

04/22/02

## REVISED DEADLINES FOR SECTION 126 OZONE TRANSPORT RULE

### FACT SHEET

#### TODAY'S ACTION

- Today, the Environmental Protection Agency (EPA) is taking final action to revise the compliance date and other related dates for facilities subject to EPA's ozone transport rule known as the Section 126 Rule. The result will be to harmonize (make match) the final compliance date for the Section 126 Rule with the May 31, 2004, compliance date for the broader ozone transport rule, known as the NOx SIP Call.
- The NOx SIP Call and the Section 126 Rules will help states meet the 1-hour and eventually the 8-hour ozone standards improving air quality for more than 100 million people - including people in downwind states, and the states where sources are making the reductions.
- Harmonizing the compliance dates for the NOx SIP Call and the Section 126 Rule provides States, affected industry, and the public with a better coordinated and simpler program for achieving the necessary emissions reductions. Harmonizing the dates will also facilitate the withdrawal of the Federal program where States are meeting the NOx SIP Call requirements and will help avoid the potential overlap of the two programs.
- The Section 126 Rule requires large electric generating units (EGUs) and large industrial boilers and turbines (non-EGUs) located in 12 states and the District of Columbia to reduce emissions of nitrogen oxides. The nitrogen oxides (NOx) emission reductions required by the Section 126 Rule are necessary to help the petitioning states (Connecticut, Massachusetts, New York, and Pennsylvania) meet EPA's 1-hour national ambient air quality standard for ozone.
- EPA promulgated the Section 126 Rule in response to petitions filed under Section 126 of the Clean Air Act by four Northeastern States seeking to reduce ozone pollution (smog) through reductions in (NOx) emissions in upwind States. Nitrogen oxides are one of the main ingredients that form ground-level ozone pollution.
- EPA originally set a May 2003 compliance date for the Section 126 Rule, but that date has been delayed by court decisions.
- On May 15, 2001, the U. S. Court of Appeals for the District of Columbia Circuit (the court) largely upheld the Section 126 Rule, but remanded two issues to EPA for further consideration. One of the remands is related to EPA's projected growth rates for seasonal fossil-fuel use by

electric producers; EPA used these growth rates in developing the NOx emissions budgets for EGUs.

- On August 24, 2001, the court temporarily suspended, as of May 15, 2001, the date electric generating units would be required to comply with the Section 126 Rule requirements. As a result of the court's action, the compliance deadline would be reset at the time of EPA's response. In a separate action today, EPA addressed the courts remand on projected growth factors for EGUs.
- The suspension of the compliance period and the time required for EPA to fully respond to the Court's issues resulted in a delay in the implementation of the Section 126 Rule. Therefore, EPA is extending the compliance date and other related dates in order to match the compliance date in EPA's other regional NOx rule (known as NOx SIP Call Rule).
- Although the court's actions did not affect non-EGUs, EPA is also revising the deadlines for non-EGUs to match the new deadlines for the EGUs. Emissions from non-EGUs account for about 5 percent of the total emissions reductions from the Section 126 Rule.
- EPA is establishing May 31, 2004 as the new compliance date for the Section 126 Rule. In general, other related dates are extended by one year from the original deadlines.
- EPA is issuing the final rule to harmonize the Section 126 Rule compliance date with the NOx SIP Call compliance date without prior proposal. This is necessary because the time involved with notice-and-comment rulemaking would extend beyond a critical monitoring date for the existing Section 126 Rule. EPA is changing that monitoring date from May 1, 2002 to May 1, 2003.

## **BACKGROUND & CHRONOLOGY**

- NOx emissions from facilities in upwind states can contribute to ground-level ozone pollution (smog) 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.
- Section 126 of the Clean Air Act gives a state the authority to ask EPA to set emissions limits for specific sources of air pollution in other states that significantly contribute to the petitioning state's air quality problems.
- 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 ozone transport. The petitioning states asked EPA to find that certain utilities and other sources of NO<sub>x</sub> significantly contribute to their ozone problems.
- On December 17, 1999, EPA partially approved the section 126 petitions from Connecticut, Massachusetts, New York, and Pennsylvania under the national ambient air quality standard for ozone (1-hour). This action requires 392 facilities located in 12 States and the District of Columbia to reduce ozone season NO<sub>x</sub> emissions by a total of nearly 510,000 tons from projected 2007 levels.
- Each affected facility will participate in a federal NO<sub>x</sub> emissions cap-and-trade program that is being administered by EPA. A cap-and-trade program is the most cost-effective approach for controlling NO<sub>x</sub> emissions. Sources may implement controls or purchase emissions allowances to achieve their required NO<sub>x</sub> emission reductions.
- The Section 126 Rule overlaps considerably with another ozone transport rule requiring states to submit to EPA plans known as State Implementation Plans (SIPs) that show how each will achieve required reductions in NO<sub>x</sub> emissions. EPA issued this rule, known as the NO<sub>x</sub> SIP Call, in September 1998. The original rule required 22 states and the District of Columbia to reduce NO<sub>x</sub> emissions that cross state boundaries, forming ground-level ozone in downwind states. All of the facilities affected by the Section 126 Rule are located in states that are covered by the NO<sub>x</sub> SIP Call.
- Originally, EPA harmonized the Section 126 Rule with the NO<sub>x</sub> SIP Call by establishing the same compliance date for both rules, May 1, 2003. Where a state submitted and EPA approved a NO<sub>x</sub> SIP fully meeting the requirements of the NO<sub>x</sub> SIP Call, the Section 126 Rule for facilities in that state would automatically be withdrawn. This was a practical way to address the overlap between the actions that would be required under the NO<sub>x</sub> SIP call and under the rulemaking on the section 126 petitions.
- Subsequently, the court delayed the NO<sub>x</sub> SIP Call compliance date until May 31, 2004. As a result, the NO<sub>x</sub> SIP Call then had a later compliance date than the Section 126 Rule and the rules were no longer aligned (harmonized).
- The Court's action suspending the Section 126 Rule's compliance clock until EPA responded to the growth factor remand has resulted in delaying implementation of the Section 126 Rule until the 2004 ozone season (May - September). Therefore, EPA has once again harmonized the final compliance dates of the Section 126 Rule and the NO<sub>x</sub> SIP Call rule.

**FOR MORE INFORMATION**

- To download the text of the proposed 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.