



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

March 9, 1993

**MEMORANDUM**

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

SUBJECT: Impact of the Recent Onboard Decision on Stage II Requirements in  
Moderate Nonattainment Areas

FROM: John S. Seitz, Director  
Office of Air Quality Planning and Standards (MD-10)

TO: Director, Air, Pesticides and Toxics Management Division,  
Regions I and IV  
Director, Air and Waste Management Division,  
Region II  
Director, Air, Radiation and Toxics Division,  
Region III  
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On January 22, 1993, the United States Court of Appeals for the District of Columbia Circuit ruled that the Environmental Protection Agency's (EPA's) previous decision not to require onboard vapor recovery controls be set aside and onboard standards be promulgated pursuant to the Clean Air Act (Act), section 202(a)(6). The EPA is currently studying a schedule for complying with the court's ruling.

As a result of that court decision, several States have contacted EPA Regions and asked how the decision will affect Stage II requirements in moderate ozone nonattainment areas. States are required to adopt Stage II rules for such areas under section 182(b)(3). Section 202(a)(6) states that "the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards [i.e., onboard controls] . . . ."

These Act provisions indicate that a State's obligation to adopt, implement, and enforce Stage II rules for moderate areas continues until onboard rules are actually promulgated. The EPA will process Stage II rules as revisions to State implementation plans (SIP's). When onboard rules are promulgated, a State may withdraw its Stage II rules for moderate areas from the SIP (or from consideration as a SIP revision) consistent with its obligations under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirement of the Act. Further guidance on Stage II requirements for moderate nonattainment areas seeking redesignation will be forthcoming.

The EPA has recently issued findings of failure to submit Stage II rules covering about 20

moderate ozone nonattainment areas. If EPA has not promulgated the onboard rules and a State still has not submitted complete Stage II rules within 18 months of the findings letter, the Act imposes sanctions in that area.

There are compelling reasons for keeping Stage II requirements even after an onboard rule is promulgated. Vehicles equipped with onboard controls are not required to enter the market until the fourth model year after the onboard standards are promulgated, and even then only 40 percent of that model year's production would be required to have onboard controls. Full coverage of all new vehicles is not required until 6 model years after promulgation [see section 202(a)(6)]. It will take several more years for the fleet to turn over so that most cars in use have onboard controls. Thus, it could take 10-15 years before onboard controls may achieve the same overall degree of volatile organic compound (VOC) emissions reductions as Stage II controls.

In the meantime, section 182(b)(1)(A) requires moderate and above nonattainment areas to achieve a 15 percent VOC reduction by 1996. The VOC reductions achieved from Stage II controls may contribute significantly toward this 15 percent reduction requirement. Early indications are that many areas will have difficulty demonstrating the 15 percent reduction in VOC emissions needed to meet section 182(b)(1)(A) even when reductions from Stage II are included. Given the stringent criteria for receiving a waiver from the 15 percent reduction requirement, it is unlikely that many areas will receive a waiver. Therefore, areas that do not adopt Stage II may be faced with adopting much more stringent and less cost-effective controls on other sources in order to meet the 15 percent requirement. States that fail to submit approvable 15 percent demonstrations and fail to waive the requirement will also subject themselves to sanctions and Federal implementation plans.

In addition to the 15 percent requirement, moderate ozone nonattainment areas must demonstrate attainment of the ozone standard by December 31, 1996. Therefore, regardless of whether Stage II is necessary to meet the 15 percent reduction, Stage II may be needed for moderate areas to attain the ozone standard by the end of 1996. Moderate areas failing to attain by that date will be "bumped up" to a serious classification and will become subject to the requirements for serious areas, including the 1999 attainment date. At that time the area would then be subject to the Stage II requirement as well as the additional control requirements for serious areas [see section 182(I)]. These reclassified areas will have less than 3 years to adopt and implement additional controls before the serious area attainment date of 1999. Furthermore, failure to attain by that date will subject the areas to being "bumped up" to a severe classification and the more stringent requirements applicable for those areas.

The EPA is further considering how this court ruling affects a State's obligation under section 184(b)(2) regarding Stage II or measures that get equivalent emission reductions in the Northeast Ozone Transport Region. The section 184(b)(2) requirement applies to all areas in the Region regardless of the ozone designation or classification. Guidance concerning the Northeast Ozone Transport Region will be issued at a later date.

cc: M. Shapiro  
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