

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 97 and 98

[FRL-XXXX-X]

**Findings of Significant Contribution and Rulemakings on
Section 126 Petitions and Federal Implementation Plans for
Purposes of Reducing Interstate Ozone Transport**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking (NPR); Availability of Proposed Rule Text, Request for Comment, and Public Hearing.

SUMMARY: In accordance with section 126 of the Clean Air Act (CAA), EPA is proposing action on eight petitions filed individually by eight Northeastern States seeking to mitigate what they describe as significant transport of one of the main precursors of ground-level ozone, nitrogen oxides (NOx), across State boundaries. Each petition specifically requests that EPA make a finding that NOx emissions from certain stationary sources significantly contribute to ozone nonattainment problems in the petitioning State.

As described in a longer, more detailed section 126 proposed rulemaking entitled, "Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport"

(hereafter referred to as the longer section 126 NPR), which was signed at the same time as this NPR, EPA is

proposing to find that portions of certain petitions are technically meritorious under the test applicable under section 126. The EPA is proposing that the technically meritorious portions of the petitions be deemed granted or denied at certain later dates pending certain actions by the States and EPA regarding State submittals in response to the final NOx State implementation plan call (NOx SIP call) that EPA is issuing. The longer section 126 NPR describes the schedule and conditions under which applicable final findings on the petitions would be automatically triggered and proposes the control requirements that would apply to sources in the source categories for which a final finding is ultimately granted. The EPA is also proposing to deny certain petitions, in whole or in part. The longer section 126 NPR, which includes the statement of basis and purpose for the section 126 rulemaking proposal, is included in the rulemaking docket and will be published shortly in the Federal Register.

In accordance with section 110(c) of the CAA, EPA is also proposing Federal implementation plans (FIPs) that may be needed if any State fails to revise its SIP to comply with the final NOx SIP call. The final NOx SIP call includes emissions budgets which reflect elimination of specified amounts of NOx emissions for the purposes of reducing NOx and ozone transport in the eastern half of the

Nation.

As described in a longer, more detailed FIP NPR entitled, "Federal Implementation Plans to Reduce Regional Transport of Ozone" (hereafter referred to as the longer FIP NPR), which was signed at the same time as this NPR, if a State fails to respond to the NO_x SIP call by not adopting and submitting to EPA a complete SIP revision by September 24, 1999, EPA intends to take final rulemaking action on the FIP immediately thereafter. In addition, if a State submits a SIP that EPA does not find approvable, EPA intends to promulgate a FIP concurrently with finalization of its disapproval of the SIP. The longer FIP NPR, which includes the statement of basis and purpose for the FIP rulemaking action, is included in the rulemaking docket and will be published shortly in the Federal Register.

This short proposal on the section 126 petitions and FIPs announces the availability of the longer section 126 and FIP NPRs, which include regulatory text, requests comments on the short and long proposals, and announces the public hearing dates.

DATES: The EPA is establishing a 60-day comment period for the section 126 and the FIP NPRs, ending on [insert 60 days after date of publication]. Comments must be postmarked by the last day of the comment period and sent directly to the

Docket Office listed in ADDRESSES (in duplicate form if possible). The public hearings for the section 126 and FIP proposals will be held on October 28 and 29, 1998 in Washington, DC. Please refer to SUPPLEMENTARY INFORMATION for additional information on the comment period and public hearing.

ADDRESSES: Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43 for the section 126 proposal and Docket No. A-98-12 for the FIP proposal, U.S. Environmental Protection Agency, 401 M Street SW, room M-1500, Washington, DC 20460, telephone (202) 260-7548. Comments and data may also be submitted electronically by following the instructions under SUPPLEMENTARY INFORMATION of this document. No confidential business information (CBI) should be submitted through e-mail.

Documents relevant to this action are available for inspection at the Docket Office, at the above address, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable copying fee may be charged for copying.

The public hearings will be held at the EPA Auditorium at 401 M Street SW, Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: General questions

concerning the section 126 proposal should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC, 27711, telephone (919) 541-3347.

General questions concerning the FIP proposal should be addressed to Doug Grano, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC, 27711, telephone (919) 541-3292.

SUPPLEMENTARY INFORMATION:

Public Hearing

The EPA will conduct public hearings on the section 126 and FIP proposals on October 28-29, 1998 beginning at 9:00 am. The public hearings will be held at the EPA Auditorium at 401 M Street SW, Washington, DC, 20460. The metro stop is Waterfront which is on the green line. Persons planning to present oral testimony at the hearings should notify JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-1815 no later than October 21, 1998. Oral testimony will be limited to 5 minutes each. Any member of the public may file a written statement before, during, or by the close of the comment period. Written statements (duplicate copies

preferred) should be submitted to the relevant docket at the above address. The hearing schedules, including lists of speakers, will be posted on EPA's webpage at <http://www.epa.gov/airlinks> prior to the hearing. Verbatim transcripts of the hearings and written statements will be made available for copying during normal working hours at the Air and Radiation Docket and Information Center at the above address.

Availability of Related Information

The official records for the section 126 and FIP rulemakings, as well as the public versions (including comments and data submitted electronically as described below), have been established under Docket No. A-97-43 for the section 126 action and Docket No. A-98-12 for the FIP action. The public versions of these records, including printed, paper versions of electronic comments, which do not include any information claimed as CBI, are available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking records are located at the address in ADDRESSES at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments

and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket number. Electronic comments on the proposals may be filed online at many Federal Depository Libraries.

The longer section 126 NPR and longer FIP NPR are contained in their respective rulemaking dockets, are currently available on EPA's Website at <http://www.epa.gov/ttn/oarpg> under "recent actions" and "actions sorted by CAA title" (under title I) and will be published shortly in the Federal Register.

Documents related to the NOx SIP call rulemaking, formally entitled "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," are available for inspection in Docket No. A-96-56 at the address and times given above. In addition, associated documents are located at <http://www.epa.gov/ttn/oarpg/otagsip.html>. The NOx SIP call docket contains information and analyses that are relied upon in the proposals on the section 126 petitions and FIP. Therefore, EPA is including by reference the entire NOx SIP call docket for purposes of both the section 126 and FIP rulemakings. Although EPA is including by reference the entire NOx SIP call docket, the only portions that form the

basis for the FIP rulemaking are the portions that address feasibility and cost effectiveness of control measures and the projection of emissions reductions that various control measures would achieve.

Relationship Between Short and Long Proposals

In order to meet the publication deadline for the proposal on the section 126 petitions, as set forth in a proposed consent decree, EPA is publishing this short section 126 NPR at this time. A longer, more detailed version of the proposal was signed by the Administrator at the same time as this short NPR. The longer section 126 NPR includes a detailed preamble describing the proposed requirements, addresses the administrative requirements, and provides the proposed regulatory text. The longer section 126 NPR will take more time to process for publication. However, it is currently publicly available in the rulemaking docket and on EPA's web site at the address given above.

The EPA is publishing this short proposal for the FIP in order to meet timing requirements that will allow EPA to hold the FIP public hearing in conjunction with the section 126 public hearing. The EPA believes this is important because both actions rely on the same proposed Federal NOx Budget Trading Program as a control remedy. A longer, more

detailed version of the FIP proposal was signed by the Administrator at the same time as the short FIP NPR. The longer FIP NPR includes a detailed preamble describing the proposed requirements, addresses the administrative requirements, and provides the proposed regulatory text. It is also currently publicly available in its docket and on EPA's website given above.

40 CFR Part 52

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 97

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 98

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

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Dated:

Carol M. Browner,
Administrator