

**PRE-PUBLICATION NOTICE.** The EPA Administrator, Lee Zeldin, signed the following notice on August 6, 2026, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the proposed rule, it is not the official version of the proposed rule. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) {in Docket No. EPA-HQ-OAR-2026-2179}. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

**[EPA-HQ-OAR-2026-2179; FRL-13567-01-R1]**

### **Response to Clean Air Act Section 176A Petition from New Hampshire**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed action on petition.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to grant a Clean Air Act (CAA or Act) petition submitted by the state of New Hampshire on December 24, 2025. The petition requests that the EPA remove the State of New Hampshire from the Ozone Transport Region (OTR) based on New Hampshire's continued attainment of the ozone National Ambient Air Quality Standards (NAAQS) and technical analyses demonstrating that the additional control of emissions from the state will not significantly contribute to ozone attainment in any area in the OTR. The OTR was established by the 1990 Clean Air Act Amendments and included the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the District of Columbia, and portions of northern Virginia.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLIC HEARING BELOW]**.

*Public hearing:* The EPA will hold a virtual public hearing on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may close

a session 15 minutes after the last registered speaker has testified if there are no additional speakers. The EPA will announce further details at <https://www.epa.gov/nh/new-hampshire-clean-air-act-176a-petition-im-program-sip-revision>.

The EPA will begin pre-registering speakers for the hearing on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. To register to speak at the virtual hearing, please use the online registration form available at <https://www.epa.gov/nh/new-hampshire-clean-air-act-176a-petition-im-program-sip-revision>. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers at: <https://www.epa.gov/nh/new-hampshire-clean-air-act-176a-petition-im-program-sip-revision>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments electronically to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/nh/new-hampshire-clean-air-act-176a-petition-im-program-sip-revision>.

While the EPA expects the hearing to go forward as set forth above, please monitor our website

or contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advanced notice.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2026-2179 at <https://www.regulations.gov>, or via email to [rackauskas.eric@epa.gov](mailto:rackauskas.eric@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA

Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. The EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

**FOR FURTHER INFORMATION CONTACT:** Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 5-MI), Boston, MA 02109-3912, telephone number: (617) 918-1628, email address: rackauskas.eric@epa.gov.

## **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

The information in this **SUPPLEMENTARY INFORMATION** section of this preamble is organized as follows:

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### **I. General Information**

- A. Where can I get a copy of this document and other related information?*

Publicly available docket materials are available at <https://www.regulations.gov> identified by Docket ID No. EPA-HQ-OAR-2026-2179. In addition to being available in the docket, an electronic copy of this document will be posted at <https://www.epa.gov/nh/new-hampshire-clean-air-act-176a-petition-im-program-sip-revision>.

*B. What acronyms, abbreviations, and units are used in this preamble?*

APA Administrative Procedure Act

AGL Above Ground Level

BACT Best Available Control Technology

CAA or Act Clean Air Act

CAIR Clean Air Interstate Rule

CSAPR Cross-State Air Pollution Rule

CFR Code of Federal Regulations

CTG Control Techniques Guideline

D.C. Circuit United States Court of Appeals for the District of Columbia Circuit

EGU Electric Generating Unit

EPA U.S. Environmental Protection Agency

FIP Federal Implementation Plan

FR *Federal Register*

HYSPLIT Hybrid Single-Particle Lagrangian Integrated Trajectory

I/M program Inspection and Maintenance Program

LAER Lowest Achievable Emission Rate

LMP Limited Maintenance Plan

NAM North American Mesoscale Model

NAAQS National Ambient Air Quality Standard

NEI National Emissions Inventory

NHDES New Hampshire Department of Environmental Services

NNSR Nonattainment New Source Review

NOAA National Oceanic and Atmospheric Administration

NO<sub>x</sub> Nitrogen Oxides

NSPS New Source Performance Standard

NSR New Source Review

OAR Office of Air and Radiation

ORVR Systems Onboard Refueling Vapor Recovery Systems

OTC Ozone Transport Commission

OTR Ozone Transport Region

PM Particulate Matter

PPB Parts per Billion

PPM Parts per Million

PSD Prevention of Significant Deterioration

PTE Potential to Emit

RACT Reasonably Available Control Technology

RFP Reasonable Further Progress

ROP Rate of Progress

SIP State Implementation Plan

SO<sub>2</sub> Sulfur Dioxide

VOC Volatile Organic Compound

## **II. Executive Summary of the EPA's Proposed Decision on the New Hampshire CAA**

### **Section 176A Petition**

On December 24, 2025, the state of New Hampshire petitioned the EPA pursuant to CAA section 176A(a)(2) for the removal of the state of New Hampshire from the OTR. New Hampshire concludes that emissions from the state are not significant contributors to ozone nonattainment in other States in the OTR. Therefore, removing New Hampshire from the OTR would not degrade the air quality in New Hampshire or in any other state. The petition includes monitoring data and technical analyses to support a demonstration that the state is attaining the ozone NAAQS and that emissions from New Hampshire do not significantly contribute to ozone nonattainment in any area of the OTR. For the reasons described in this document, the EPA is proposing to grant the petition on the basis that removing the state from the OTR would not result in emissions changes that would significantly contribute to nonattainment or interfere with maintenance in any area of the OTR.

