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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

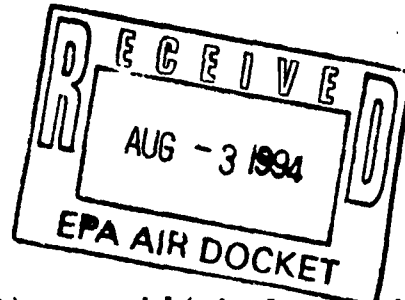
345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

A-94-41  
II-C-48

JAN 15 1993

4APT-APB

Honorable Ned McWherter  
Governor of Tennessee  
State Capitol  
Nashville, Tennessee 37219



Dear Governor McWherter:

The Clean Air Act, as amended in 1990 (CAA), established a number of new requirements that must be met by areas that are designated nonattainment for ozone (O<sub>3</sub>) and carbon monoxide (CO). Many of these requirements were due to be submitted by November 15, 1992.

This letter constitutes notification to the State of Tennessee that, pursuant to Section 179(a)(1) of the CAA, EPA has made a finding of failure to make a submittal of required programs for the nonattainment areas. These required programs are identified in the enclosure, which describes the programs for which a finding is being made. In general, EPA is making findings for programs or program elements for which the State failed to make a final submittal.

If Tennessee has not made a complete submittal of the identified programs within eighteen (18) months of this letter, EPA will be mandated to use its authority under Section 179(a) to impose at least one sanction identified in Section 179(b) in the affected nonattainment areas. Under Section 110(m) EPA may impose sanctions at any time after making a Section 179(a) finding. In addition, Section 110(c) provides that EPA promulgate a Federal Implementation Plan (FIP) no later than two (2) years after a finding is made under Section 179(a).

If EPA has not yet provided Tennessee with the results of a completeness determination on a particular submittal, then the submittal is being reviewed by EPA for completeness under Section 110(k). Since these SIP submittals are a high priority, they are being processed as expeditiously as possible. In the event that any submittal is determined to be incomplete or not approvable, the sanctions and FIP processes will start at the time EPA makes its incompleteness determination or upon final disapproval.

Once EPA has made a finding of failure to submit a required plan or plan element; determined a submittal to be incomplete or disapproved a submitted plan, sanctions under Section 179(a) will not be imposed if, within eighteen (18) months after the date of the finding or disapproval, EPA finds that the State has submitted a complete plan or, in the case of a disapproval, EPA

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deficiencies for which the plan was disapproved. EPA may choose to propose a FIP prior to the end of this 18-month period in anticipation of the obligation to promulgate regulations within two (2) years after a finding or disapproval. In general, EPA does not plan to take final action to promulgate a FIP until near the end of the two-year period.

EPA takes very seriously its responsibility to administer the CAA and considers meeting these requirements to be a high priority. Region IV staff looks forward to working closely with you and your staff to ensure that the requirements of the CAA are met in a timely and effective manner without adverse consequences.

Sincerely yours,

/s/ Patrick M. Tobin

Patrick M. Tobin  
Acting Regional Administrator

Enclosure

cc: Mr. J. W. Luna, Commissioner  
Tennessee Department of Environment  
and Conservation  
L & C Annex, 21st Floor  
401 Church Street  
Nashville, Tennessee 37243-1531

Mr. John W. Walton, P.E., Director  
Division of Air Pollution Control  
Tennessee Department of Conservation  
and Environment  
L & C Annex, 9th Floor  
401 Church Street  
Nashville, Tennessee 37243-1531

Mr. Paul J. Bontrager, P.E., Director  
Bureau of Environmental Health Services  
Metropolitan Health Department  
Nashville-Davidson County  
311 23rd Avenue, North  
Nashville, Tennessee 37203

Mr. J. Carter S. Gray, Manager  
Air Pollution Control Section  
Memphis-Shelby County Health Department  
814 Jefferson Avenue, Room 437  
Memphis, Tennessee 38105

CKEMKER:DISK:FINDING LTR:DOC NAME:  
KEMKER      HALEY      NEELEY      CALLAHAN      MILLER SMITH      TOBIN

## ENCLOSURE

EPA is making a finding under Section 179(a) of the CAA of failure to submit the plans identified in the following paragraphs. These findings, with the exception of the Section 507 Plan, trigger the 18-month clock for the mandatory imposition of sanctions under Section 179(a). If the State of Tennessee makes a complete submittal within that 18-month period, EPA will stop the sanctions clock.

On August 26, 1992 and on November 6, 1992, the State submitted requests to redesignate the Knoxville O<sub>3</sub> and the Memphis CO and O<sub>3</sub> nonattainment areas, respectively, to attainment. If EPA approves the redesignation requests, then the sanctions clock will be stopped for the following SIP elements for these areas. If sanctions have already been imposed, then EPA will withdraw the sanctions at that time.

