

US EPA ARCHIVE DOCUMENT

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 96, and 97

[FRL -XXX-X]

**Availability of Additional Documents for the
Response to the Remands in the Ozone Transport
Cases Concerning the Method for Computing Growth for
Electric Generating Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability for the NOx SIP Call and the Section 126 Rule.

SUMMARY: The EPA is providing notice that it has placed in the dockets for the two main rulemakings concerning ozone- smog transport in the eastern part of the United States --the Nitrogen Oxides State Implementation Plan Call (NOx SIP Call) and the Section 126 Rule -- additional data relevant to the remands by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) concerning growth rates for seasonal heat input by electric generating units (EGUs). In both the NOx SIP Call and Section 126 rulemakings, EPA determined control obligations with respect to EGUs through the same computation, which included, as one component, estimates of growth in heat input by the EGUs from 1996 to 2007.

In two cases decided last year challenging the Section 126 rulemaking and a pair of rulemakings that made technical corrections to the NOx SIP Call, the D.C. Circuit considered challenges to EPA's calculation of the growth estimate and its use of growth factors. In virtually identical decisions, the Court remanded the growth component to EPA for a better response to certain data presented by the affected States and industry concerning actual heat input, and for a better explanation of EPA's methodology. The EPA is in the process of responding to those remands. On August 3, 2001, EPA published a notice of data availability announcing the placement, in the dockets for the NOx SIP Call and Section 126 Rule, of new data concerning EGU growth rates (66 FR 40609 (NODA-1)). In NODA-1, EPA articulated its preliminary view that its growth calculations were reasonable and could be supported with a more robust explanation that takes into account the Court's concerns.

Today's notice informs that EPA is considering additional data that it has recently placed, or will soon place, in the docket for the NOx SIP Call Rule, Docket A-

96-56, and that have been incorporated by reference in the docket for the Section 126 Rule, Docket No. A-97-43.

By March 29, 2002, EPA intends to determine whether it will confirm its preliminary view that the growth calculations were reasonable, or change those calculations. If EPA decides to confirm the growth calculations, it intends to complete its response to the Court's remands by that date.

Detailed background information describing the rulemakings, court decisions, and remands may be found in NODA-1.

DATES: Documents were placed in the docket on or about February 28, 2002.

Copies of all of the documents have been placed, or will shortly be placed, in the docket for the NOx SIP Call rule, Docket No. A-96-56, and have been incorporated by reference in the docket for the Section 126 Rule, Docket No. A-97-43. These new documents, and other documents relevant to these rulemakings, are available for inspection at the Docket Office, located at 401 M Street SW, Room M-1500, Washington, DC 20460, between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding

legal holidays. A reasonable fee may be charged for copying. Some of the documents have also been made, or will shortly be made, available in electronic form at the following EPA website:

<http://www.epa.gov/airmarkets/fednox/126noda2/index.html>.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's notice should be directed to Kevin Culligan, Office of Atmospheric Programs, Clean Air Markets Division, 6204M, 1200 Pennsylvania Ave. NW, Washington, DC 20004, telephone (202) 564-9172, e-mail culligan.kevin@epa.gov; or Howard J. Hoffman, Office of General Counsel, 2344A, 1200 Pennsylvania Ave. NW, Washington, DC 20004, telephone (202) 564-5582, e-mail hoffman.howard@epa.gov. General questions about the Section 126 Rule or the NOx SIP Call may be directed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC, 27711, telephone (919) 541-5665, e-mail king.jan@epa.gov.

SUPPLEMENTARY INFORMATION:

The EPA has placed, or will shortly place, the information described below in the NOx SIP Call

rulemaking docket, A-96-56; and is incorporating it by reference into the Section 126 rulemaking docket, A-97-43.

XV C-01 U.S. Department of Energy web pages - 21 SIP Call States - "Estimates of Energy Input at Electric Utilities, 1960-1999" from www.eia.doe.gov/emeu/sep/_/consum/eu.htm where__ is the 2 letter identifier for each State.

XV C-02 U.S. Department of Energy; Energy Information Administration (EIA); Electric Power Annual 1999 Volume 1 - August 2000.

XV C-03 Department of Energy; Energy Information Administration; Electric Power Annual 2000 Volume 1 - August 2001. Available at www.eia.doe.gov/cneaf/electricity/epav1/epav1.pdf.

XV C-05 Memorandum from Bill Neuffer to Docket (Feb. 22, 2002): Excel spreadsheets - 21 SIP call States - Yearly Utility Fossil Heat inputs;" "Summary of 8 Yr Decreases in Yearly Fossil Fuel Heat Input - Electric Utilities." (Feb. 22, 2002)

XV C-07 Press releases on nuclear uprates in IL.

XV C-08 Press releases on repowering coal units to combined cycle units in IN.

XV C-09 Press release on boiler optimization.

XV C-10 1995-2001 ozone season heat input data for EGUs in the following States: AL, CT, DC, DE, GA, IL, IN, KY, MA, MD, MI, MO, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and WV, including:

(a) For 1995 - 2000, this data is on a unit-by-unit basis for all units.

(b) For 2001, data for acid rain units is based on

monitoring location and has not been converted to a unit-by-unit basis. All data for acid rain units is based on data reported to EPA. For other units it is based on data reported to EIA or data reported to EPA as part of the SIP Call/Section 126 rulemaking process.

XV C-11 Press release documenting off-line status of Cook Units 1 and 2.

XV C-12 Summary of EIA Electric Sales Data for the 1995 through 2001 ozone season.

XV C-13 Northeast Electric Reliability Council Map.

XV C-14 EIA Inventory of Electric Utility Power Plants in the US, 1999.

XV C-15 EIA Inventory of Electric Utility Power Plants in the US, 1998.

XV C-16 EIA Inventory of Electric Utility Power Plants in the US, 1997.

(For XV C-14, XV C-15, and XV C-16 above, see website

<http://www.eia.doe.gov/cneaf/electricity/ipp/ippbackissues.html>).

XV C-17 EPA Region 4 National Combustion Turbine Spreadsheet maintained at http://www.epa.gov/region4/air/permits/national_ct_list.xls as of February 2002.

The EPA may place additional documents in the docket, and if EPA does so, EPA will announce their availability by posting a notice on the <http://www.epa.gov/airmarkets/fednox/126noda2/index.html> website.

Dated:

John S. Seitz, Director
Office of Air Quality Planning and Standards