the Michigan SIP, i.e., maintenance plan, on October 22, 1993. There are no provisions, however, requiring the USEPA to hold its own hearings. The USEPA is required to provide the opportunity for public comment. The USEPA announced opportunities on July 21, 1994 and September 8, 1994 for the public to submit comments. The USEPA believes those opportunities represent a more than ample opportunity for public input and comment on this redesignation.

## Comment

One commentor states that the air quality in the area has been poor and has gotten worse in the past 10 years. Offensive odors are apparent when it is slightly overcast or during the night when a local incinerator is burning.

### USEPA Response

This redesignation pertains to solely to ozone, and would not affect offensive odors from an incinerator, regardless of whether these odors are evident during slightly overcast skies or at night. Redesignating the area to attainment for ozone would neither solve nor contribute to the problem. The incinerator must continue to operate existing control equipment in compliance with its own applicable permits, rules and regulations. Ambient monitoring data from 1990 through 1994 demonstrates that the area is attaining the ozone NAAQS. This evidences that the air quality has improved at least since the period 1987-1989, the years of air quality data which were used to designate the area nonattainment for ozone.

#### Comment

A number of commentors urge the USEPA to reconsider the NAAQS for ground level ozone. One commentor notes that Canada's ozone standard' is 82 parts per billion (ppb) while the United States' (U.S.) is 125 ppb.6 This disparity in limits continues to be debated in the U.S. courts with the American Lung Association and others, who contend that the U.S. must lower its limit to 82 ppb, or lower, for health based reasons. Another commentor states that the current ozone NAAQS is not protective of the public health, and should be made more stringent to comply with the Congressional mandate to protect public health with an "adequate margin of safety."

#### USEPA Response

The USEPA is currently in the process of reevaluating the ozone NAAQS and expects to make a final decision in mid-1997. Until any change is made, however, the USEPA is bound to implement the provisions of the Act as they relate to the current standard, including those relating to designations and redesignation.

#### Comment

One commentor notes that MDNR has taken the position that the measured concentration must exceed 125 ppb before a legally actionable exceedance that contributes to a 3 year running average on the number of days with exceedances is triggered. As a result, MDNR has not included as excursions days with maximum numbers that actually do exceed the published standard of 0.12 ppm.

## USEPA Response

Published guidance (Guideline for the Interpretation of Ozone Air Quality Standards, January 1979, EPA-450/4-79–003), which is part of the ozone standard by reference in 40 CFR part 50, appendix H, notes that the stated level of the standard is determined by defining the number of significant figures to be used in comparison with the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up), and therefore, 0.125 ppm is the smallest three-decimal concentration value in excess of the level of the standard. Therefore, MDNR is following USEPA national guidance.

## Comment

The commentor objects to the USEPA's proposed disapproval of the redesignation request if a monitored violation of the ozone NAAQS occurs prior to final USEPA action on the redesignation. The commentor notes further that since the area has reached attainment of the NAAQS and has requested redesignation, a requirement to implement contingency measures to correct the problem would be sound policy in the event of a violation during 1994.

# USEPA Response

Section 107(d)(3)(E) of the Act establishes five criteria which must be satisfied in order for the USEPA to redesignate an area from nonattainment to attainment. One of these criteria is that the Administrator determine that the area has attained the NAAQS. See section 107(d)(3)(E)(i). This requirement clearly prohibits the Administrator from

redesignating areas that have not attained the NAAQS. If a violation had occurred prior to the USEPA's final action, the Detroit-Ann Arbor area would no longer have been in attainment and the USEPA could not redesignate the area to attainment. Furthermore, only a final rulemaking action can change an area's designation under 40 CFR part 81. Despite the July 21, 1994 proposal, the area must continue to meet this criterion until final rulemaking is published. As a result, the USEPA must consider air quality data that is collected until the date of final rulemaking and revision of the area's nonattainment status under 40 CFR part 81.

In addition, the USEPA's September Calcagni memorandum, page 5, states that Regions should advise States of the practical planning consequences if the USEPA disapproves the redesignation request or if the request is invalidated because of violations recorded during USEPA's review. This policy has been followed in disapproving the Richmond, Virginia redesignation, which was disapproved due to violations of the ozone NAAQS occurring prior to final action on a proposed approval of the redesignation (May 3, 1994, 59 FR 22757).

With respect to a requirement to implement contingency measures in the event of a violation prior to final approval of a redesignation, the USEPA notes that the Detroit-Ann Arbor area, like any other nonattainment area, is subject to the contingency measure requirements of section 172(c)(9) until the area is redesignated to attainment.

In any case, the commentor's concern is moot, since no violations of the ozone NAAQS occurred during the 1994 ozone season.

## Comment

Several commentors request that the Detroit-Ann Arbor area be denied redesignation to attainment until it is clearly shown, using 1994 data, that the area is in attainment. Other commentors noted that although the Detroit-Ann Arbor area experienced only one ozone exceedance from 1991 to 1993 or 1990 to 1992, it experienced at least three ozone exceedances in 1994 alone. Commentors provided specific monitored ozone values recorded at Detroit-Ann Arbor area monitors during the 1994 ozone season. The following ozone concentrations from Detroit-Ann Arbor area monitors were provided: 133 ppb at the Algonac monitor, 142 ppb at the New Haven monitor, 145 ppb at the Warren monitor, 178 ppb at the Port Huron monitor, and 127 ppb at the Oak Park monitor.

<sup>&</sup>lt;sup>6</sup>This is equivalent to 0.125 parts per million (ppm). This is the reference used by the commentor, presumably, to illustrate the difference between the Canadian objective and U.S. standard.