

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[FRL-7476-3]

RIN 2060-AK41

Section 126 Rule: Withdrawal Provision**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: In today's action, EPA is proposing to revise one narrow aspect of a final rule published on January 18, 2000, known as the Section 126 Rule. The EPA promulgated the rule in response to petitions submitted by four Northeastern States under section 126 of the Clean Air Act (CAA) for the purpose of mitigating interstate transport of nitrogen oxides (NO_x) and ozone. Nitrogen oxides are one of the main precursors of ground-level ozone pollution. The Section 126 Rule requires electric generating units (EGUs) and non-electric generating units (non-EGUs) located in 12 eastern States and the District of Columbia to reduce their NO_x emissions through a NO_x cap-and-trade program.

Originally, EPA harmonized the Section 126 Rule with a related ozone transport rule, known as the NO_x State implementation plan call (NO_x SIP Call), which also addresses NO_x and ozone transport in the eastern United States. The EPA established the same compliance date for both rules, May 1, 2003. Where States adopted, and EPA approved, SIPs meeting the NO_x SIP Call, and with a May 1, 2003 compliance date, EPA would withdraw the Section 126 requirements for sources in that State. This was a practical way to address the overlap between the two rules. As a result of court actions, the compliance dates for the Section 126 Rule and the NO_x SIP Call have now been delayed until May 31, 2004. In addition, the NO_x SIP Call has been divided into two phases. Therefore, EPA is proposing to revise the Section 126 withdrawal provision so that it will operate under these new circumstances. In today's action, EPA is proposing to withdraw the Section 126 Rule if a State adopts, and EPA approves, a SIP with a May 31, 2004 compliance date that meets either the full NO_x SIP Call or Phase 1 where the State is regulating the Section 126 sources to the same stringency as the Section 126 Rule.

DATES: The comment period on this proposal ends on May 24, 2003.

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). A public hearing will be held on April 24, 2003 in Washington, DC, if one is requested by April 10, 2003. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and hearing.

ADDRESSES: Comments may be submitted through the U.S. Postal Service to the following address: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460, Attention: Docket No. A-97-43. To mail comments or documents through Federal Express, UPS, or other courier services, the mailing address is: U.S. Environmental Protection Agency, EPA Docket Center (Air Docket), 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20004. The telephone number for the Air Docket is (202) 566-1742 and the fax number is 202-566-1741. The EPA encourages electronic submission of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information should be submitted through e-mail.

Documents relevant to this action are available for public inspection at the EPA Docket Center, located at 1301 Constitution Avenue, NW., Room B102, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

The public hearing, if requested, will be held at Ariel Rios North, Room 1332, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Questions concerning today's action should be addressed to Carla Oldham, EPA, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-3347, e-mail at oldham.carla@epa.gov.

SUPPLEMENTARY INFORMATION:**Public Hearing**

The EPA will conduct a public hearing on this proposal on April 24, 2003 beginning at 9 a.m., if requested on or before April 10, 2003. The EPA will not hold a hearing if one is not requested. Please check EPA's Web page at http://www.epa.gov/ttn/naaqs/ozone/rto/rto_whatsnew.html on April 11, 2003 for the announcement of whether the hearing will be held. If there is a

public hearing, it will be held at Ariel Rios North, Room 1332, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Metro stop is Federal Triangle. If you want to request a hearing and present oral testimony at the hearing, you should notify, on or before April 10, 2003, JoAnn Allman, EPA, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-1815, e-mail allman.joann@epa.gov. Oral testimony will be limited to 5 minutes each. The hearing will be strictly limited to the subject matter of the proposal, the scope of which is discussed below. Any member of the public may file a written statement by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to Docket No. A-97-43 at the addresses given above for submittal of comments. The hearing schedule, including the list of speakers, will be posted on EPA's Web page at http://www.epa.gov/ttn/naaqs/ozone/rto/rto_whatsnew.html. A verbatim transcript of the hearing, if held, and written statements will be made available for copying during normal working hours at the EPA Docket Center address given above for inspection of documents.

Availability of Related Information

The official record for this rulemaking, as well as the public version, has been established under docket number A-97-43 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. In addition, the **Federal Register** rulemaking actions and associated documents are located at <http://www.epa.gov/ttn/naaqs/ozone/rto/126/index.html>.

The EPA has issued a separate rule on NO_x transport 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." The rulemaking docket for that rule (Docket No. A-96-56), hereafter referred to as the NO_x SIP Call, contains information and analyses that EPA has relied upon