

No. 24-_____

**In the United States Court of Appeals
for the Fifth Circuit**

STATE OF TEXAS AND TEXAS COMMISSION ON 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), 5 U.S.C. § 702, and Federal Rule of Appellate Procedure 15, Petitioners the State of Texas and the Texas Commission on Environmental Quality petition this Court for review of Respondents United States Environmental Protection Agency and Administrator Michael S. Regan’s legal conclusion that the Clean Air Act continues to obligate Texas to submit state implementation plan revisions pertaining to Moderate nonattainment for three areas that were reclassified to Serious nonattainment. That legal conclusion was included as part of the final action entitled “Clean Air Act Reclassification of the San Antonio, Dallas-Fort Worth, and Houston-Galveston-Brazoria Ozone Nonattainment Areas; TX,” attached hereto and published at 89 Fed. Reg. 51,829 (June 20, 2024) (to be

codified at 40 C.F.R. pt. 81). Texas does not challenge Respondents' nondiscretionary grant of the State's request to voluntarily reclassify those areas. *See* Fed. R. App. P. 15(a)(2)(C) (reflecting that a petition for review may challenge only a "part" of an agency order).

Jurisdiction and venue lie in this Court because Respondents' legal conclusion that the Clean Air Act still requires Texas to submit state implementation plan revisions pertaining to three specified areas within the State 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); *see Texas v. EPA*, 829 F.3d 405, 418-24 (5th Cir. 2016). Respondents appear to concede that jurisdiction and venue are proper in this Court, stating in the Final Rule that "petitions for judicial review of this action must be filed in the United States Court of Appeals *for the appropriate circuit.*" 89 Fed. Reg. at 51,842 (emphasis added). 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); *see* 89 Fed. Reg. at 51,842 (noting that a petition for review of the Final Rule must be filed by August 19, 2024).

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 19, 2024, by United States first-class mail, on the following:

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