

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[FRL-6305-8]

**Findings of Significant Contribution and Rulemaking on
Section 126 Petitions for Purposes of Reducing Interstate
Ozone Transport**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to reopen comment period.

SUMMARY: The EPA is reopening the comment period for the notice of proposed rulemaking published on October 21, 1998 at 63 FR 56292, under section 126 of the Clean Air Act (CAA) to allow comment on how the proposed section 126 action may be affected by a recently proposed action by EPA to revoke the 1-hour national ambient air quality standard (NAAQS) for ozone for certain of the areas in States that have submitted petitions.

DATES: The EPA is establishing a comment period ending on March 26, 1999.

ADDRESSES: 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).

Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43, 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.

This document was immediately available after signature on EPA's web site at <http://www.epa.gov/airlinks>. 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.

FOR FURTHER INFORMATION CONTACT: Questions concerning today's action 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.

SUPPLEMENTARY INFORMATION:

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 CBI, is available for inspection from 8:00 a.m. to 4:00 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. 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 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be

identified by the docket number A-97-43. Electronic comments on this NPR rule may be filed online at many Federal Depository Libraries.

The EPA has issued a separate rule on nitrogen oxides (NOx) 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," (63 FR 57356, October 27, 1998; see notices included in the docket for this rulemaking). The rulemaking docket for that rule, hereafter referred to as the NOx State implementation plan (SIP) call (NOx SIP call), contains information and analyses that are relied upon in today's notice. Therefore, EPA is including by reference the entire NOx SIP call record for purposes of the section 126 rulemaking. Documents related to the NOx SIP call rulemaking are available for inspection in Docket No. A-96-56 at the address and times given above. In addition, the proposed NOx SIP call and associated documents are located at <http://www.epa.gov/ttn/oarpg/otagsip.html>. Modeling and air quality assessment information can be obtained in electronic form at <http://www.epa.gov.scram001/regmodcenter/t28.htm>. Information related to the budget development can be found at <http://www.epa.gov/capi>.

Additional information relevant to this section 126

rulemaking is available on the Agency's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network (TTN) via the web at <http://www.epa.gov/ttn/>. If assistance is needed in accessing the system, call the help desk at (919) 541-5384 in Research Triangle Park, NC.

Documents related to the Ozone Transport Assessment Group (OTAG), which did substantial technical work upon which the NOx SIP call and the section 126 rulemaking are based, may be downloaded directly from OTAG's webpage at <http://www.epa.gov/ttn/otag>. The OTAG's technical data are located at <http://www.iceis.mcnc.org/OTAGDC>.

I. Reopening of Comment Period

In August 1997, eight Northeastern States filed petitions under section 126 seeking to mitigate what they described as significant transport of one of the main precursors of ground-level ozone, NOx, across State boundaries. The eight petitioning States are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont (States or Petitioner States).

All of the Petitioner States directed their petitions at the 1-hour ozone NAAQS. Three of the States, Massachusetts, Pennsylvania, and Vermont, also directed their petitions at the new 8-hour ozone standard. In notices dated September 30, 1998 (63 FR 52213) and October

21, 1998 (63 FR 56292), EPA proposed action on the petitions. The October 21, 1998 notice of proposed rulemaking (section 126 NPR) contains the longer, more detailed version of the proposal. Familiarity with that notice is assumed for purposes of today's action. In the section 126 NPR, EPA proposed action under the 1-hour and/or the 8-hour standard as specifically requested in each State's petition.

In the section 126 NPR, EPA proposed which upwind States should be linked to each of the Petitioner States under the 1-hour NAAQS and, to the extent relevant, the 8-hour NAAQS. These links, which are identified in tables II-1 and II-2 in the section 126 NPR (63 FR 56303) are based on determinations made in the NOx SIP call. For the 1-hour NAAQS, the links were based on determinations as to which upwind States included source emissions which contribute significantly to nonattainment areas in the Petitioner States.

After publication of the section 126 NPR on October 21, 1998, EPA published a separate rulemaking that proposed to determine that the 1-hour ozone standard no longer applied to certain nonattainment areas, including the following areas in the Petitioner States: Boston-Lawrence-Worcester (E.MA), Massachusetts-New Hampshire; Portland, Maine; Portsmouth-Dover-Rochester, New Hampshire; and Providence

(all RI), Rhode Island (63 FR 69598, December 17, 1998) (revocation NPR). The proposal was based on the fact that those areas experienced three consecutive ozone seasons - 1996-1998 - in which the air quality did not violate the 1-hour ozone standard. In prior, similar rulemakings, EPA had determined that under these circumstances, the 1-hour standard no longer applied to such areas (63 FR 31014, June 5, 1998). If EPA promulgates a final determination that the 1-hour ozone standard no longer applies for those designated nonattainment areas in the Petitioner-States, EPA believes that contributions from sources in upwind States to those areas would no longer constitute a basis for EPA to approve the Petitioner States' requested findings as to the 1-hour ozone standard for those areas.

The EPA solicits comment on the impacts on the section 126 rulemaking that would result were EPA to finalize a determination that the 1-hour ozone standard no longer applies to the specified nonattainment areas in the Petitioner States.

The EPA has received two requests to reopen the comment period on the section 126 NPR in light of the proposed determination in the revocation NPR that the 1-hour NAAQS no longer applies to certain areas. See Docket A-97-43, numbers IV-G-69 (Midwest Ozone Group) and IV-G-56 (Hunton &

Williams, representing the Utility Air Regulatory Group).

This notice responds to those requests.

Dated: February 24, 1999.

Robert Perciasepe,
Assistant Administrator,
For the Office of Air and Radiation