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EPA CONTINUES WITH EFFORTS TO REDUCE SMOG ACROSS EASTERN U.S.

FACT SHEET

TODAY'S ACTION

- Today the Environmental Protection Agency (EPA) is proposing rules to continue the Agency's efforts to reduce emissions of nitrogen oxides (NO_x) across the eastern United States. Nitrogen oxides are a key component of ground-level ozone (smog). This action is in response to several decisions from the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).
- EPA's efforts to reduce smog across the eastern U.S. include three actions recently addressed by the D.C. Circuit:
 - (1) A regulation, known as the NO_x SIP Call, originally requiring 22 States and the District of Columbia to submit to EPA State Implementation Plans (SIPs) outlining strategies to reduce regional transport of ozone through reductions in NO_x air emissions;
 - (2) Technical Amendments to the NO_x SIP Call revising the NO_x emissions budgets, the maximum amount of NO_x emissions allowed for that State during the "ozone season" (May 1 through Sept. 30 each year) beginning in 2007; and
 - (3) The Section 126 Rule in which EPA partially approved petitions filed by several Northeastern States under Section 126 of the Clean Air Act. The petitions asked EPA to set emissions limits for power plants and other sources of NO_x in certain upwind States.
- On March 3, 2000, the D.C. Circuit Court issued a ruling that supported most portions of EPA's NO_x SIP Call Rule. However, the court remanded three issues for the Agency to re-examine before moving ahead. In response, EPA separated the NO_x SIP Call Rule into two phases. Under Phase I of the rule, EPA moved ahead with those aspects of the rule supported by the Court for 19 States and the District of Columbia. EPA requires these areas to submit SIPs showing how they will reduce air emissions of NO_x from industrial facilities except for stationary internal combustion engines and a small subclass of facilities that generate electricity, known as cogenerators, EPA required States subject to the rule to submit their implementation plans to comply with Phase I of the strategy by October 30, 2000.
- Today's proposal, known as EPA's "Phase II proposal" addresses the outstanding issues remanded or otherwise addressed by the Court by proposing:
 - (1) a range of dates for 19 States and the District of Columbia to submit to EPA their SIPs for Phase II of the NO_x SIP Call, and for Georgia and Missouri to submit SIPs meeting the full NO_x SIP Call (6 months through 1 year from final promulgation of this rulemaking but no later than April 1, 2003);
 - (2) a definition of "electric generating units" (EGUs) as it relates to cogeneration units in the NO_x SIP Call and in the Section 126 Rule;
 - (3) a range of control levels for stationary internal combustion engines (82 percent to 91 percent);

- (4) to exclude portions of Georgia, Missouri, Alabama and Michigan from the NOx SIP Call (the court ruling focused on Georgia and Missouri, but the same issue is relevant to Alabama and Michigan);
 - (5) to revise statewide emissions budgets (allowed emissions of NOx into the air) in the NOx SIP Call to reflect issues (2) through (4) above;
 - (6) to set a compliance date of May 31, 2004, for all sources except those in Georgia and Missouri; Sources in those two States would have a May 1, 2005 compliance date. and
 - (7) to exclude Wisconsin from NOx SIP Call requirements for the time being. The court determined that the record did not support including that state.
- EPA will accept public comment on this proposal for 45 days after publication in the *Federal Register*. EPA will only accept comments on the specific changes the Agency is proposing.

