

A 96-56
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Art:

This is in response to your question about changes that have been made to the NOx SIP Call package (Phase 2) from the package that was signed by Administrator Browner on January 5, 2001, but never published. This package is very similar to the prior one, except for a few changes discussed below which result either from judicial decisions or the delay in issuing the original proposed rule. Your office reviewed the prior proposal fully last summer. This proposed rule will be submitted to OMB for a review period of 2 weeks or less in accordance with an agreement reached between Lorie Schmidt and Rich Theroux.

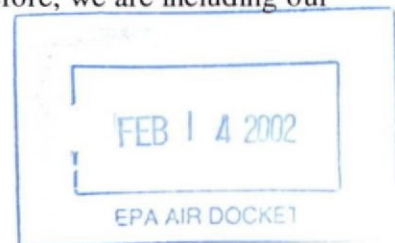
The prior proposal addressed remands from the March 3, 2000 Court decision on the NOx SIP Call. This action addresses the issues remanded, or remanded and vacated, for notice-and-comment rulemaking by the D.C. Circuit in Michigan v. EPA, which concerned the NOx SIP call (the "SIP call case"); Appalachian Power v. EPA, which concerned the technical amendments rulemakings for the NOx SIP call (the "Technical Amendments case"); and Appalachian Power v. EPA, which concerned the section 126 rulemaking (the "Section 126 case"). The issues addressed in this notice are: (i) the definition of electric generating units (EGUs) as it relates to certain small cogeneration units, (ii) the control level for stationary internal combustion engines (82 to 91 percent), (iii) the revised emissions budgets for Georgia and Missouri; (iv) a range of dates (6 months through 1 year from final promulgation of this rulemaking, but no later than April 1, 2003) by which States would be required to submit a SIP to address the emissions reductions reflected by our final action on the cogeneration unit and internal combustion engine issues and for Georgia and Missouri to submit SIPs meeting the full NOx SIP Call; (v) the compliance dates to meet the Phase II State budgets and the Georgia and Missouri budgets; (vi) the proposed changes to the statewide NOx budgets; and (vii) the exclusion of Wisconsin from the NOx SIP Call requirements. In addition, this action addresses a related issue: revised emissions budgets for Alabama and Michigan consistent with the Court's SIP Call decision.

This action also provides notice of how our proposed revision to the definition of EGUs as it relates to certain small cogeneration units would affect EPA's proposed re-allocation of the SIP Call budgets among three States – Connecticut, Massachusetts, and Rhode Island – in accordance with a February 1999 Memorandum of Understanding (64 FR 50036, 49987 (September 15, 1999)).

Due to the time delay from signature of the original document, the proposed SIP submission dates are different in this version of the notice. The proposed compliance date for Georgia and Missouri to submit SIPs to meet the full NOx budgets has also been changed (May 1, 2005). The issue of EGU definition as it relates to certain small cogenerators was remanded, or remanded and vacated, in all three of the cases cited above, therefore, we are including our responses to all three in this notice.

Please call me if you have any questions.

Lydia Wegman



Issue	1/5/01 Version	Current Version
Response to remands, and vacatures and remands in D.C. Circuit Court Decisions	3/3/00 <u>Michigan v. EPA</u> (NOx SIP Call)	3/3/00 <u>Michigan v. EPA</u> (NOx SIP Call) 5/15/01 <u>Appalachian Power v. EPA</u> (Section 126) 6/8/01 <u>Appalachian Power v. EPA</u> (NOx SIP Call Technical Amendments)
Definition of EGUs	Proposes minor revisions to definition of EGUs as it relates to small cogeneration units.	Same. Also, propose to respond to vacatur and remand re: cogens by maintaining same definition of EGU, thereby assuring that cogens are treated as EGUs
Control level for IC Engines	Propose range of 82%-91%	Same
Coarse grid portions of GA, MO, AL, MI	Propose partial State budgets for AL, GA, MI & MO (fine-grid only)	Same
Statewide emissions budgets	Propose to revise statewide emissions budgets	Same
SIP submittal dates	Propose 128 days through 1 year from final rule; no later than 4/1/02	Propose 6 mos. through 1 yr. from final rule; no later than 4/1/03
Compliance dates	Propose 5/31/04	Propose 5/31/04 for all States except propose 5/1/05 for GA & MO
Wisconsin	Propose to exclude WI from NOx SIP Call requirements	Same