Section 176A(a) of the CAA provides the Administrator with the authority to develop interstate transport regions for particular pollutants where the Administrator determines that interstate transport of air pollutants from one or more States contributes significantly to violations of air quality standards in other States. In the 1990 CAA Amendments, Congress created the OTR by statute under CAA section 184(a) to address the interstate transport of ozone pollution in the Northeast and Mid-Atlantic regions of the United States (U.S.).

The creation of an interstate transport region requires establishing a transport commission with representatives from each state who make recommendations to mitigate interstate pollution. The Ozone Transport Commission (OTC) was formed in 1991 under section 184 of the CAA, serving as the multi-state body responsible for advising the EPA and States on developing and implementing regional solutions to ground-level ozone issues in the Northeast and Mid-Atlantic

regions. Model rules and programs designed through the OTC may be adopted by the individual States through their own rulemaking processes. Under CAA section 184(c), the OTC may petition the EPA to approve additional control measures to be applied within all or part of the transport region. New Hampshire seeks to remove the state from the OTR, thereby releasing those areas from OTC recommendations and applicable control requirements established under CAA section 184.

Section 176A(a)(1) of the CAA provides the Administrator with authority to “add any state or portion of a state to any [transport] region . . . whenever the Administrator has reason to believe that the interstate transport of air pollutants from such state significantly contributes to a violation of the standard in the transport region.” Conversely, CAA section 176A(a)(2) allows the Administrator to “remove any state or portion of a state from [a transport] region whenever the Administrator has reason to believe that the control of emissions in that state or portion of the state . . . will not significantly contribute to the attainment of the standard in any area in the region.” These provisions of CAA section 176A are made applicable to the OTR by virtue of the second sentence of CAA section 184(a).

For the reasons fully described in this document, and in consideration of monitoring data, technical demonstrations, and impacts to air quality controls in the areas to be removed, the EPA believes the removal of New Hampshire from the OTR does not contribute to a violation of any ozone standard in any area of the OTR, and that control of emissions from New Hampshire will not significantly contribute to attainment of any ozone standard in any area of the OTR.

Accordingly, the EPA is proposing to grant the CAA section 176A petition filed by the state of New Hampshire to remove the state from the OTR.

### **III. Background and Legal Authority**

#### *A. Ozone Formation and Impacts*

Ground-level ozone is predominantly a secondary air pollutant created by chemical reactions between ozone precursors including nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) in the presence of sunlight. Emissions from various stationary and mobile sources are some of the major anthropogenic sources of ozone precursors. The potential for ground-level ozone formation tends to be highest during months with warmer temperatures and stagnant air masses; therefore, ozone levels are generally higher during the summer months.<sup>1</sup> Increased temperatures may also increase emissions of anthropogenic and biogenic VOC emissions and can indirectly increase anthropogenic NO<sub>x</sub> emissions as well (*e.g.*, through increased electricity generation to power air conditioning).

The EPA has regulated ozone pollution and the precursor emissions that contribute to ozone for the last five decades.<sup>2</sup> Currently, there are two NAAQS in effect for ozone.<sup>3</sup> On March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 75 ppb.<sup>4</sup> On October 1, 2015, the EPA lowered the primary and secondary standards to 70 ppb.<sup>5</sup> Section 109(d)(1) of the Act requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge concerning the effects of the pollutant on public health and welfare. Under this provision, the EPA is to periodically review and, if appropriate, revise the NAAQS, based on the revised air

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<sup>1</sup> Rasmussen, D.J. et. al. (2011) Ground-level ozone-temperature relationship in the eastern US: A monthly climatology for evaluating chemistry-climate models. *Atmospheric Environment* 47: 142-153.

