

Attachment 9

Selected Quotes from EPA's Actions on Section 126 Petitions

83 FR 50444 (October 5, 2018) – Action / Denial of Maryland and Delaware's Section 126 Petitions

“The EPA’s denial finds that Delaware has not demonstrated that the named sources emit or would emit in violation of the CAA’s “good neighbor” provision. Further, the agency’s independent analysis indicates that the identified sources in Delaware’s and Maryland’s petitions do not currently emit and are not expected to emit pollution in violation of the good neighbor provision for either the 2008 or 2015 ozone NAAQS.”

83 FR 50445 (October 5, 2018) – Action / Denial of Maryland and Delaware's Section 126 Petitions

“Consistent with the EPA’s proposal and based on the best data available to the agency at this time, the agency is finalizing its denial of these petitions. The EPA’s denial for Delaware is based on its findings that air quality modeling of ozone levels in 2017 from the Cross- State Air Pollution Rule Update for the 2008 Ozone NAAQS 2 (CSAPR Update) and more recent air quality modeling of ozone levels in 2023 show no air quality problems in the state with regard to the 2008 and 2015 ozone NAAQS, respectively. For both the Delaware and Maryland petitions, the EPA’s denial is also based on the fact that the agency has already evaluated the ozone transport issues and NOX control strategies raised in the petitions and finalized the CSAPR Update to implement the NOX control strategies achievable in states upwind of Delaware and Maryland, including at the specific EGUs named in both Delaware’s and Maryland’s petitions. 81 FR 74504. Although the CSAPR Update only explicitly addressed the 2008 ozone NAAQS, the EPA’s conclusion in that action as to the control strategies available at the named sources is relevant to its analysis of Delaware’s and Maryland’s petitions with regard to both the 2008 ozone NAAQS (addressed in all five petitions) and the 2015 ozone NAAQS (addressed in the Delaware petitions) because the EPA’s determination that the cost-effective control strategy is already being implemented at the named sources in the context of the CSAPR allowance trading program applies regardless of which NAAQS is being addressed, as explained below.”

“Because the CSAPR Update is a final rule in which the EPA has evaluated substantially the same environmental issues and concerns as those that Delaware and Maryland raise in their CAA section 126(b) petitions, the agency has reviewed those petitions in light of, among other factors, the CSAPR Update record analysis and the findings made therein. In doing so, the EPA found that the named EGUs do not have further cost-effective NOX reduction potential beyond the level of NOX control stringency already finalized in the CSAPR Update emissions budgets. In other words, the agency determines that the CSAPR Update appropriately quantified the cost-effective NOX reduction potential from the EGUs named in the CAA section 126(b) petitions and the EPA does not find any further NOX reductions that may be available from these EGUs at more stringent levels of NOX control to be cost effective considering additional relevant factors

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84 FR 22804 (May 20, 2019) – Action / Proposed Denial of New York’s Section 126 Petition

“The EPA has described several technical deficiencies with the petition and, therefore, proposes to deny on the basis that New York has not met its burden to demonstrate that the named sources emit or would emit in violation of the good neighbor provision with respect to the 2008 ozone NAAQS or the 2015 ozone NAAQS. For Chautauqua County, the petition does not provide sufficient information to indicate that there will be a downwind air quality problem (either nonattainment or maintenance) with respect to either the 2008 or the 2015 ozone NAAQS. For the NYMA, with respect to the 2008 ozone NAAQS, the petition does not provide sufficient information to indicate that the NYMA should be considered a nonattainment or maintenance receptor pursuant to the good neighbor provision. Furthermore, the EPA’s own independent analysis of available information indicates that there is not currently nor is there projected to be an air quality problem with respect to either NAAQS in Chautauqua County, and that there is not projected to be any further air quality problem with respect to the 2008 ozone NAAQS in the NYMA. As an additional independent basis for the proposed denial, even if the EPA assumed that the named upwind states were linked to downwind air quality problems in New York at steps 1 and 2 of its interstate transport framework, material elements in the petition’s step 3 analysis are insufficient, such that the EPA cannot conclude that any named source or group of sources in any of the named states will significantly contribute to nonattainment or interfere with maintenance in any area in New York with respect to either NAAQS.”