

the Cleveland, Toledo, Dayton, and Cincinnati ozone nonattainment areas in the State of Ohio from the 1992 through 1994 ozone seasons.<sup>3</sup> The following ozone exceedances were recorded for the period from 1992 to 1994 (the average number of expected exceedances for this three year period are also presented):

*Cleveland:* Medina County, 6364 Deerview Lane (1994) - 0.127 ppm; average expected exceedances: 0.5 (based only on two years of monitoring data). Cuyahoga County, 891 E. 152 St. (1993) - 0.126 ppm, (1994) 0.127 ppm and 0.125 ppm; average expected exceedances: 1.0.

*Cincinnati-Hamilton Interstate Area: Ohio Portion:* Butler County, Schuler and Bend (1993) - 0.131 ppm; average expected exceedances: 0.3. Hook Field Municipal (1993) - 0.138 ppm; average expected exceedances: 0.3. Clermont County, 389 Main St. (1994) - 0.128 ppm; average expected exceedances: 0.3. Warren County, Southeast St. (1994) - 0.139 ppm and 0.128 ppm; average expected exceedances: 0.7.

*Kentucky Portion:* Campbell County, 9th and Maple (1993) - 0.126 ppm; average expected exceedances: 0.3.

*Toledo:* Lucas County, 306 N. Yondota (1993) 0.126 ppm, (1994) 0.142 ppm; average expected exceedances: 0.7. Friendship Park (1993) 0.126 ppm; average expected exceedances: 0.3.

*Dayton:* Clark County, 5171 Urbana Road (1994) 0.125 ppm; average expected exceedances: 0.5. Montgomery County, 2100 Timberlane (1993) 0.125 ppm; average expected exceedances: 0.3.

On the basis of this review, USEPA has concluded that these areas have attained the ozone standard during the 1992-94 period and continues to attain the standard at this time.

#### 15% Plan/Attainment Demonstration Submittal Status

On March 14, 1994, the State of Ohio submitted revisions to the ozone portion of the Ohio SIP which included fifteen percent rate of progress plans for the Toledo, Dayton, Cleveland and Cincinnati ozone nonattainment areas. These fifteen percent plans were deemed complete by USEPA on August 8, 1994. Also included in this SIP revision were attainment demonstrations for the Toledo, Dayton

and Cleveland ozone nonattainment areas. These attainment demonstrations were deemed complete on September 14, 1994. Upon the effective date of this determination, the State may withdraw these SIP revisions.

If Ohio withdraws the submitted 15 percent plan or attainment demonstration for Cleveland and Cincinnati areas through the submission of a letter from the Governor or his or her designee, the motor vehicle emissions budget test would no longer apply for conformity purposes in that area<sup>4</sup>. The build/no-build and less-than-1990 test would apply until a maintenance plan is approved. This is because the area would not be subject to the 15 percent and attainment demonstration requirements of section 182(b)(1) for so long as the area continues to attain the standard. If the submitted SIP is not withdrawn, the budget in that submission will continue to apply for conformity purposes.

However, areas that are already demonstrating conformity to a submitted maintenance plan pursuant to section 51.448(i) (Toledo and Dayton) may continue to do so, or may elect to withdraw the applicability of the submitted maintenance plan budget for conformity purposes until the maintenance plan is approved. If the applicability of the submitted maintenance plan budget is withdrawn for conformity purposes, the build/no-build and less-than 1990 tests will apply until the maintenance plan is approved.

#### Conclusion

The USEPA has determined that the Cleveland (which includes the Counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit); Toledo (which includes the Counties of Lucas and Wood); Dayton (which includes the counties of Clark, Greene, Miami and Montgomery); and the Ohio portion of the Cincinnati-Hamilton interstate (which includes the Counties of Butler, Clermont, Hamilton and Warren) ozone nonattainment areas have attained the ozone standard and

continue to attain the standard at this time.

As a consequence of this determination that the Cleveland, Toledo, Dayton and Cincinnati ozone nonattainment areas have attained the ozone standard, the requirements of section 182(b)(1) concerning the submission of the 15 percent plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures will not be applicable to the area so long as the area does not violate the ozone standard.

It should be emphasized that these determinations are contingent upon the continued monitoring and continued attainment and maintenance of the ozone NAAQS in the affected area. If a violation of the ozone NAAQS is monitored in the Cleveland, Toledo, Dayton and Cincinnati ozone nonattainment areas (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS), USEPA will provide notice to the public in the **Federal Register**. Such a violation would mean that the area(s) would thereafter have to address the requirements of section 182(b)(1) and 172(c)(9) since the basis for the determination that they do not apply would no longer exist.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action will become effective on August 14, 1995. However, if USEPA receives adverse comments by July 31, 1995, then USEPA will publish a document that withdraws the action, and will address those comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must

<sup>3</sup> The Cincinnati-Hamilton Interstate Area includes the following counties in Ohio: Butler, Clermont, Hamilton and Warren; and the following counties in Kentucky: Boone, Campbell and Kenton. If a violation were monitored in the Kentucky portion of the interstate area (or the Ohio portion of the Interstate area) these nonattainment area provisions would then be applicable.

<sup>4</sup> For Toledo and Dayton, the Ohio Department of Transportation and metropolitan planning organizations demonstrated conformity to the 15 percent plan and attainment demonstration motor vehicle emissions budgets for illustrative purposes in 1994. The USEPA provided written guidance to the Ohio Department of Transportation and the Ohio Environmental Protection Agency that the submitted maintenance plans for Toledo and Dayton were to be used in lieu of the 15 percent plans and attainment demonstrations in letters dated July 1, 1994, and May 9, 1995. Ohio may withdraw the 15 percent plan and attainment demonstrations submitted for the Dayton and Toledo areas. This will not affect USEPA's interpretation of the applicability of these SIPs for conformity purposes.