BOB TAFT
GOVERNOR
STATE OF OHIO

July 31, 2000

The Honorable Carol Browner
Administrator
United States Environmental Protection Agency
WSM W12001101
401 M Street SW
Washington, DC 20460

RE: Attainment Designations

Dear Ms. Browner,

On April 28, 2000, Regional Administrator Francis X. Lyons wrote to me with information related to air quality designations under the eight-hour ozone standard. I am disappointed that U.S. EPA is proceeding with designations under the eight-hour ozone standard given that the U.S. Court of Appeals for the D.C. Circuit has remanded the standard back to the Agency and the U.S. Supreme Court currently has the case under consideration. The court did provide U.S. EPA with the opportunity to redesignate areas under a revised standard. However, the decision is very unclear with respect to what standard the court was discussing. There is no doubt that the decision was clear that the new standard is not enforceable.

Under separate cover, Ohio EPA Director Christopher Jones will provide U.S. EPA with Ohio's analysis of attainment under the remanded eight-hour standard. However, I wanted to personally convey my concerns that U.S. EPA is proceeding with redesignation just months before the U.S. Supreme Court rules on the validity of the standard. I share the concerns expressed by my colleagues in Illinois, Indiana, Virginia, Kentucky, West Virginia and other states that you should not be moving forward with designations at this time.

Should you proceed with redesignation, please consider this letter when preparing the nonattainment area designations for Ohio for the eight-hour ozone standard.

Sincerely,

Bob Taft
Governor

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July 31, 2000

Francis X. Lyons
Regional Administrator
U.S. EPA, Region V
77 West Jackson Boulevard
Chicago, Il 60604

RE: Attainment Designations

Dear Mr. Lyons:

Governor Bob Taft has corresponded with U.S. EPA Administrator Carol Browner to convey the State's disappointment that U.S. EPA is proceeding with designations under the eight-hour ozone standard, and to urge that this course of action be reconsidered. We believe that while the U.S. Court of Appeals for the D.C. Circuit did address the issue of redesignations under a revised standard, the decision is unclear with regard to which standard the court meant. The court was quite clear, however, that the new standard is not enforceable. Given the ambiguity in the redesignation language of the decision and the fact that the U.S. Supreme Court has agreed to consider the case, we believe that the best course of action is to delay designations until after the appeal is resolved.

U.S. EPA has issued guidance to assist states in the development of the nonattainment boundaries. The guidance identifies the boundaries of the metropolitan statistical area (MSA) or combined metropolitan statistical area (CMSA) as the initial size with full counties being the smallest geographic breakdown. Information such as population, industry (or lack of industry), location relative to the urban core (upwind or downwind), and modeling information can be used as justification for deviations from a MSA or CMSA boundary. Ohio EPA does not believe that U.S. EPA's actions are consistent with the D.C. Court of Appeals decision, and does not believe that redesignation under the eight-hour standard should be pursued at this time. Nevertheless, Ohio EPA has reviewed this guidance and has developed a preliminary analysis of attainment status.

Ohio EPA's analysis for each urban MSA within the state indicates that with respect to each of these areas, the entire MSA or CMSA would be non-attainment with the following exceptions:

- Toledo MSA: exclude Fulton County, upwind rural area
- Lima MSA: exclude Auglaize County, upwind rural area
- Cincinnati/Hamilton CMSA: exclude Brown County, upwind rural area add Clinton County, downwind monitored violations
- Columbus MSA: add Knox, downwind monitored violations

- Steubenville/Weirton MSA: exclude Jefferson County, monitored attainment
- Wheeling MSA: exclude Belmont County, upwind rural area
- Youngstown/Warren MSA: exclude Columbiana County, upwind rural area
- Canton/Massillon MSA: exclude Carroll County, upwind rural area.

Also, based upon the available monitoring data, the following counties would be classified as attainment: Preble, Logan, Union, and Jefferson. The remaining counties would be categorized as unclassifiable.

