

US EPA ARCHIVE DOCUMENT

## **Fact Sheet**

### **Section 126 Petitions**

- # The Environmental Protection Agency (EPA) plans to take rulemaking action on petitions filed by eight northeastern States seeking to mitigate what they describe as significant transport of one of the main precursors of ozone smog, nitrogen oxides (NOx), across State boundaries.
- # The eight northeastern States that filed petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.
- # Each petition specifically requests that the EPA make a finding that NOx emissions from certain major stationary sources significantly contribute to ozone nonattainment problems in the petitioning State. If the EPA makes such a finding, the Agency would be authorized to establish Federal emissions limits for the sources. The petitions recommend control levels for the EPA to consider.

### **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 the EPA to reduce the transport of ground-level ozone pollution. The petitions ask the EPA to make a finding that certain utilities and other sources of nitrogen oxides (NOx)--a precursor to ozone-smog--exacerbate 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 the EPA agrees and makes the requested finding, the EPA would establish federal emissions controls on the targeted sources.
- # In a related action dated November 7, 1997, the EPA published, in the Federal Register, a proposed determination that NOx emissions from twenty-two States and the District of Columbia are contributing significantly to region-wide ozone pollution in the eastern United States. This EPA action, the NOx SIP call, proposed that each of the 22 States and the District of Columbia revise their State implementation plan (termed, "SIPs," which are the set of state rules controlling air pollution under the Clean Air Act) to impose tighter limits on NOx emissions. The NOx SIP call is scheduled to be finalized by September 1998.
- # The section 126 petitions and the Agency's proposed NOx SIP call are both designed to reduce NOx emissions that travel across 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 may also be subject to controls by States and the District of Columbia in their response to the EPA's NOx SIP call.

- # On February 25, 1998, the eight states that submitted section 126 petitions and the EPA filed a proposed consent decree that would establish a schedule for acting on the petitions. The schedule is designed to ensure that the EPA will take timely action on States' petitions while recognizing that the Agency is simultaneously examining regional transport of ozone in the NOx SIP call.
- # The schedule described in the ANPR harmonizes the time frame for action on the section 126 petitions with the EPA's anticipated schedule for action on the NOx SIP call. In the event the EPA finalizes the NOx SIP call (providing for emission reductions from the states in which sources targeted by the section 126 Petitions are located), this schedule would allow the time needed for the EPA to take into account state compliance with that rule in taking action on the section 126 petitions.
- # Specifically, the EPA will publish a notice of proposed rulemaking by September 30, 1998. The EPA will take a final action, granting or denying the petitions, by April 30, 1999, unless, by that date, the EPA establishes the following schedule for action on the petitions:
  - # By April 1999, the EPA may determine that the section 126 petitions are technically meritorious in that they accurately identify utilities or other major stationary sources whose NOx emissions exacerbate ozone problems in the petitioning states, and determine an appropriate remedy, but postpone imposing control requirements.
  - # This schedule would allow the 22 states and the District of Columbia an opportunity to respond to the final NOx SIP call before the EPA makes any final finding under section 126.
  - # If those States submit SIPs for EPA review, and if the EPA proposes to approve those SIPs by November 30, 1999 and finalizes approval by May 1, 2000, the 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 by November 30, 1999, or take final action to approve them by May 1, 2000, then, to the extent that the EPA determined in April 1999 that the petitions were technically meritorious the section 126 petitions will be treated as automatically granted as of those dates.
  - # Approval of the section 126 petitions--automatic or otherwise--would mean that the affected sources would be required to reduce NOx emissions that significantly contribute to interstate transport of ozone.