

Delaware's petitions). Second, the EPA proposes to determine, based on its own analysis, that all of the petitions fail at one or more steps of the four-step framework. For Delaware under step one, the EPA has determined there are no air quality problems in Delaware in the relevant years for both the 2008 and 2015 ozone NAAQS. The EPA has further evaluated the named sources under step three, finding: (1) That the EPA has already implemented the control strategy identified in the petitions as cost-effective for three facilities (Conemaugh, Harrison, and Homer City) in the CSAPR Update, and (2) that Brunner Island is already operating and is expected to continue operating with natural gas such that the facility has no additional cost-effective and feasible controls available. The EPA is also proposing to deny the Maryland petition because: (1) For those facilities with SCR, the EPA has already implemented the control strategy identified in the petitions as cost-effective, and (2) for the facilities with SNCR, the EPA has already determined that operation of SNCR is not cost-effective with respect to addressing transport obligations for the 2008 ozone NAAQS and therefore is not required by the good neighbor provision with respect to this NAAQS. The EPA requests comment on its proposed denial of Maryland's and Delaware's CAA section 126(b) petitions, including the bases for the decision described herein.

#### VI. Determinations Under Section 307(b)(1)

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of "nationally applicable regulations promulgated, or final action taken, by the Administrator," or (ii) such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

The EPA proposes to find that any final action regarding these pending section 126(b) petitions is "nationally applicable" or, in the alternative, is based on a determination of "nationwide scope and effect" within the meaning of section 307(b)(1). Through this rulemaking action, the EPA interprets sections 110 and 126 of the CAA, statutory provisions which

apply to all states and territories in the United States. In addition, the proposed action addresses emissions impacts and sources located in seven States, which are located in multiple EPA Regions and federal circuits. The proposed action is also based on a common core of factual findings and analyses concerning the transport of pollutants between the different states. Furthermore, the EPA intends this interpretation and approach to be consistently implemented nationwide with respect to section 126(b) petitions for the 2008 and 2015 ozone NAAQS. Courts have found similar actions to be nationally applicable.<sup>62</sup> Additionally, in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has a scope or effect beyond a single judicial circuit. H.R. Rep. No. 95-294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402-03. For these reasons, the Administrator proposes to determine that any final action related to this proposal is nationally applicable or, in the alternative, is based on a determination of nationwide scope and effect for purposes of section 307(b)(1).

Thus, the EPA proposes that pursuant to section 307(b)(1) any petitions for review of any final actions regarding the rulemaking would be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date any final action is published in the **Federal Register**.

#### VII. Statutory Authority

42 U.S.C. 7410, 7426, 7601.

Dated: May 31, 2018.

**E. Scott Pruitt,**

*Administrator.*

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#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2018-0295; FRL-9979-19-OAR]

RIN 2060-AT40, 2060-AT39, 2060-AT38, 2060-AT37, 2060-AT36

#### Response to Clean Air Act Section 126(b) Petitions From Delaware and Maryland

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public hearing.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that a public hearing will be held on the EPA's proposed response to petitions from Delaware and Maryland pursuant to section 126 of the Clean Air Act (CAA or Act). The EPA is proposing to deny four CAA section 126(b) petitions submitted by the state of Delaware and one CAA section 126(b) petition submitted by the state of Maryland between July and November 2016. The hearing will be held on June 22, 2018, in Washington, DC.

**DATES:** The public hearing will be held on June 22, 2018, in Washington, DC.

Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the public hearing.

#### ADDRESSES:

*Public Hearing.* The June 22, 2018, public hearing will be held at the EPA, William Jefferson Clinton East Building, Room 1153, 1201 Constitution Avenue NW, Washington, DC 20004.

Identification is required. If your driver's license is issued by America Samoa, you must present an additional form of identification to enter (*see*

**SUPPLEMENTARY INFORMATION** for additional information on this location).

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at EPA Docket Center Reading Room, William Jefferson Clinton West Building, 1301 Constitution Avenue NW, Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The phone

<sup>62</sup> See, e.g., *Texas v. EPA*, 2011 U.S. App. LEXIS 5654 (5th Cir. 2011) (finding SIP call to 13 states to be nationally applicable and thus transferring the case to the U.S. Court of Appeals for the D.C. Circuit in accordance with CAA section 307(b)(1)).

number for the Public Reading Room is (202) 566-1744.

**FOR FURTHER INFORMATION CONTACT:** If you would like to speak at the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (OAQPS), Air Quality Planning Division (C504-01), Research Triangle Park, NC 27711, telephone (919) 541-0641, fax number (919) 541-5509, email address [long.pam@epa.gov](mailto:long.pam@epa.gov), no later than June 20, 2018. If you have any questions relating to the public hearing, please contact Ms. Long.

If you have questions concerning the petitions from Maryland and Delaware, please contact Mr. Lev Gabrilovich, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (OAQPS), Air Quality Planning Division, (C539-01), Research Triangle Park, NC 27711, telephone (919) 541-1496, email address [gabrilovich.lev@epa.gov](mailto:gabrilovich.lev@epa.gov).

**SUPPLEMENTARY INFORMATION:** The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the EPA's proposed response to the petitions from Maryland and Delaware. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information that are submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked by the last day of the comment period.

The public hearing will convene at 9:00 a.m. and end at 6:00 p.m. Eastern Time (ET) or at least two hours after the last registered speaker has spoken. The EPA will make every effort to accommodate all individuals interested in providing oral testimony. A lunch break is scheduled from 12:00 p.m. until 1:00 p.m. Please note that this hearing will be held at a U.S. government facility. Individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. The REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements took effect on July 21, 2014. If your driver's license is issued by American Samoa, you must present an additional form of identification to enter the federal building where the public hearing will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced

driver's licenses and military identification cards. For additional information for the status of your state regarding REAL ID, go to <http://www.dhs.gov/real-id-enforcement-brief>.

If you would like to present oral testimony at the hearing, please notify Ms. Pamela Long, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (OAQPS), Air Quality Planning Division (C504-01), Research Triangle Park, NC 27711, telephone (919) 541-0641, fax number (919) 541-5509, email address [long.pam@epa.gov](mailto:long.pam@epa.gov), no later than 4:00 p.m. ET on June 20, 2018. Ms. Long will arrange a general time slot for you to speak. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing.

Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) or in hard copy form. Commenters should notify Ms. Long if they need specific translation services for non-English speaking commenters.

The hearing schedule, including the list of speakers, will be posted on the EPA's website at <https://www.epa.gov/ozone-pollution/ozone-national-ambient-air-quality-standards-naaqs-section-126-petitions> prior to the hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the action.

#### **How can I get copies of this document and other related information?**

The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0295 (available at <http://www.regulations.gov>). The EPA has made available information related to the proposed action on the following website: <https://www.epa.gov/ozone-pollution/ozone-national-ambient-air-quality-standards-naaqs-section-126-petitions>.

Dated: June 5, 2018.

**Panagiotis Tsirigotis,**

*Director, Office of Air Quality Planning and Standards.*

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**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[9978-67-OEI]**

### **Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Rhode Island**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of the State of Rhode Island's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

**DATES:** EPA approves the authorized program revisions/modifications as of June 8, 2018.

**FOR FURTHER INFORMATION CONTACT:** Devon Martin, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566-2603, [martin.devon@epa.gov](mailto:martin.devon@epa.gov).

**SUPPLEMENTARY INFORMATION:** On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On May 2, 2018, the Rhode Island Department of Environmental Management (RI DEM) submitted an application titled "NPDES e-Reporting Tool" for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed RI DEM's request to revise/modify its EPA-authorized