

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

STATE OF ARKANSAS and ARKANSAS)
DEPARTMENT OF ENERGY AND ENVIRONMENT,)
DIVISION OF ENVIRONMENTAL QUALITY)

Petitioners,)

v.)

UNITED STATES ENVIRONMENTAL PROTECTION)
AGENCY and MICHAEL S. REGAN,)
ADMINISTRATOR, UNITED STATES)
ENVIRONMENTAL PROTECTION AGENCY,)

Respondents.)

Case No. _____

23-2769

PETITION FOR REVIEW

Pursuant to Clean Air Act Section 307(b)(1), 42 U.S.C. 7607(b)(1), and Federal Rule of Appellate Procedure 15(a), Petitioners the State of Arkansas and the Arkansas Department of Energy and Environment, Division of Environmental Quality, hereby petition this Court for review of the Respondents United States Environmental Protection Agency (“EPA”) and Administrator Michael S. Regan’s action promulgating a federal implementation plan for the State of Arkansas. The challenged action was included as part of EPA’s final rule titled “Federal ‘Good Neighbor Plan’ for the 2015 Ozone National Ambient Air Quality Standards,” published in the Federal Register at 88 Fed. Reg. 36,654 (June 5, 2023). *See* Fed. R. App. P. 15(a)(2)(C) (reflecting that a petition for review may challenge only a “part” of an agency order). A copy of EPA’s final rule is attached to this Petition as Exhibit A.

This Court has jurisdiction, and is the proper venue for this action, under 42 U.S.C. 7607(b)(1) because Petitioners are seeking review of only the portion of the

promulgating a federal implementation plan for Arkansas, which is a “locally or regionally applicable” action. *See* 42 U.S.C. 7607(b)(1) (providing that a “petition for review of the Administrator’s action in approving or promulgating any implementation plan under section 7410 of this title . . . may be filed only in the United States Court of Appeals for the appropriate circuit”); *Arkansas v. EPA*, No. 23-1320 (8th Cir. Apr. 25, 2023) (denying transfer of Arkansas’s petition challenging EPA’s preceding disapproval of Arkansas’s state implementation plan); *Nat’l Parks Conservation Ass’n v. McCarthy*, 816 F.3d 989, 993 (8th Cir. 2016) (“EPA’s action in approving or promulgating any implementation plan is the prototypical locally or regionally applicable action that may be challenged only in the appropriate regional court of appeals.”) (internal quotation marks omitted).

This petition for review is timely filed within sixty days of the date of publication in the Federal Register. 42 U.S.C. 7607(b)(1).

Dated: August 2, 2023

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 August 2, 2023, by United States first-class mail, on the following:

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