

23-2773

No. 23-_____

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

ENERGY TRANSFER LP,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;
MICHAEL S. REGAN, Administrator,
United States Environmental Protection Agency,

Respondents.

PETITION FOR REVIEW

Under 42 U.S.C. § 7607(b)(1) and Federal Rule of Appellate Procedure 15(a), Petitioner Energy Transfer LP petitions this Court for review of Respondents United States Environmental Protection Agency and Administrator Michael S. Regan’s promulgation of a federal implementation plan for Arkansas regarding 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 standard, titled “Federal ‘Good Neighbor Plan’ for the 2015 Ozone National Ambient Air Quality Standards,” 88 Fed. Reg. 36,654 (June

5, 2023) (“Final Rule”).* *See* FED. R. APP. P. 15(a)(2)(C) (“The petition must . . . specify the order or part thereof to be reviewed.”). EPA has no authority to promulgate a FIP for Arkansas unless and until it has lawfully disapproved Arkansas’s state implementation plan. 42 U.S.C. § 7410(c)(1). This Court recently granted Arkansas Petitioners a stay of EPA’s disapproval of Arkansas’s state implementation plan. Order, *Arkansas v. EPA*, No. 23-1320 (8th Cir. May 25, 2023).

Jurisdiction and venue lie in this Court under 42 U.S.C. § 7607(b)(1). The challenged action’s promulgation of a FIP for Arkansas is a “locally or regionally applicable” action and is not “based on a determination of nationwide scope or effect.” *See id.* This petition for review is timely filed within sixty days of the challenged action’s publication in the Federal Register. *See* 42 U.S.C. § 7607(b)(1). Petitioner requests that the Court vacate, set aside, and hold unlawful the EPA’s promulgation of the FIP for Arkansas.

* A copy of the Final Rule is attached to this petition.

August 3, 2023

Respectfully submitted,

/s/ Aaron M. Streett

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CERTIFICATE OF SERVICE

On August 3, 2023, this petition for review was served by Petitioner’s counsel by first-class mail, postage prepaid, upon the following:

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