

Proposed Action on Petition: Response to Clean Air Act Section 126(b) Petition from New York

Fact Sheet

Action:

- On May 6, 2019, the U.S. Environmental Protection Agency (EPA) proposed to deny New York's petition under section 126 of the Clean Air Act.
- Under Clean Air Act section 126, downwind states can ask, or "petition," the EPA to determine whether sources in an upwind state emit pollutants at levels that violate the "good neighbor" provisions of the Act (found in section 110(a)(2)(D)(i)(I)), thus contributing to air quality problems in the petitioning downwind state.
- New York's petition asked EPA to determine that more than 350 identified sources in Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia emit air pollutants that significantly contribute to problems with New York's ability to attain and maintain the 2008 and 2015 ozone national ambient air quality standards (NAAQS) in Chautauqua County, New York and the New York City Metropolitan Area.
- The Agency has concluded that New York has not met its burden to demonstrate that the named sources emit or would emit ozone-forming pollutants at levels that violate the Clean Air Act's good neighbor provision for the 2008 and 2015 ozone standards.
- EPA will accept comment on this proposed action for 60 days after the proposal is published in the *Federal Register*. The Agency will hold a public hearing on June 11, 2019, at the EPA Headquarters offices, William Jefferson Clinton East Building, Room 1153, 1201 Constitution Avenue, NW, Washington, DC 20004. The public hearing will convene at 9 a.m. and continue until the earlier of 6:00 p.m. or one hour after the last registered speaker has spoken. Additional information regarding the public hearing can be found in the proposed action for this petition.

Background:

- Section 126 of the Clean Air Act allows any state or political subdivision to petition EPA to find that a major source or group of stationary sources emits or would emit any air pollutant at amounts that violate the good neighbor provisions of the Act, which are found in section 110(a)(2)(D)(i)(I).
- If the Administrator finds that emissions from the named major source or group of sources violate the good neighbor provision of the Act, continued operation can be permitted only if the source(s) complies with any emission limits and compliance schedules set by the

Administrator to ensure emissions reductions as soon as possible, but no later than 3 years from the date of the finding.

- The interstate transport provisions of the Clean Air Act require states to address their air emissions that significantly contribute to nonattainment and interfere with maintenance of the NAAQS in other states.
- In March 2008, EPA strengthened the NAAQS for ground-level ozone setting it at 75 parts per billion (ppb). In October 2015, EPA further strengthened the ozone standards to 70 ppb. Breathing ozone can trigger a variety of health problems, particularly for children, the elderly, and people of all ages who have lung diseases such as asthma. Ground-level ozone can also have harmful effects on sensitive vegetation and ecosystems.
- To address the good neighbor provision for the 2008 ozone NAAQS, EPA previously limited ozone season NOx emissions from power plants in each of the named states through the CSAPR Update Rule, issued in October 2016. In that rule, EPA assessed whether there are cost-effective reductions that can be applied to these plants and established corresponding emissions budgets. On December 6, 2018, EPA finalized a determination that the CSAPR Update fully addressed interstate ozone transport obligations for 20 states in the eastern U.S., including those states named in the New York petition, with respect to the 2008 ozone NAAQS.

How to Comment:

- Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018-0170, by one of the following methods:
 - <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
 - E-mail: a-and-r-docket@epa.gov.
 - Fax: 202-566-9744.
 - Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460. Please include two copies.
 - Hand Delivery: U. S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Additional Information:

- Interested parties can download the proposal from EPA's web site on the Internet under recent actions at the following address: <https://www.epa.gov/ozone-pollution/ozone-national-ambient-air-quality-standards-naaqs-section-126-petitions>
- Today's proposal and other background information are also available either electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located in the EPA Headquarters, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW, Washington, DC. Hours of operation are 8:30 a.m. to 4:30 p.m. daylight savings time, Monday through Friday, excluding Federal holidays.
 - Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Materials for this action can be accessed using EPA-HQ-OAR-2018-0170.
- For additional information on this action, please contact Beth W. Palma at palma.elizabeth@epa.gov or 919-541-5432.