



Maryland
Department of
the Environment

MDE's 2018 Air Quality Legal Actions

Megan Ulrich, Air and Radiation Administration

AQCAC Briefing

December 10, 2018

Background

- In 2018, MDE has taken many legal/legally related actions against the U.S. Environmental Protection Agency (EPA)
- All of the actions are related to asking the EPA to maintain or enhance reductions in air emissions



Maryland
Department of
the Environment

Clean Air Act §126 Petitions

- EPA has denied Clean Air Act (CAA) § 126 Petitions from Connecticut, Delaware, and Maryland which asked the EPA to require sources in other states to reduce ozone transport emissions
- **CAA § 126:** Any state may petition the EPA for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the “good neighbor” provision of the CAA.



Maryland
Department of
the Environment

Clean Air Act §126 Petitions

- **Maryland's § 126 Petition**
 - Maryland's Petition covers 36 electric generating units in five upwind states: Indiana, Kentucky, Ohio, Pennsylvania and West Virginia
- **Delaware's § 126 Petition**
 - Delaware submitted four Petitions to EPA for three power plants in Pennsylvania and one power plant in West Virginia
 - EPA combined its review of Maryland's Petition with Delaware's Petitions
 - The court combined Maryland's and Delaware's lawsuits on the Petitions



Maryland
Department of
the Environment

Clean Air Act §126 Petitions

- **Connecticut's § 126 Petition**

- Connecticut's petition covered one power plant (Brunner Island) in Pennsylvania
- MDE provided oral testimony on EPA's proposed denial of the petition
 - MDE encouraged the EPA to reverse its proposed denial and instead grant the 126 Petition from Connecticut with inclusion of a federally enforceable requirement starting in the 2018 ozone season
- EPA denied Connecticut's petition in April of 2018



Maryland
Department of
the Environment

Ozone Transport Related Actions

- **CSAPR Closeout**
 - The proposed rule determines that the CSAPR Update addresses 20 states' interstate ozone transport obligations under the 2008 ozone standard
- **Secretary Grumbles testified at the CSAPR Close-Out Public Hearing (August 1, 2018)**
- **MDE written comments on the proposed CSAPR Close-Out (August 31, 2018)**
- MDE strongly disagreed with EPA that the proposed CSAPR Close-Out, which relies on the CSAPR Update partial remedy, now fully addresses 20 states' interstate ozone transport obligations under the 2008 ozone standard. MDE urged EPA to rescind the CSAPR Close-Out proposal.



Maryland
Department of
the Environment

Ozone Transport Related Actions

- **MDE written comments on EPA’s proposed approval of Kentucky’s “good neighbor” SIP** (May 18, 2018)
 - MDE opposed EPA’s proposed approval of Kentucky’s “good neighbor” SIP for the 2008 ozone NAAQS on several grounds, including that EPA should require Kentucky power plants to optimize controls and EPA’s use of the modeling year 2023 is inappropriate.
- **MDE written comments on EPA’s proposed approval of Indiana’s Good Neighbor SIP** (September 13, 2018)
 - MDE opposed EPA’s proposed approval of Indiana’s “good neighbor” SIP for the 2008 ozone NAAQS. On several grounds including that the SIP does not include permanent and federally enforceable reductions necessary to fulfill Indiana’s good neighbor obligations for the 2008 ozone NAAQS and EPA should require Indiana power plants to optimize controls.



Maryland
Department of
the Environment

Ozone Transport Related Actions

- **176A Petition**

- Maryland, along with seven other states, sued EPA under the Clean Air Act sec. 176A to ensure upwind states adequately control the pollution that blows into Maryland and other downwind states.
- The suit challenges the EPA's denial of a petition that Maryland and several other states filed in late 2013 for the Agency to help level the playing field by adding nine new states to the Ozone Transport Commission.
- 8 States involved: Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Vermont
- Status: In litigation, briefs have been filed; oral arguments were held Nov. 28, 2018



