1993, and 1992–1994), and that this, along with the fact that real emission reductions have occurred, indicates that attainment is not due to unusually favorable, temporary meteorological conditions.

Comment

A few commentors noted that "Ozone Action!" days were declared on selected bad meteorology days, with extensive media publicity asking the public to reduce activities having the potential to emit ozone precursors. It is entirely possible that the voluntary reduction program had an effect in the summer of 1994 to reduce potential ozone excursions. The existence of the voluntary program should be considered in evaluating the summer 1994 data. In addition, one commentor stated that this is an attempt to deny industry's responsibility to reduce emissions by shifting the burden onto private households though these "Ozone Action!" days.

USEPA Response

Attainment has been demonstrated for 1990-1992, and 1991-1993, and an attainment level of emissions identified at which time no such voluntary program was being implemented in the Detroit-Ann Arbor area. Michigan has also demonstrated through emission projections that the precursor emissions will remain below the attainment year levels thorough the year 2005 without accounting for any emission reductions that may have resulted from implementation of a voluntary program. With respect to any possible impact of a voluntary emission reduction program on 1994 emissions, the USEPA notes that the commentor has not provided and the USEPA has no basis for attempting to assess the impact of such program on emission and monitored air quality levels. Thus, the USEPA has no basis for any determination regarding the impact of the program, and does not believe that speculation regarding such impacts provides a basis for disapproving the redesignation.

Comment

One commentor states that emission control programs mandated by the Act cannot be converted to contingency measures, that the Act does not authorize conversion of required emission reduction programs to contingency measures and that section 175A(d) imposes a mandatory duty on an area that is redesignated to continue the emission control programs the area adopted prior to redesignation. The commentor further elaborates by stating that "the SIP implementation"

requirement is included in the section discussing contingency provisions because contingency provisions automatically become effective if an area fails to implement the applicable SIP requirements. Inclusion of the provision in section 175A(d) does not by any stretch of statutory interpretation authorize converting a control measure that must be complied with now to a contingency measure that only need be complied with at some later date, if ever." The commentor also contended that allowing the conversion of mandatory control programs to contingency measures is bad policy since the public will suffer harmful exposure during the time necessary to implement the program after the event triggering the contingency measures occurs. According to the commentor, the delay would be exacerbated due to the USEPA's failure to require adopted regulations for the programs.

USEPA Response

The Act contains many requirements that States adopt certain measures specifically for nonattainment areas. Those requirements do not by their own terms continue to apply to an area after it has been redesignated to attainment. Moreover, nothing in section 175A itself suggests that these requirements must continue to be met in redesignated areas. Section 175A(d) is specifically and clearly applicable to contingency provisions and their inclusion in a section 175A maintenance plan. Section 175A(d) establishes that SIP revisions submitted under 175A must contain contingency provisions, as may be necessary, to assure that the State will promptly correct any violation of the ozone NAAQS that occurs after redesignation to attainment. It further requires that these contingency provisions include a requirement for the State to implement all measures with respect to the control of ozone that were in the nonattainment SIP before the area was redesignated. This provision clearly demonstrates that section 175A(d) contemplates that there may be fully adopted but unimplemented control measures in the SIP prior to redesignation that will be shifted into the maintenance plan as contingency measures. Nothing in section 175A suggests that the measures that may be shifted into the contingency plan do not include programs mandated by the Act when the area was designated nonattainment. As section 175A(a) requires adoption and implementation of measures to ensure maintenance, it indicates that measures may not be converted to contingency provisions unless the State demonstrates that the

standard will be maintained in the absence of the implementation of such measures.

The USEPA disagrees with the commentor's assertion that its policy regarding the conversion of emission control programs mandated by the Act to contingency measures is bad policy due to delays that could occur. Programs required to be adopted and submitted to the USEPA prior to the submission of a redesignation request will already have been adopted and may be implemented with minimal delay in the event contingency measures are triggered. Such measures satisfy the requirement of section 175A(d) that the contingency provisions "promptly correct any violation of the standard which occurs after redesignation.'

With respect to the commentor's specific assertions that the USEPA should require upgrades to basic I/M and NSR programs to be fully adopted by the State and approved by the USEPA prior to redesignation, the USEPA notes first that it does not interpret the Act to require Michigan to adopt the I/M upgrades fully now if it otherwise qualifies for redesignation to attainment. Rather, as evidenced in the USEPA's final I/M rule revisions, described above and in the proposal, Michigan is required only to adopt the upgrades as a contingency measure in order to meet the requirements for basic I/M in section 182(a)(2)(B)(i) and (b)(4). Michigan has done that. Under its submittal, Michigan must implement basic I/M 18 months from the date the Governor decides to implement the program as a contingency measure and Michigan's contingency plan contains other control measures which would result in near term emission reductions that will be more effective towards correcting a violation of the NAAQS than a NSR program, such as Stage I or Stage II vapor recovery.

The commentor also suggests that since the current ozone NAAQS is not sufficiently protective of public health the USEPA should not be concerned with over control. In response, as previously discussed, the USEPA is currently reviewing the ozone NAAQS. Unless and until the NAAQS is revised, the USEPA is to make judgements on the basis of the current NAAQS, e.g., determine whether a maintenance plan assures maintenance of the current ozone NAAQS.

Comment

One commentor noted that Stage II vapor recovery was expected to account for at least 22.5 tons per day (TPD) or 17 percent of the 15 percent ROP plan, that mobile sources account for 50