

Congress of the United States

Washington, DC 20510

July 23, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Acting Administrator Wheeler:

We strongly urge the U.S. Environmental Protection Agency (EPA) to withdraw its proposed denial of Maryland's petition under Section 126(b) of the Clean Air Act regarding 36 upwind electric generating units in 5 other states and instead grant the petition and expeditiously provide Maryland with relief from downwind air pollution. For decades, the State of Maryland has worked diligently to address transported pollution to meet air quality standards and to protect the health of our constituents.

The Clean Air Act requires the EPA to set national ambient air quality standards (NAAQS) to protect public health and welfare. Congress recognized the need for the EPA to work collaboratively with states to address pollution sources generated in one state that adversely impact another state. Section 126(b) of the Clean Air Act gives one state the authority to ask the EPA to set emissions limits for specific sources of air pollution in other states that significantly contribute to nonattainment or interfere with maintenance of NAAQS in the petitioning state. The Clean Air Act requires the EPA to respond to these petitions within 60 days of receipt.

In November 2016, Maryland filed a petition concerning air pollution emitted by 36 electric generating units located in Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia. The petition demonstrates that nitrogen oxides emitted by these power plants impede Maryland's efforts to attain and maintain federal health-based air quality standards. Specifically, nitrous oxide emissions from the electric generating units has resulted in increased concentrations of ground-level ozone in Maryland. This air pollution from out-of-state power plants reacts with other atmospheric pollutants to form ozone, and move on the prevailing winds into Maryland.

The EPA has linked ozone exposure to lung tissue damage and aggravation of existing conditions, such as asthma, bronchitis, heart disease, and emphysema. The pollution load also adds economic costs for Maryland businesses to compensate for the out-of-state contribution, and has fundamentally interfered with Maryland's ability to comply with its NAAQS for ozone.

On June 8, 2018, the EPA proposed to deny Maryland's petition, nearly two years after receipt. In September 2017, Maryland brought civil action against the EPA to obtain an order requiring it to perform its basic statutory obligation under the Clean Air Act to act on a petition within 60 days. In January 2018, the EPA published a final rule extending the deadline for acting on Maryland's petition to July 15, 2017. That deadline expired with no EPA action on the petition.

It is unacceptable that the EPA failed to respond to Maryland's petition until June 2018. This delay constitutes a clear violation of the time period intended by Congress. It is equally unacceptable that at this late date, the EPA is now proposing to deny the petition without providing an enforceable remedy to address Maryland's ongoing air pollution challenges.

In its proposed denial, the EPA claims Maryland did not provide enough information and that any remedy would be too costly. We urge you to reconsider and grant Maryland's petition. Maryland's evaluation, using best practices and all available EPA guidance, shows that the 36 power plants are significantly contributing to exceedances of air quality standards in Maryland. Further, the remedy sought in the petition is achievable today. The petition simply asks the EPA to require the 36 electric generating units to operate existing control equipment in a manner consistent with manufacturers' specifications on the days when ozone reductions are needed.

Granting the petition will also help Maryland and other states meet their commitments under the 2014 Chesapeake Bay Watershed Agreement. An estimated one-third of the nitrogen loads to the Chesapeake Bay comes from air pollution over the Chesapeake Bay Watershed. This airshed travels from a much larger area than the watershed itself. Nitrous oxides transported in the air deposit onto the tidal surface waters of the Chesapeake Bay and its tributary rivers and streams. In this way, air pollution generated out-of-state is degrading Maryland's water quality in-state.

We urge you to immediately provide Maryland with relief by approving its Section 126(b) petition and requiring the 36 upwind electric generating units in 5 states to use controls that are already in place to reduce harmful emissions that significantly contribute to Maryland's ozone burden.

Thank you for your prompt attention to this important matter. We look forward to your response.

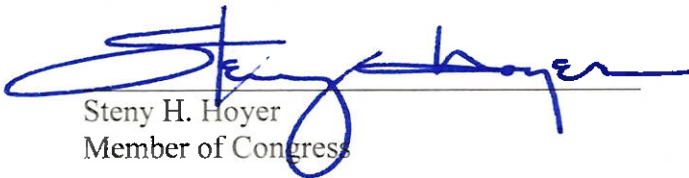
Sincerely,



Benjamin L. Cardin
United States Senator



Chris Van Hollen
United States Senator



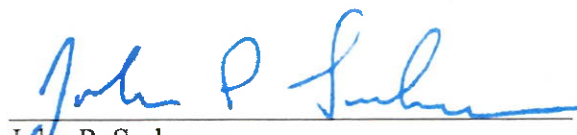
Steny H. Hoyer
Member of Congress



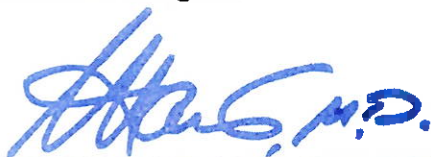
Elijah E. Cummings
Member of Congress



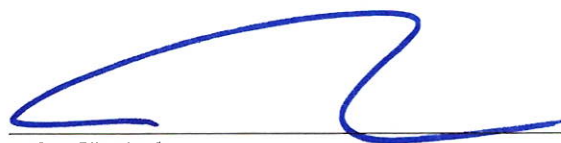
C.A. Dutch Ruppersberger
Member of Congress



John P. Sarbanes
Member of Congress



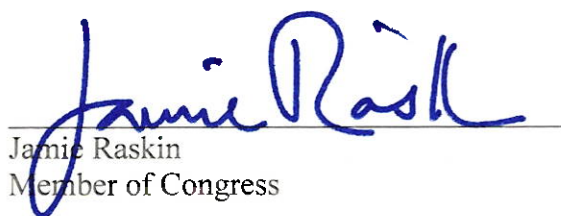
Andy Harris, M.D.
Member of Congress



John K. Delaney
Member of Congress



Anthony G. Brown
Member of Congress



Jamie Raskin
Member of Congress