<sup>2</sup> Primary and secondary NAAQS were first established for photochemical oxidants in 1971. 36 FR 8186 (April 30, 1971). In 1979, the EPA revised the NAAQS to change the indicator from photochemical oxidants to ozone (O<sub>3</sub>) and to revise the primary and secondary standards. 44 FR 8202 (Feb. 8, 1979). In 1997, the EPA once again revised the primary and secondary standards for ozone NAAQS. 62 FR 38856 (July 18, 1997). In 2015, the 1997 ozone NAAQS were revoked. 80 FR 12264 (March 6, 2015).

<sup>3</sup> The 1997 ozone NAAQS were revoked in 2015. 80 FR 12264 (March 6, 2015).

<sup>4</sup> See National Ambient Air Quality Standards for Ozone, Final Rule, 73 FR 16436 (March 27, 2008).

<sup>5</sup> See National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015).

quality criteria. The EPA last reviewed the ozone NAAQS in 2020 at which time the 2015 primary and secondary ozone NAAQS were retained.<sup>6</sup>

In accordance with CAA section 107(d), the EPA designates areas as “attainment” (meeting the standard), “nonattainment” (not meeting the standard), or “unclassifiable” (insufficient data to classify). States with areas designated as nonattainment must develop and submit State Implementation Plans (SIPs) to the EPA with the goal of attaining and maintaining the level of the NAAQS by the applicable attainment deadline. The EPA and States work collaboratively to establish and implement nonattainment area planning requirements that are designed to bring areas into attainment of the NAAQS by the applicable attainment deadline. A key step in ensuring that areas attain and maintain the ozone NAAQS is to assess and understand the potential for ozone formation (and sources of its precursor pollutants) in a given area, including the potential for upwind States' emissions to impact ozone formation in downwind States.

Precursor emissions can be transported downwind directly or, after transformation in the atmosphere, as ozone or secondary ozone precursors. Studies have established that ozone formation, atmospheric residence, and transport can occur on a regional scale (*i.e.*, hundreds of miles) over much of the eastern U.S., with elevated concentrations occurring in rural as well as metropolitan areas.<sup>7</sup> Additionally, observational studies have demonstrated the presence of ozone and ozone precursor transport, and documented the impact that upwind emissions have on high concentrations of ozone pollution.<sup>8</sup> As a result of ozone transport, ozone pollution levels in a given location are impacted by a combination of local emissions and emissions from upwind sources. While substantial progress has been made in reducing ozone in many urban areas,

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<sup>6</sup> See 85 FR 87256 (December 31, 2020).

<sup>7</sup> National Research Council. 1991. Rethinking the Ozone Problem in Urban and Regional Air Pollution. Washington, DC: The National Academies Press. <https://doi.org/10.17226/1889>.

<sup>8</sup> Downs, T., R. Fields, R. Hudson, I. Kheirbek, G. Kleiman, P. Miller, and L. Weiss. 2010. The Nature of the Ozone Air Quality Problem in the Ozone Transport Region: A Conceptual Description. Northeast States for Coordinated Air Use Management.

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regional-scale ozone transport is still a major component of peak ozone concentrations during the summer ozone season.

*B. Sections 176A and 184 of the CAA and the OTR Process*

Subpart 1 of part D of title I of the CAA provides the general plan requirements for designated nonattainment areas. This subpart includes provisions governing the development of transport regions to address the interstate transport of pollutants that contribute to NAAQS violations. In particular, section 176A(a) of the CAA provides that, on the EPA's own motion or by a petition from the Governor of any state, whenever the EPA has reason to believe that the interstate transport of air pollutants from one or more States contributes significantly to a violation of the NAAQS in one or more other States, the EPA may establish, by rule, a transport region for such pollutant that includes such States. The provision further provides that the EPA may add any state or portion of a state to any transport region whenever the Administrator has reason to believe that the interstate transport of air pollutants from such state significantly contributes to a violation of the standard in the transport region.

Section 176A(b) of the CAA provides that when the EPA establishes a transport region, the Administrator shall establish an associated transport commission, comprised of (at a minimum) the following: The Governor or her or his designee of each covered state, the EPA Administrator or designee, the Regional EPA Administrator or designee, and an air pollution control official appointed by the Governor of each state. The purpose of the transport commission is to assess the degree of interstate transport throughout the transport region and assess and recommend control strategies to the EPA to mitigate such interstate transport.