Enclosed is a map of Ohio that graphically depicts our initial analysis of the nonattainment areas. While we are providing an initial analysis to U.S. EPA in accordance with your April 28, 2000 letter, we do not believe that U.S. EPA's plans to use these designations for nonattainment new source review and transportation conformity is consistent with the court's ruling. The court clearly expressed that the designation process would not result in any regulatory significance. If U.S. EPA proceeds with nonattainment new source review based upon eight-hour designations, such action would appear to contradict the court's ruling.

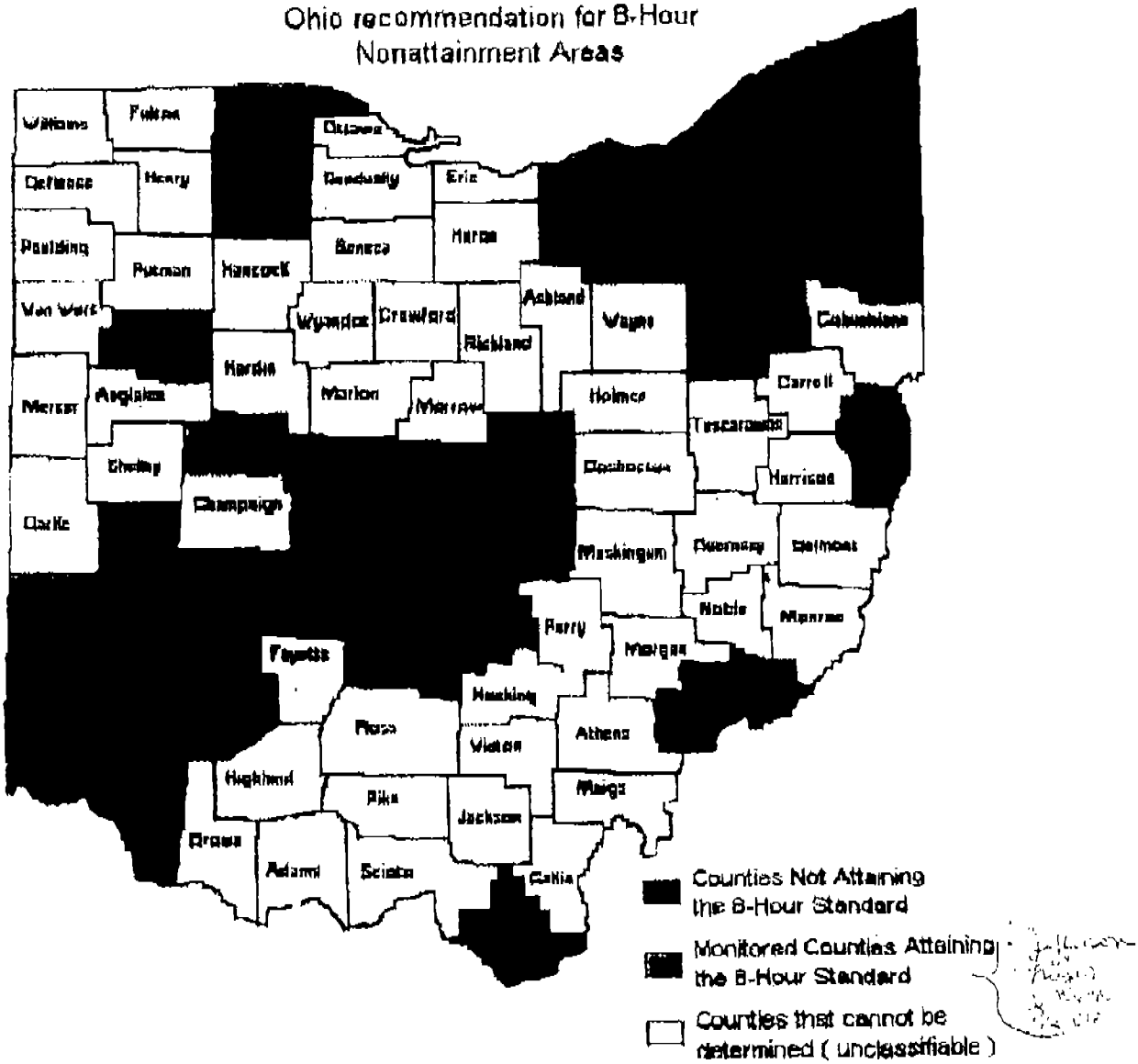
Should you proceed with redesignation, please consider this letter when preparing the nonattainment area designations for Ohio for the eight-hour ozone standard.