### New Source Review (NSR)

For O<sub>3</sub> nonattainment areas, Section 182(a)(2)(C) of the CAA requires the states to submit to EPA by November 15, 1992, new or augmented NSR rules that meet the provisions of Part D of Title I of the CAA. The Part D NSR permitting provisions applicable in O<sub>3</sub> nonattainment areas are generally in Sections 172(c)(5), 173, 182, and 184 of the CAA. As of the date of this letter, the State has not officially submitted revisions to their NSR rules for the Knoxville, Memphis, and Nashville nonattainment areas that meet the provisions of Part D of Title I of the CAA. The State has made a pre-hearing submittal regarding revisions to their NSR rules which were the subject of a public hearing on December 17, 1992. The comment period for the hearing was extended to January 15, 1993. A letter to Mr. John Walton of the Tennessee Department of Conservation and Environment is being prepared with detailed comments resulting from the Regional review. In order for EPA to stop the sanctions clock, either Tennessee must make a final submittal for the nonattainment areas or EPA must approve the redesignation of these areas to attainment within eighteen (18) months of the date of this letter.

### Emission Statements

Under Section 182(a)(3)(B) of the CAA, the State of Tennessee was required to submit to EPA by November 15, 1992, a revision to the SIP requiring the owner or operator of each stationary source of NOx or VOC located in the Knoxville, Memphis, and Nashville nonattainment areas provide the State with a statement showing the actual emissions from that source. As of the date of this letter, the State has not officially submitted SIP revisions containing the emission statement requirements for the nonattainment areas.

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Tennessee submitted a proposed NOx rule and revisions to their VOC rules, which included provisions for the emission statements. These revisions were the subject of a public hearing held on May 19, 1992. It is our understanding that these rules have been Board-approved. However, as detailed in a December 14, 1992, letter from Mr. Neeley to Mr. Walton, an additional provision requiring the emission statements to be certified by a company official is necessary to meet the requirements of the CAA.

In a November 12, 1992, letter from Mr. Bontrager to Mr. Neeley, it was stated that the Nashville/Davidson County local agency believed that their current rules provide for the emission statements and only one minor change was necessary to comply with the CAA. However, as stated in a December 14, 1992, letter from Mr. Neeley to Mr. Bontrager, EPA reviewed the current SIP approved rules for Nashville and determined that they did not satisfy the emission statements requirement. In order for EPA to stop the sanctions clock, either Tennessee must make a final submittal of emission statement regulations for the State and the local programs or EPA must approve redesignation of these areas to attainment within eighteen (18) months of the date of this letter.

**Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) Catch-ups**

Under Section 182(b)(2) of the CAA, the State of Tennessee was required to submit to EPA by November 15, 1992, a SIP revision demonstrating compliance with the requirements of the VOC RACT Catch-up provisions for the Nashville nonattainment area. As of the date of this letter, the State has not officially submitted revisions to the VOC rules to meet the Catch-up requirements for either the State or the Nashville local program. On March 5, 1992, the State of Tennessee submitted draft revisions that were the subject of a public hearing held on May 19, 1992. It is our understanding that these revisions have been Board-approved. However, the Board-approved version of the rules does not meet all of the requirements of the CAA, as was detailed in the December 14, 1992, letter from Mr. Neeley to Mr. Walton. The local program has not made a submittal pertaining to the VOC RACT Catch-ups. In order for EPA to stop the sanctions clock, Tennessee must make a final submittal of VOC RACT Catch-up regulations for the Nashville nonattainment area within eighteen (18) months of the date of this letter.

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**Stage II Regulations**

Section 182(b)(3)(A) of the CAA requires each ozone nonattainment area classified moderate and above to submit a revision to the applicable implementation plan not later than November 15, 1992, to require all owners or operators of gasoline dispensing systems to install and operate a system for gasoline vapor recovery of emissions from the fueling of motor vehicles (Stage II). This requirement applies only to facilities which sell more than 10,000 gallons of gasoline per month, or 50,000 gallons per month in the case of an independent small business marketer. As of the date of this letter, only Nashville/Davidson County has submitted a Stage II rule for the Nashville nonattainment area. In order for EPA to stop the sanctions clock, the State must make a final submittal of Stage II regulations within eighteen (18) months of the date of this letter.

**Oxygenated Fuels Program**

Under Section 211(m), Tennessee was required to submit an oxygenated fuels program for the Tennessee portion of the Memphis Metropolitan Statistical Area (MSA) to EPA by November 15, 1992. As of the date of this letter, Tennessee has submitted a draft oxygenated fuels rule. In order for EPA to stop the sanctions clock, the State must make a final submittal of the oxygenated fuels program within eighteen (18) months of the date of this letter.

**Inspection and Maintenance (I/M) Program**

Under Section 182(a)(2)(B) of the CAA, Tennessee was required to submit to EPA a basic I/M program or a commitment from the Governor or his designee to adopt an I/M program meeting the requirements of the I/M rule. As of the date of this letter, Tennessee has submitted a letter, dated November 9, 1992, committing to implement most of the various provisions of the I/M rule. However, Tennessee has not submitted a schedule for implementing the required changes, nor have they identified which areas would be affected. Additionally, the letter was not subjected to public hearing.