Subpart 2 of part D of title I of the CAA provides plan requirements specific to the ozone NAAQS. Consistent with CAA section 176A, found in subpart 1, subpart 2 includes specific provisions focused on the interstate transport of ozone. CAA section 184(a) established a single

transport region for ozone—the OTR—comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area for the District of Columbia, which includes certain portions of northern Virginia.<sup>9</sup> The Virginia counties and cities included in the OTR are Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

Section 184(b) of the CAA establishes specific control requirements that each state in the OTR is required to implement within the state, including certain controls on sources of NO<sub>x</sub> and VOCs. These control requirements are required to be implemented statewide in any state included within the OTR, regardless of ozone attainment status.<sup>10</sup> Under CAA section 184(b)(1)(A), OTR States must include Enhanced vehicle emissions inspection and maintenance (I/M) programs in their SIPs.<sup>11</sup> Under CAA section 184(b)(2), major stationary sources of VOCs in OTR States are subject to the same requirements that apply to major sources in designated ozone nonattainment areas classified as Moderate.<sup>12</sup> Thus, the state must adopt rules to apply nonattainment new source review (NNSR) and reasonably available control technology (RACT) (pursuant to CAA section 182(b)(2)) provisions for major VOC sources statewide. Under CAA section 184(b)(2) States must also implement Stage II gasoline refueling vapor recovery

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<sup>9</sup> In 2022, the EPA finalized an action to remove the state of Maine from the OTR except for 111 towns and cities comprising the Androscoggin Valley, Down East and Metropolitan Portland Air Quality Control Regions. See 87 FR 7734 (February 10, 2022).

<sup>10</sup> We note two exceptions to the statewide applicability of these control requirements: Maine and Virginia, as only portions of those States are included within the OTR.

<sup>11</sup> In the OTR, Enhanced I/M programs are required in metropolitan statistical areas in the OTR with a 1990 Census population of 100,000 or more.

<sup>12</sup> Section 184(b)(2) of the CAA provides that, for purposes of implementing these requirements, a major stationary source shall be defined as any source that emits or has the potential to emit at least 50 tons per year of VOCs.

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programs, incremental to vehicle Onboard Refueling Vapor Recovery achievements, or measures that achieve comparable emissions reductions for both attainment and nonattainment areas.<sup>13</sup>

Section 182(f) of the CAA requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> as are applied to major stationary sources of VOCs under subpart 2. Thus, the same NNSR and RACT requirements that apply to major stationary sources of VOC in the OTR also apply to major stationary sources of NO<sub>x</sub>.<sup>14</sup>

### *C. Legal Standard for This Action*

Section 176A(a)(2) of the CAA states that the Administrator may remove any state or portion of a state from the Ozone Transport Region whenever the Administrator has reason to believe that the control of emissions in that state or portion of that state pursuant to its inclusion in the transport region will not significantly contribute to the attainment of the standard in any area in the region. The provision does not provide further methodology or criteria for the Administrator to apply other than this language when determining whether to remove a state or portion of a state from the OTR. As explained in this action, in determining whether to grant the state of New Hampshire's petition the EPA intends to follow the best reading of the statute, drawing upon interpretations of the CAA's suite of interstate pollution transport provisions in court decisions and in prior EPA actions and consistent with the EPA's previous interpretations of section 176A(a)(2) in an action granting a request from the State of Maine to remove a portion of that state from the OTR.<sup>15</sup> Prior to that action, the Agency had also acted pursuant to CAA section 176A(a)(1) to deny a request to expand the OTR but did not in that action have cause to interpret the operative language in CAA section 176A.<sup>16</sup>

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<sup>13</sup> See 72 FR 28772 (May 16, 2012), Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver.

<sup>14</sup> See 57 FR 55620, 55622 (Nitrogen Oxides Supplement to the General Preamble) (November 25, 1992).

<sup>15</sup> 87 FR 7734 (February 10, 2022)

<sup>16</sup> The EPA denied the request from several States in the OTR to add an additional nine States to the transport region on the basis that Congress' use of the term "may" in CAA section 176A(a) granted the Administrator reasonable discretion. This document is a prepublication version signed by EPA Administrator, Lee Zeldin, on 08/06/2026. We have taken steps to ensure the accuracy of this version, but it is not the official version.

The EPA believes it is appropriate to read the key terms in section 176A(a)(2) (*i.e.*, “control of emissions . . . will not significantly contribute to the attainment of the standard” and “in any area in the region”) consistently with other parts of the CAA that govern the interstate transport of ozone pollution, taking into account relevant facts and circumstances and the EPA's past approaches to addressing interstate ozone transport.

