FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS

FACT SHEET

TODAY'S ACTIONS

- The Environmental Protection Agency (EPA) is granting petitions filed by four northeastern states seeking to reduce ozone pollution (smog) through reductions in nitrogen oxide (NOX) emissions from other states. This action will provide cleaner air for over 100 million people.

- The petitions were filed under Section 126 of the Clean Air Act, which gives any state the authority to ask EPA to set emissions limits for specific sources of pollution in other states that significantly contribute to its air quality problems. EPA is granting four of eight petitions filed in August 1997 for the 1-hour ozone standard: Connecticut; Massachusetts; New York; and Pennsylvania. (In April, EPA denied petitions for the 1-hour standard filed by Maine, New Hampshire, Rhode Island and Vermont because these states no longer had areas that were not attaining the 1-hour standard.)

- By granting these four petitions, EPA is finding that certain large electric utilities and large industrial boilers and turbines violate a Clean Air Act prohibition against significantly contributing to air pollution in other states.

- This action will provide cleaner air for citizens in the following states: Connecticut; Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia.

- In addition, petitions currently are pending from Maryland, New Jersey, Delaware and the District of Columbia. EPA will address these petitions in a separate action in the near future. However, today's action will reduce emissions from the majority of out-of-state sources targeted by these states.

- As a result of today's action, 392 facilities will have to reduce annual emissions by a total of nearly 510,000 tons from 2007 levels. The facilities are in: Delaware; the District of Columbia; Indiana; Kentucky; Maryland; Michigan; North Carolina; New Jersey; New York; Ohio; Pennsylvania; Virginia; and West Virginia.

- Each affected facility will participate in a federal NOX emissions cap-and-trade program. A cap-and-trade program is the most cost-effective approach to reducing interstate ozone transport by controlling nitrogen oxides emissions.

- That program, finalized as part of today's action and to be administered by EPA, will set emission reduction requirements for the sources identified in the section 126 petitions and will

allow those sources to trade emission allowances. Sources must implement controls or use emission allowances to achieve their required NOX emission reductions by May 1, 2003.

- Only sources affected by the 1-hour findings will be subject to control requirements at this time. EPA is indefinitely staying its April technical findings on the 8-hour ozone standard. EPA is issuing this stay so that it does not take actions that could be viewed as inconsistent with decisions by the U.S. Court of Appeals for the D.C. Circuit that affect the 8-hour standard.

HEALTH AND ENVIRONMENTAL BENEFITS

- Today's action will reduce ground-level ozone in the eastern United States. 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.

- Today's action is expected to reduce respiratory problems in children by at least 8,000 cases a year. The number of days adults have to restrict their activity because of respiratory symptoms will be reduced by more than 160,000. Lost work days are expected to drop by nearly 30,000 per year.

- This action also will help reduce acid rain and visibility problems. The NOX reductions from today's action also will help protect water quality by reducing the amount of nitrogen reaching water bodies. Excess nitrogen in water can cause excessive algal growth. Over time, this excessive algal growth can contribute to reduced oxygen levels in the water (eutrophication).

- 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).

BACKGROUND

- In 1997 eight northeastern states filed petitions with EPA to reduce the transport of ground-level ozone. The eight states are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont. The petitions identified 30 states plus the District of Columbia as containing sources that significantly contribute to regional transport of ozone.

- The petitions asked EPA to find that certain utilities and other sources of nitrogen oxides significantly contribute to ozone problems in the eight petitioning states. Nitrogen oxides, which are byproducts of combustion, are a primary precursor of ground-level ozone or smog.

- All eight petitioning states requested findings under the 1-hour ozone standard; five also requested findings under the 8-hour standard. For each petition, EPA made separate technical determinations for the 1-hour and 8-hour ozone standards.

- In April 1999, EPA issued a final rule determining that six of the eight petitions could be approved based solely on technical considerations under the 1-hour and/or the 8-hour standards. EPA determined that four petitions – from Connecticut, Massachusetts, New York and Pennsylvania – were partially approvable based on the 1-hour standard. However, EPA postponed making final findings granting those petitions to give states an opportunity to respond to EPA's NOX SIP Call.

- In May, the U.S. Court of Appeals for the D.C. Circuit issued two rulings that affected EPA's final 126 rule. One decision, which was modified in October, affects the 8-hour standard. The other stayed the submission dates required by the NOX SIP call.

- In light of those rulings, EPA proposed in June to separate the time line for action on the section 126 petitions from the due dates in the NOX SIP call. EPA also proposed to stay its actions on the 8-hour portions of the petitions.

FEDERAL NOX BUDGET TRADING PROGRAM (CAP AND TRADE)

- The Federal NOX Budget Trading Program sets emissions limits for the affected sources 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 affected sources and other private parties. Trading allows industry flexibility while ensuring that overall emissions are reduced. For example, if one company finds the cost of reducing emissions to be relatively low, it may be able to reduce its emissions more than required. That company then could sell or trade its remaining "allowances" to a company for which reductions would be more expensive.

- Sources also may receive credit for achieving reductions earlier than required and may "bank" the resulting allowances for future use.

- EPA is initially allocating NOX allowances to sources for 2003 through 2007. The initial allocation is based on heat input. Updated allocations will be based on output for electric generating units and probably will be based on heat input for industrial boilers.

FOR MORE INFORMATION

- To download the text of the rule, go to EPA's World Wide Web site at the following addresses: http://www.epa.gov/oarpg/ramain.html or http://www.epa.gov/ttn/rto/126 .

- For general information on this action, contact Carla Oldham of EPA's Office of Air Quality Planning and Standards at (919) 541-3347.

- For information on the Federal NOX Budget Trading Program, call Sarah Dunham of EPA's Clean Air Markets Division at (202) 564-9087.