



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

18 AUG 1993

MEMORANDUM

SUBJECT: Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas
FROM: G. T. Helms, Chief *G. T. Helms*
Ozone/Carbon Monoxide Programs Branch (MD-15)
TO: Air Branch Chief, Regions I-X

Several Regional Offices have indicated that some States are interested in implementing their contingency measures before they are required to be implemented. The following discussion outlines the contingency measure requirements for ozone and CO nonattainment areas and provides a predecisional staff recommendation for the early implementation of contingency measures in certain ozone and CO nonattainment areas.

The Clean Air Act requires contingency measures in the following three cases:

1. Section 172(c)(9) requires moderate and above ozone and CO nonattainment areas (in addition to other areas) to adopt and submit contingency measures by November 15, 1993, as established by the Environmental Protection Agency (EPA). These measures must be implemented if the area fails to make reasonable further progress (RFP) or to attain the national ambient air quality standards (NAAQS) by the applicable attainment date.
2. Section 182(c)(9) requires serious and above ozone nonattainment areas to adopt contingency measures to be implemented if the area fails to meet any applicable milestone.
3. Section 187(a)(3) requires contingency measures to have been adopted by November 15, 1992 for CO nonattainment areas with a design value greater than 12.7 parts per million. These measures are to be implemented if any estimate of actual vehicle miles traveled (VMT) or updated projections of future VMT in the area which is submitted in an annual report exceeds the number predicted in the most recent prior forecast.

When triggered, the contingency measures must be implemented without further action by the State or EPA.

We are aware of several areas that wish to implement their contingency measures early, even though the measures are not needed now for their attainment demonstration or to meet RFP. It seems illogical to penalize nonattainment areas that are taking extra steps to ensure attainment of the NAAQS by having them adopt additional contingency measures now. Therefore, in cases of early implementation of State contingency measures, we do not feel that it is necessary now to adopt additional contingency measures to backfill for the early activation of contingency measures. Of course, if an area fails to attain, fails to demonstrate RFP, or misses a milestone, then additional contingency measures are needed and must be adopted in accordance with previous guidance ("General Preamble for Implementation of Title I of the Clean Air Act Amendments of 1990," Federal Register, April 16, 1992).

We trust that this information will be of help to you as you guide your States through the State implementation plan development process. I suggest that you provide a copy of this memo to your affected State and local agencies. If you have questions or comments, please contact Kimber Scavo at (919) 541-3354.

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