

memorandum

DATE: November 20, 1998

REPLY TO
ATTN OF: Office of Environmental Policy and Assistance:Koss:202-586-7964

SUBJECT: Clean Air Act Information -- Final Rule on State Implementation Plan Revisions to Reduce Nitrogen Oxide Emissions, and Two Related Proposed Rules for Review and Comment

TO: Distribution

The Environmental Protection Agency (EPA) issued one final rule and two proposed rules in late October that will potentially affect some Department of Energy (DOE) facilities in the eastern U.S. which emit oxides of nitrogen (NO_x) in significant quantities. The final rule and two proposed rules are related to each other. All are directed at reducing the regional transport of ground-level ozone, which is the main harmful ingredient in smog. Oxides of nitrogen react in the presence of sunlight to produce ground-level ozone. Additional information related to the three rules (including an EPA Fact Sheet on the rules) is available at the following EPA web site:
<http://www.epa.gov/ttn/oarpg/otagsip.html>.

Final Rule on State Implementation Plan Revisions

The final rule, which was issued on October 27, 1998 (63 *FR* 57356), can be accessed from the Web Site of the Office of Environmental Policy and Assistance (EH-41) at: <http://tis.eh.doe.gov/oepa/rules/63fr57356.pdf>. The rule makes changes in 40 *CFR* Part 51. The rule calls for 22 States in the eastern U.S. (plus the District of Columbia) to submit State Implementation Plan (SIP) revisions to EPA by September 30, 1999, that will assure that each SIP meets §110(a)(2)(D)(i)(I) of the Clean Air Act (CAA). This section of the CAA requires that a SIP contain adequate provisions to prohibit sources from emitting air pollutants which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State.

The total amount of NO_x which can be emitted by each State in the year 2007 ozone season (May 1 - September 30) is set out at 40 *CFR* 51.121(e) (63 *FR* 57492). The final rule does not mandate which sources must reduce NO_x emissions. States will have the ability to meet the requirements of the rule by reducing emissions from the sources they choose. However, electric generating units, and large industrial boilers and turbines (including some DOE boilers; see "Proposed Federal Implementation Plan Rule", below) will be likely targets for NO_x emission reductions. Other NO_x sources at eastern DOE facilities (such as large stationary internal combustion engines⁽¹⁾) could also be affected by the final rule. Emission control measures on affected sources will need to be in place by May 1, 2003 [40 *CFR* 51.121(b)(1)(ii)].

Proposed Federal Implementation Plan Rule

EPA issued a proposed rule on October 21, 1998 (63 *FR* 56394) which contains a Federal Implementation Plan (FIP) to be implemented in States which do not submit the SIP revision called for in the October 27, 1998, final rule by the due date of September 30, 1999. This proposed rule can be accessed from:

⁽¹⁾utility, industrial, and commercial reciprocating internal combustion engines used for compressor and pump drives, electricity generation, and other industrial processes.

<http://tis.eh.doe.gov/oeпа/rules/63fr56394.pdf>. For industrial boilers and turbines, EPA is proposing a NO_x emissions reduction of 60% from an uncontrolled baseline (63 *FR* 56294). The DOE boiler/turbine unit at Oak Ridge National Laboratory (63 *FR* 56386) and the four units in Area D at Savannah River (63 *FR* 56390) are specifically called out in the proposed rule as being affected if a FIP is implemented in these States. Emission control measures on affected sources would need to be in place by May 1, 2003.

Proposed Rule on Section 126 Petitions

EPA issued a second proposed rule on October 21, 1998 (63 *FR* 56292), which can be accessed from: <http://tis.eh.doe.gov/oeпа/rules/63fr56292.pdf>. The proposed rule is in response to petitions submitted to EPA by eight northeastern States under §126(b) of the CAA. The States are seeking to mitigate the transport of NO_x across State boundaries. The petitions request that EPA make a finding that NO_x emissions from specific stationary sources are violating §110(a)(2)(D) of the CAA. EPA is proposing to find that seven of the eight §126 petitions have technical merit, and that sources in 19 States and the District of Columbia significantly contribute to ozone nonattainment in one or more of the petitioning states. EPA plans to determine by April 1, 1999 the technical merits of the petitions, when each portion of the petitions would be deemed granted or denied, and the NO_x emission limitations that would apply to any sources for which a petition is ultimately deemed granted (63 *FR* 56295). Affected sources (boilers, turbines, and fossil-fired generating units) would need to comply with control requirements no later than three years after a final positive finding on a petition (63 *FR* 56294). The DOE boiler/turbine unit at Oak Ridge

(63 *FR* 56386) is specifically called out in the proposed rule as being potentially affected by the EPA response to the §126(b) petitions. For boilers and turbines, EPA is again proposing NO_x emissions reduction of 60% from an uncontrolled baseline (63 *FR* 56294).

EPA intends to implement control requirements under the §126 rule through the "cap and trade" program in proposed 40 *CFR* Part 97 (63 *FR* 56294). EPA states that its proposed "cap and trade" program will encourage development of a market-based emissions trading program that would cut costs substantially more than traditional approaches. The program allows flexibility in choosing pollution controls because sources can buy and sell market-based "credits" to reduce their NO_x emissions. EPA envisions that there would be a common trading program for sources subject to either of the October 21, 1998, proposed rules, and for sources in States which choose to participate in the trading program under the October 27, 1998 SIP call (63 *FR* 56294).

EH-41 will track developments under these rulemaking actions and provide further guidance, and headquarters assistance (e.g., on possible "cap and trade" use) as appropriate. EH-41 plans to submit comments on the two proposed rules only if program and field offices identify substantive issues of concern. Comments should be forwarded by November 25, 1998, to Ted Koss of my staff at 202-586-7964 or theodore.koss@eh.doe.gov.

(original signed by Raymond P. Berube)

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Assistance