4/30/99

FACT SHEET
FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT -- FINAL RULE

TODAY'S ACTION

- The Environmental Protection Agency (EPA) is taking final action on section 126 petitions filed by eight northeastern States seeking to reduce ozone across State boundaries through reductions in emissions of nitrogen oxides (NOx), a primary precursor for ground-level ozone or smog. Filed under section 126 of the Clean Air Act, each petition requests that EPA make a finding that NOx emissions from certain stationary sources in particular states significantly contribute to ozone nonattainment problems in the petitioning State.

- The eight States that filed petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont. The States identified by the petitioning States as containing sources which significantly contribute to ozone transport include all of the 22 States and the District of Columbia that are subject to the NOx SIP call (EPA's rule calling for NOx reductions to address ozone transport), plus other States as well.

- EPA is making final determinations that six of the eight section 126 petitions are partially approvable based on technical considerations and correspondingly that sources in 19 States and the District of Columbia significantly contribute to nonattainment, or interfere with the ability of States to maintain clean air, in one or more of the petitioning States. EPA is making this affirmative technical determination for the petitions from Connecticut, Maine, Massachusetts, New Hampshire, New York, and Pennsylvania.

- EPA is deferring fully granting the approvable portions of the petitions until a later time to give the affected States an opportunity to submit plans in response to the NOx SIP call. These State plans, which are due in September 1999, are required to achieve NOx reductions determined by EPA to be necessary to address ozone transport. This deferral will allow the affected States and the District of Columbia to respond to the NOx SIP call before EPA makes any final finding on the petitions.

- In today's action, EPA is also finalizing the fundamental aspects of the NOx emissions control requirements that would apply if any section 126 remedy is ultimately needed. The control remedy promulgated today includes: the decision to implement the controls through a cap-and-trade program, identification of the source categories subject to the controls, specification of the total emissions reductions to be achieved, and the compliance date. This notice also commits EPA to promulgate the complete NOx trading program and specific source allocations by July 15, 1999. Finally, EPA is including interim final

emission limits for affected sources which would apply if EPA fails to issue the trading program and source-specific allocations.

BACKGROUND

- In August 1997, Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Pennsylvania, and Vermont, citing section 126 of the Clean Air Act, filed petitions with EPA to reduce the transport of ground-level ozone pollution. The petitions request that EPA make a finding that certain utilities and other sources of nitrogen oxides significantly contribute to ozone problems in the eight petitioning states. All the petitions target sources in the Midwest; some of the petitions target additional sources in the south, southeast, and northeast. If EPA makes the requested finding (as it is today for some of the petitions), the Agency is authorized to establish federal emissions controls for the targeted sources.

- On November 7, 1997, building on the recommendations of OTAG, EPA proposed the NOx SIP Call requiring 22 states and the District of Columbia to submit State implementation plans that address the regional transport of ground-level ozone, the main component of smog.

- In February 1998, in response to litigation, the eight states that submitted section 126 petitions and the EPA developed a proposed consent decree that established a schedule for acting on the petitions. The schedule was designed to ensure that the EPA would take timely action on the States' petitions while recognizing that the Agency was simultaneously examining regional transport of ozone in the NOx SIP call. The court accepted a modified consent decree on October 26, 1998 which required EPA to finalize action on the petitions by April 30, 1999.

- On April 30, 1998, EPA published an advance notice of proposed rulemaking for the section 126 petitions. The notice included EPA's schedule for action and a preliminary technical review of the eight petitions.

- In September 1998, EPA proposed action on the section 126 petitions in conjunction with the final NOx SIP Call rule. EPA proposed to find that seven of the eight section 126 petitions had technical merit and that sources in 19 States and the District of Columbia significantly contribute to nonattainment, or interfere with the ability of States to maintain clean air in, in one or more of the petitioning States. In addition, EPA proposed the federal NOx budget trading program as the control requirement that would apply if the Agency makes a final finding on the petitions. Finally, EPA proposed to defer granting the approvable portions of the petitions until a later date to allow State submittals in response to the NOx SIP call, which are due in September 1999, to address the ozone transport identified by the petitioning state.

- On October 28, 1998, EPA held a public hearing on its proposed action on section 126 petitions.

- On November 30, 1998, Maine and New Hampshire submitted requests asking that EPA evaluate their 1997 petitions under the 8-hour ozone standard. EPA held a public hearing on these additional petitions on March 12, 1999.

- EPA also reopened the public comment period on the petitions in response to a request from the Midwest Ozone Group (an ad hoc coalition of 30 electric utilities, coal and petroleum companies and affiliated organizations from 11 states) to consider the effect of air quality data showing attainment of the one hour ozone standard in areas of MA, ME, NH, and RI on those states' petitions.

WHAT ARE THE HEALTH AND ENVIRONMENTAL BENEFITS OF REDUCING EMISSIONS OF NOx ?

- Reducing NOx will significantly reduce ground-level ozone across the eastern U.S. Ground-level ozone is not emitted directly into the atmosphere. It is formed when emissions of nitrogen oxides and volatile organic compounds react in the presence of sunlight. While beneficial in the upper atmosphere, ozone in the lower atmosphere can cause a variety of health problems because it damages lung tissue, reduces lung function, and adversely sensitizes the lungs to other irritants.

- Children, and especially asthmatic children, are at special risk for adverse health effects from the dangers of ozone pollution. Children playing and exercising outside in the summertime, the season when concentrations of ground-level ozone are the greatest, may suffer from coughing, decreased lung function, and have trouble catching their breath.