BACKGROUND

- NOx is a primary ingredient in the formation of ground-level ozone pollution (smog). Facilities that emit NOx in upwind States contribute to smog formation in downwind States. When inhaled – even at very low levels – ground-level ozone can cause acute respiratory problems, aggravate asthma, reduce lung capacity, inflame lung tissue, and impair the body’s immune system.
- The NOx SIP Call and Section 126 Rule will help States meet the 1-hour ozone standard. These reductions will improve air for more than 100 million people -- including people in both downwind States and the States where sources are making the reductions.
- EPA issued the NOx SIP Call rule in September 1998 as part of its efforts to reduce unhealthy air in the eastern half of the U.S. The original rule required 22 States and the District of Columbia to reduce NOx emissions that cross State boundaries, forming ground-level ozone in downwind States.
- The final rule did not mandate which sources must reduce pollution. States have the ability to meet the requirements of this rule by reducing emissions from the industrial sources they choose. However, utilities and other large industrial facilities are the most likely sources of NOx emissions reductions. The NOx SIP Call includes a model NOx Budget Trading Program that will allow States to achieve the required emissions reductions in a highly cost-effective way.
- The model NOx Budget Trading Program sets emissions limits for the affected facilities in the form of NOx “allowances.” One allowance authorizes the emission of one ton of NOx. Each source will be allocated a specific number of allowances per year.
- Allowances may be bought, sold, or traded between the participating facilities and other private parties. Trading allows industry flexibility while ensuring that overall emissions are reduced. Sources also may receive credit for achieving reductions earlier than required and may “bank” the resulting allowances for future use.

- Eight States challenging the NOx SIP Call asked the U.S. Court of Appeals for the D.C. Circuit to stay the due date for the State plans outlining strategies to reduce air emissions of NOx. As an interim measure, the court issued an indefinite stay on May 25, 1999.
- On March 3, 2000, the U.S. Court of Appeals for the D.C. Circuit issued an opinion largely upholding the NOx SIP Call.
- The Court upheld the rule for 19 States and D.C., but found that the record did not support the inclusion of Wisconsin or portions of Georgia and Missouri.
- The Court also found that EPA had not provided adequate notice before including a small class of units in its definition of electric generating unit. In addition, the Court found that EPA had not provided adequate notice on the emissions reduction level assumed for large, stationary internal combustion engines.
- The Court lifted the stay on June 22, 2000. As a result, the District of Columbia and the 19 affected States will have to submit revised SIPs in two phases: The first phase plans, due October 30, 2000, must contain the measures the States will use to address the portion of the NOx budgets upheld by the Court's decision. For most of these States, the budget covers about 90 percent of the reductions required by the rule.
- An August 2000 Court ruling set May 31, 2004 as the compliance date for the implementation of Phase I.

ELECTRICITY SUPPLY

- Before issuing the NOx SIP Call, EPA examined the impact of the rule on the reliability of the country's electricity supply. As a result of that examination, EPA anticipates that installation of the emission controls required by the NOx SIP Call would not cause or exacerbate electricity-availability problems, even during the summer when demands are high.
- Some affected electric power companies may reduce NOx emissions by installing systems known as *selective catalytic reduction*, or SCR, on individual boilers. EPA anticipates that SCR would be installed on about 10 percent of affected boilers.
- Most SCR systems can be built next to a boiler while the boiler continues to operate. The boiler only needs to be shut down long enough to connect the SCR device. Companies normally install such controls when the units are shut down to perform other routine maintenance –which is not done during the summer.
- EPA is setting emission budgets for the year 2004 based on a 5-month ozone season. Because States are required to submit SIPs that demonstrate compliance with only a 4-month period in 2004 their emission budgets will be larger than needed to meet the emission cap in that year.
- The multi-State trading program will allow sources to purchase allowances if they find it more economical than installing post-combustion control equipment, or if they experience unexpected delays in installing controls.
- As an added safeguard against reliability problems, the NOx SIP Call and Section 126 Rule allow States to use a compliance supplement pool to assist facilities that experience unexpected

problems installing the necessary equipment. This pool contains credits that equal more than one third of a single year's NOx budget. To avoid electricity supply problems, facilities can either buy these credits from a facility that reduced its emissions early or be given these credits by the State.

FOR MORE INFORMATION

- To download a copy of the proposal, go to <http://www.epa.gov/ttn/rto> .
- To download a copy of the original NOx SIP Call Rule, the NOx SIP Call Technical Amendments, and the Section 126 Rule go to <http://www.epa.gov/ttn/rto>
- To download a copy of the Court's March 3, 2000 and June 22, 2000 rulings, go to the March 2000 and June 2000 Sections on <http://pacer.cadc.uscourts.gov/common/opinions/> . To download a copy of the Court's May 15, 2001 and June 8, 2001 rulings, go to May 2001 and June 2001 at the same website.
- For additional information, call Jan King of EPA's Office of Air Quality Planning & Standards at 919-541-5665.