Sincerely,

Christopher Jones
Director

Enclosure

Ohio recommendation for 8-Hour Nonattainment Areas



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NEWS RELEASE

For Release: July 31, 2000

Contact: Heidi Griesmer
(614) 644-2160

Ohio EPA Urges U.S. EPA not to Designate Nonattainment Areas; Provides Ozone Information to U.S. EPA

In a letter sent to U.S. EPA today, Ohio EPA maintained that the federal Agency's plan to designate nonattainment areas under the more stringent federal eight-hour ozone standard is not consistent with a recent court decision, which ruled the eight-hour standard unenforceable. Ohio EPA asked U.S. EPA not to move forward with the designations.

"This ozone standard has been ruled unenforceable by the U.S. Court of Appeals for the District of Columbia. It doesn't make sense for U.S. EPA to designate nonattainment areas before a final decision has been made by the U.S. Supreme Court," said Ohio EPA Director Christopher Jones. "We're providing data to U.S. EPA, but we are not recommending the designation of any nonattainment areas in Ohio."

Ohio EPA forwarded a list of 32 counties to U.S. EPA, including areas where air quality has exceeded the eight-hour standard, and nearby areas that may be contributing to ozone problems in those areas. Director Jones urged U.S. EPA to rely on this data, based on actual air quality readings, if the federal agency is determined to go ahead with the designation process. U.S. EPA's Web site (www.epa.gov/ttn/rto/areas/maps/ohmax4.gif) lists 85 Ohio counties as potentially violating the new standard, based on computer projections and 1995 weather conditions. "Because a nonattainment designation can have a substantial impact on economic development and transportation options for communities, it is important that those designations be based on the best information available," he said.

The counties are:

- Cleveland/Akron area: Cuyahoga, Lake, Lorain, Geauga, Ashtabula, Portage, Medina and Summit
- Youngstown/Warren area: Trumbull and Mahoning
- Canton/Massillon area: Stark
- Toledo area: Lucas and Wood
- Lima area: Allen
- Columbus area: Franklin, Delaware, Madison, Pickaway, Fairfield, Licking and Knox
- Dayton area: Montgomery, Clark, Greene, and Miami
- Cincinnati area: Hamilton, Butler, Clermont, Warren and Clinton
- Marietta area: Washington
- Huntington, W.V., area: Lawrence

Currently, air pollution regulations set a limit for how high ozone levels can be over a one-hour period before the standard is exceeded. All Ohio counties are currently meeting the one-hour standard.

U.S. EPA developed a more stringent standard that limits ozone levels over an eight-hour period. Ohio and several other states appealed U.S. EPA's rule to prevent implementation of the new standard, arguing that it is not based on scientific evidence. The U.S. Circuit Court of Appeals for the District of Columbia agreed with the states, and ordered U.S. EPA not to enforce the eight-hour standard. U.S. EPA appealed that decision to the U.S. Supreme Court, which agreed to hear the case.

In the meantime, however, states were to submit recommendations to U.S. EPA identifying areas that would not meet the new standard if it were to be enforced. U.S. EPA will consider the recommendations, and has said it plans to officially designate nonattainment areas in 2001. If the U.S. Supreme Court upholds the eight-hour standard, these areas would be required to implement addition air pollution control measures to help them achieve the new standard. The state would have a variety of control measures to choose from to meet this obligation. No decisions have been made yet on what controls would be imposed in Ohio to meet the new standard.

Additional information regarding Ohio ozone air quality data can be accessed on its World Wide Web page at www.epa.state.oh.us/dapc/general/ozone.html, or requested by calling Bill Spires in the Division of Air Pollution Control at (614) 644-6316.

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