- Asthmatic children and adults are much more likely to have asthma attacks - or have more severe attacks - when ozone levels in the air are high. Medical studies have shown that ozone can aggravate asthma, causing more asthma attacks, increased use of medication, more medical treatment and more visits to hospital emergency rooms.

- Ground-level ozone also interferes with the ability of plants to produce and store food making them more susceptible to disease, insect attack, and other pollutants. Ground-level ozone has been shown to reduce agricultural yields for many economically important crops (e.g., soybeans, kidney beans, wheat, cotton).

- Air pollution accounts for up to one-third of total nitrogen loadings into the Chesapeake Bay. These loadings accelerate "eutrophication" -- an over-enrichment of the eco-system which results in significant oxygen depletion, die-back of underwater plants, and reduced populations of fish and shellfish. Eutrophication is a significant and widespread problem in the nation's Atlantic and Gulf of Mexico coastal waters, in estuaries and in some freshwater lakes.

- Excessive nitrogen from air pollution can result in the acidification of lakes, streams and soils. Nitrates can leach into surface waters, accelerating the process of long-term chronic acidification.

- Nitrogen oxides also contribute to airborne particulate matter, and regional haze (visibility) problems.

WHAT IS EPA'S FINDING ON THE EIGHT STATE PETITIONS?

- After analyzing the petitions from the eight States, EPA is making affirmative technical determinations that certain sources within the following States significantly contribute to ozone nonattainment in at least one of the petitioning States: Alabama, Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and West Virginia.

- EPA is not making an affirmative technical determination that sources within any of the following States significantly contribute to ozone nonattainment in any of the petitioning States: Arkansas, Georgia, Iowa, Louisiana, Maine, Minnesota, Mississippi, New Hampshire, South Carolina, Vermont, and Wisconsin.

WHAT SOURCES IN THE AFFECTED STATES WOULD BE REQUIRED TO IMPLEMENT CONTROLS?

- The named source categories in the petitions can be combined into one general category - fossil fuel-fired indirect heat exchangers. This term applies to boilers and turbines used for the production of steam, electricity, and in some cases mechanical work, and to process heaters.

WHAT ARE THE REQUIREMENTS?

- This action covers both existing and new facilities in affected States. For large electricity generating units, EPA is establishing an emissions control level, consistent with the NOx SIP Call, that corresponds to 0.15 lb/mmBtu. For industrial boilers and turbines greater than 250 mmBtu/hr**,** EPA is establishing an emissions control level corresponding to a 60 percent reduction from an uncontrolled baseline. For process heaters and small sources, EPA is establishing no additional controls.

- With today's action, EPA is finalizing several general parameters of the NOx emissions control requirements that would apply if any section 126 remedy is ultimately needed. The control remedy promulgated today includes: the decision to implement the controls through a cap-and-trade program, identification of the source categories subject to the program, category-wide emission limits that would apply to affected sources, specification of the total emissions reductions to be achieved, and the compliance date. EPA intends to implement the NOx emission reduction requirements (the section 126 control remedy) through a "cap-and-trade" program. EPA believes a trading program is the most cost-

effective approach for achieving emissions reductions from the large sources affected by this proposal. The notice commits EPA to promulgate the complete NOx budget trading program and specific source allocations by July 15, 1999 which, when issued, will replace the general emissions limits EPA is promulgating on an interim basis today.

- In selecting control requirements for the section 126 remedy, EPA relied on the analysis for the NOx SIP call. The emissions reductions would have to be achieved by May 1, 2003 - the same compliance date as required in the NOx SIP Call.

- EPA successfully worked with small business representatives, including the Small Business Administration, prior to proposal to minimize impacts on small businesses.

HOW ARE THE NOx SIP CALL AND THE SECTION 126 PETITIONS RELATED?

- The NOx SIP call and the section 126 petitions are both designed to reduce NOx emissions that are transported across state boundaries in the eastern United States and contribute to regional ozone problems. The section 126 petitions request that the EPA establish emission limitations and compliance schedules for groups of stationary sources that significantly contribute to ozone nonattainment problems in the petitioning State. These sources may also be subject to controls by States and the District of Columbia in their response to the EPA's NOx SIP call.

- Because the NOx SIP call and the section 126 petition processes both address NOx transport in the Eastern U.S., EPA believes it is important to coordinate the two actions as much as possible and harmonize the time frames for action.

- Specifically, if those States affected by the NOx SIP call submit SIPs for EPA review, and if EPA proposes to approve those SIPs, EPA may delay taking any necessary final action on the section 126 petitions until May 1, 2000.

- However, if the EPA does not propose to approve the SIPs submitted by the States in response to the NOx SIP call by November 30, 1999, or grant final approval to those plans by May 1, 2000, then the section 126 petitions which EPA has today determined to have technical merit would automatically be granted as of November 30, 1999 or May 1, 2000 (as appropriate) for those sources in upwind States covered by EPA's section 126 finding.

- Further, if any portion of petitions for which EPA has made an affirmative technical determination has not been granted by May 1, 2000 then it will be automatically denied as of that date.

FOR MORE INFORMATION

- Interested parties can download this notice from EPA's web site on the Internet at the following address: (http://www.epa.gov/ttn/rto/126). Information about the OTAG

process can also be found on the Internet at: (http://www.epa.gov/ttn/otag). For further information about EPA's final action on the section 126 petitions, contact Carla Oldham of EPA's Office of Air Quality Planning and Standards at (919) 541-3347.

- The EPA's Office of Air and Radiation's homepage on the Internet contains a wide range of information about many air pollution programs and issues. The Office of Air and Radiation's home page address is: (http://www.epa.gov/oar/).