



WASHINGTON, D.C., (October 8, 2024) – A Perkins Coie team has secured another significant appellate victory over the U.S. Environmental Protection Agency (EPA) after the U.S. Court of Appeals for the District of Columbia Circuit set aside the agency’s most recent decisions denying petitions by a coalition of small petroleum refineries for a hardship exemption from the Renewable Fuel Standard (RFS).

The D.C. Circuit unanimously ruled that EPA’s actions were both “contrary to law and arbitrary and capricious.” It vacated the agency’s decisions denying RFS hardship relief to the refinery-challengers and sent the matter back to the EPA for new decisions that comply with the Clean Air Act.

The Perkins Coie team persuaded the D.C. Circuit, as it had previously persuaded the Fifth Circuit [last November](#), that EPA was improperly re-writing the Clean Air Act. Congress provided a statutory safety valve for small refineries facing disproportionate economic hardship from EPA's RFS requirements. Many of the refineries operate with small margins in rural areas, do not have the regulatory or economic options of larger refineries, and have repeatedly received hardship relief. These refineries provide good jobs and are valued parts of their communities. But in a series of sweeping 2022 decisions, EPA essentially eliminated hardship relief from the Clean Air Act. EPA then ordered the refineries to obtain billions of dollars' worth of renewable-fuel credits in a threat to their continued operations.

The Perkins Coie team brought challenges in the Fifth and D.C. Circuits. The Fifth Circuit previously set aside EPA's actions for one group of refineries. The D.C. Circuit has now agreed for a larger group of refineries. The victory requires the EPA to follow the Clean Air Act and marks a significant turning point toward lawful implementation of the RFS going forward.

The Perkins Coie legal team was led by the firmwide co-chair of Perkins Coie's Appeals, Issues & Strategy [practice](#), [Michael Huston](#), and by Environment, Energy & Resources [practice](#) partners [LeAnn Johnson Koch](#) and [Alexandra Bromer](#). The team also included partners [Jonathan Hardin](#), [Sopen Shah](#), and [Eric Wolff](#), associates [Karl Worsham](#) and [Aimee Ford](#), and paralegal Sheri Pais. Michael Huston argued the case on behalf of all the petitioning small refineries represented by Perkins Coie and several other law firms.

Perkins Coie represented American Refining Group, Inc., Calumet Montana Refining, LLC, Countrymark Refining and Logistics, LLC, Hunt Refining Company, Par Hawaii Refining, LLC, U.S. Oil & Refining Company, Wyoming Refining Company, and San Joaquin Refining Co., Inc. before the D.C. Circuit. The team also represented Calumet Shreveport Refining, The San Antonio Refinery LLC, Ergon Refining Inc., Ergon-West Virginia Inc., and Placid Refining Co. LLC before the Fifth Circuit.

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Media Inquiries: Please email [Justin Cole](#), Head of Media Relations.

Contact



[Michael R. Huston](#)

Partner

MHuston@perkinscoie.com [202.434.1630](tel:202.434.1630)



LeAnn Johnson Koch

Partner

LeAnnJohnson@perkinscoie.com [202.654.6209](tel:202.654.6209)



Alexandra Magill Bromer

Partner

ABromer@perkinscoie.com [202.654.6218](tel:202.654.6218)



Jonathan G. Hardin

Partner

JHardin@perkinscoie.com [202.654.6297](tel:202.654.6297)



Sopen Shah

Partner

SShah@perkinscoie.com [608.663.7480](tel:608.663.7480)



Eric B. Wolff

Partner

EWolff@perkinscoie.com [206.359.3779](tel:206.359.3779)



Karl J. Worsham

Associate

KWorsham@perkinscoie.com [602.351.8133](tel:602.351.8133)



Aimee Ford

Associate

AFord@perkinscoie.com [202.654.1710](tel:202.654.1710)

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