



No. 23-_____

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF MISSISSIPPI AND MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Petitioners

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AND MICHAEL S. REGAN, ADMINISTRATOR, UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY,

Respondents

PETITION FOR REVIEW

In accordance with 42 U.S.C. § 7607(b)(1) and Federal Rule of Appellate Procedure 15, Petitioners the State of Mississippi and the Mississippi Department of Environmental Quality petition this Court for review of Respondents United States Environmental Protection Agency and Administrator Michael S. Regan’s action promulgating a federal implementation plan (“FIP”) as to the State of Mississippi addressing the interstate-transport requirements of 42 U.S.C. § 7410(a)(2)(D)(i)(I) for the 2015 8-hour ozone national ambient air quality standards

(“NAAQS”). The challenged action was included as part of the final rule entitled “Federal ‘Good Neighbor Plan’ for the 2015 8-Hour Ozone National Ambient Air Quality Standards,” attached hereto and published at 88 Fed. Reg. 36,654 (June 5, 2023) (“Final Rule”). *See* Fed. R. App. P. 15(a)(2)(C) (a petition for review may challenge only a “part” of an agency order).

Jurisdiction and venue lie in this Court under 42 U.S.C. § 7607(b)(1). The challenged part of the Final Rule is a “locally or regionally applicable” action and is not “based on a determination of nationwide scope or effect.” 42 U.S.C. § 7607(b)(1). As this Court previously recognized, EPA’s disapproval of Mississippi’s state-implementation plan with respect to the interstate-transport requirements of 42 U.S.C. § 7410(a)(2)(D)(i)(I) for the 2015 8-hour ozone NAAQS was a “locally or regionally applicable” action that was “based on a number of intensely factual determinations unique” to Mississippi. Doc. 269-1, Order *Texas v. EPA*, No. 23-60069 (5 Cir. May 1, 2023) (per curiam), at 9-13. The same is true of this related action. This petition is timely filed within 60 days of the Final Rule’s publication in the Federal Register. 42 U.S.C. § 7607(b)(1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I caused a true and correct copy of this petition for review to be served on June 15, 2023, by United States first-class mail, on the following:

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