the Federal Register. *See* 42 U.S.C. § 7607(b)(1).

This is a “protective petition” for review filed out of an abundance of caution to preserve Petitioner’s rights. Petitioner has also filed a petition for review of the same agency action in the United States Courts of Appeals for the Fifth Circuit, the regional circuit in which Petitioner’s principal place of business is located, because Petitioner believes that jurisdiction and venue are both proper there pursuant to 42 U.S.C. § 7607(b)(1). Petitioner files this Petition in this Court as a protective measure because EPA stated in the agency action under review that any “petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit” Ex. A, at 11; 88 Fed. Reg. at 46796. *See Dalton Trucking, Inc. v. EPA*, 808 F.3d 875, 880 (D.C. Cir. 2015) (“Petitioners preserved their objection to venue in this circuit (after protecting their right to review by filing in both our circuit and the [regional circuit court])”).

The Corporate Disclosure Statement required by Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1 is attached hereto as **Exhibit C**.

Dated: August 4, 2023

Respectfully submitted,

/s/ Samuel P. Hershey

WHITE & CASE LLP

Samuel P. Hershey
1221 Avenue of the Americas
New York, NY 10020
Telephone: (212) 819-2699
Email: sam.hershey@whitecase.com

Thomas E Lauria
Andrew K. Gershenfeld
200 South Biscayne Boulevard, Suite 4900
Miami, FL 33131
Telephone: (305) 371-2700
Email: tlauria@whitecase.com
Email: agershenfeld@whitecase.com

Taylor Pullins
609 Main Street, Suite 2900
Houston, TX 77002
Telephone: (713) 859-5998
Email: taylor.pullins@whitecase.com

*Counsel for Petitioner
Wynnewood Refining Co., LLC*

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

WYNNEWOOD REFINING CO. LLC,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No. _____

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioner Wynnewood Refining Company, LLC, provides the following corporate disclosure statement:

Wynnewood Refining Company, LLC, is a wholly owned subsidiary of CVR Refining, LLC, a Delaware limited liability company. CVR Refining, LLC is a wholly owned subsidiary of CVR Refining, LP, which is an indirect wholly owned subsidiary of CVR Energy, Inc., a Delaware corporation that is publicly traded on the New York Stock Exchange under the symbol “CVI.” Icahn Enterprises, L.P. and its affiliates (“IEP”) hold a 10 percent or greater ownership interest in CVR Energy Inc. IEP is a publicly traded partnership.

Petitioner will file a revised corporate disclosure statement should it become aware of a change in corporate ownership interests that would affect the disclosures required by Rule 26.1.

Dated: August 4, 2023

Respectfully submitted,

/s/ Samuel P. Hershey

WHITE & CASE LLP

Samuel P. Hershey
1221 Avenue of the Americas
New York, NY 10020
Telephone: (212) 819-2699
Email: sam.hershey@whitecase.com

Thomas E Lauria
Andrew K. Gershenfeld
200 South Biscayne Boulevard, Suite 4900
Miami, FL 33131
Telephone: (305) 371-2700
Email: tlauria@whitecase.com
Email: andrew.gershenfeld@whitecase.com

Taylor Pullins
609 Main Street, Suite 2900
Houston, TX 77002
Telephone: (713) 859-5998
Email: taylor.pullins@whitecase.com

*Counsel for Petitioner
Wynnewood Refining Co., LLC*

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 3(d), 15(c) and 25, D.C. Circuit Rules 15(a) and 25, and 40 C.F.R. § 23.12(a), I hereby certify that on August 4, 2023, I will cause copies of the foregoing Petition for Review and Corporate Disclosure Statement to be served by certified mail, return receipt requested upon the following:

HON. MICHAEL S. REGAN, 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 Avenue, NW
Washington, DC 20460

HON. MERRICK B. GARLAND
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

HON. TODD SUNHWAE KIM
Assistant Attorney General
Environmental and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dated: August 4, 2023

Respectfully submitted,

/s/ Samuel P. Hershey
Samuel P. Hershey