Maryland
Department of
the Environment

Climate Related Actions

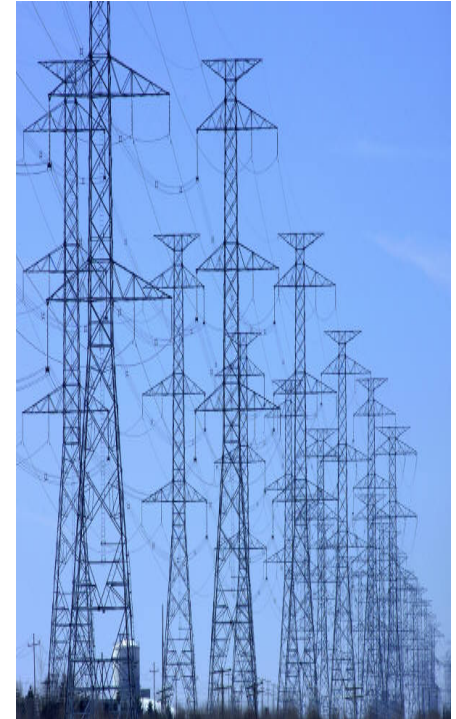
- **Maryland joined the U.S. Climate Alliance** (January 10, 2018)
 - Governor Hogan joined the USCA and cited the need for balanced action and multistate and international leadership on climate change.
- **Maryland announced plans to phase out HFCs** (Sept. 11, 2018)
 - In partnership with other USCA states, Maryland announced it will be pursuing measures in 2019 to phase out the use of hydrofluorocarbons (HFCs), greenhouse gases that are significantly more potent than carbon dioxide.
- **Methane lawsuit and comments** (2017 and 2018 actions)
 - MDE partnered with the Maryland Attorney General, to join a lawsuit with 13 other states on EPA's halt of regulations to reduce leaks of methane from new sources in the oil and gas industry. The case is currently stayed by the court.
 - EPA has recently proposed new regulations on the same topic. MDE plans to comment on these new proposed regulations.



Maryland
Department of
the Environment

Climate Related Actions

- **MDE letter against repeal of the Clean Power Plan** (January 8, 2018)
 - MDE sent EPA Administrator Scott Pruitt a letter expressing opposition to the possible repeal of the Clean Power Plan unless the Plan could be replaced with a policy that is as effective and enforceable as the Regional Greenhouse Gas Initiative (RGGI).
- **MDE provided written comments on the proposed Affordable Clean Energy (ACE) Rule** (October 31, 2018)
 - MDE opposed EPA's proposed ACE Rule because ACE is not as effective and enforceable as RGGI. MDE supports state flexibility; however, the proposed rule did not set a minimum standard for states to reduce GHGS.



Maryland
Department of
the Environment

Mobile Related Actions

- **NESCAUM letter expressing concern over EPA's decision to revise GHG vehicle standards (April 2, 2018)**
 - Secretary Grumbles signed a multi-state letter to EPA expressing concern with EPA's decision to initiate a rulemaking to revise, and possibly weaken, the GHG standards for Model Year 2022-2025 Light-Duty Vehicles.
 - The letter urged the EPA to leave the current greenhouse gas emissions standards for light-duty vehicles in place and to allow states, like Maryland, to continue to adopt vehicle emissions standards that are more protective than federal standards.
- **OTC Resolution on States' Rights and Vehicle Emissions (June 7, 2018)**
 - As OTC Chair, Secretary Grumbles signed an OTC Resolution urging EPA to ensure that California's right to a waiver, and other states' rights to adopt and enforce the California Low Emissions Vehicle Program (CALEV) standards are preserved.



Maryland
Department of
the Environment

Mobile Related Actions

- **MDE written comments on the proposed Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule** (October 26, 2018)
 - The proposed SAFE rule would roll back existing federal light-duty vehicle greenhouse gas emission standards for model years (MYs) 2021 through 2025 and revoke California’s waiver and other state’s ability to follow the stricter California vehicle emission standards.
 - MDE opposed the proposed rule and recommended that EPA and NHTSA withdraw it, retain the existing federal standards and work with stakeholders to ensure emission reductions that states, like Maryland, need to achieve and/or maintain their clean air and public health goals.



Maryland
Department of
the Environment

Questions?

Megan Ulrich

Senior Policy Advisor

Air and Radiation Administration

megan.ulrich@maryland.gov



Maryland
Department of
the Environment