The CAA provision that States and the EPA have primarily relied upon to address interstate pollution transport is section 110(a)(2)(D)(i)(I) of the CAA, often referred to as the “good neighbor” provision. The provision requires all States to submit SIPs that contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting any air pollutant in amounts which “will contribute significantly” to nonattainment in, or interfere with maintenance by, any other state with respect to any NAAQS. Thus, each state is required to submit a SIP that demonstrates that the state is adequately controlling sources of emissions that would impact other States' air quality relative to the NAAQS in violation of the good neighbor provision. However, if a state does not adequately address the good neighbor provision requirements in a SIP submission, the CAA requires that the EPA must address the requirements of the good neighbor provision in the State's stead. Specifically, if the EPA disapproves a State's SIP submission or if the EPA finds that a state has failed to submit a required SIP, then the EPA must promulgate a Federal Implementation Plan (FIP) within two years, unless the state corrects the deficiency and the EPA approves the plan or plan revision before the EPA promulgates a FIP.<sup>17</sup>

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discretion in determining whether or not to grant the petition, and that other statutory authorities the EPA had historically relied upon to address interstate transport provided advantages over expanding the OTR. 82 FR 51238 (November 3, 2017). The D.C. Circuit upheld the EPA's denial of the section 176A petition to expand the OTR, noting that its review of the EPA's denial was “extremely limited and highly deferential,” and that even if petitioners had met CAA section 176A(a)(1)'s criterion for expanding the OTR, “the statute provides only that the EPA ‘may’ expand the region, not that it ‘shall’ or ‘must’ do so.” *New York v. EPA*, 921 F.3d 257, 261-62 (D.C. Cir. 2019).

<sup>17</sup> CAA section 110(c)(1).

To address the regional transport of ozone pursuant to the CAA’s good neighbor provision, the EPA has promulgated several regional interstate transport rules focusing on the reduction of NO<sub>x</sub> emissions, as the primary meaningful precursor to address regional ozone transport across state boundaries.<sup>18</sup> These interstate transport rules are the NO<sub>x</sub> SIP Call,<sup>19</sup> Clean Air Interstate Rule (CAIR),<sup>20</sup> the Cross-State Air Pollution Rule (CSAPR),<sup>21</sup> the Cross-State Air Pollution Rule Update (CSAPR Update), the Revised Cross-State Air Pollution Rule Update (Revised CSAPR Update),<sup>22, 23, 24</sup> and the Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards (Good Neighbor Plan).<sup>25</sup>

Through the development and implementation of CSAPR and the CSAPR Update, the EPA, working in partnership with the States, developed a four-step interstate transport framework to interpret and address the requirements of the good neighbor provision. The four steps are: (1) identifying downwind air quality monitors (known as “receptors”) that are expected to have problems attaining or maintaining clean air standards (*i.e.*, NAAQS); (2) identifying upwind States that impact those downwind air quality problems sufficiently such that they are considered “linked” and therefore warrant further review and analysis; (3) identifying the emissions reductions necessary (if any), considering cost and air quality factors, to prevent linked upwind States identified in step 2 from contributing significantly to nonattainment or interfering with

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<sup>18</sup> Two of these rules also addressed the reduction of annual NO<sub>x</sub> and sulfur dioxide (SO<sub>2</sub>) emissions for the purposes of addressing the interstate transport of particulate matter pollution pursuant to the good neighbor provision.

<sup>19</sup> 62 FR 57356 (October 27, 1998).

<sup>20</sup> 70 FR 25162 (May 12, 2005).

<sup>21</sup> 76 FR 48208 (August 8, 2011).

<sup>22</sup> 81 FR 74504 (October 26, 2016).

<sup>23</sup> In December of 2018, the EPA also promulgated a determination regarding remaining good neighbor obligations under the 2008 ozone NAAQS for the CSAPR region (referred to as the “CSAPR Close Out”) at 83 FR 65878, but that determination was vacated by the D.C. Circuit. *New York v. EPA*, 781 Fed. Appx. 4 (D.C. Cir. 2019).

<sup>24</sup> 86 FR 23054 (April 30, 2021)

<sup>25</sup> 88 FR 9336 (February 13, 2023). The Good Neighbor Plan is currently stayed and is undergoing reconsideration. *See* 91 FR 4026, 4030 (January 30, 2026).

maintenance of the NAAQS at the locations of the downwind air quality problems; and (4) adopting permanent and enforceable measures needed to achieve those emissions reductions.

Given the use of the phrase “significantly contribute to [ ] attainment” in CAA section 176A(a)(2), the EPA has determined it is reasonable to look to the 4-step interstate transport framework to guide its analysis of whether a state or portion of a state has met the necessary condition for removal from the OTR in CAA section 176A(a)(2). Under Step 1 of the interstate transport framework, the EPA has interpreted the term “will” in the phrase “will significantly contribute” in section 110(a)(2)(D)(i)(I) by looking at current downwind air quality problems and whether those air quality problems will persist in a future year, *i.e.*, by focusing its analysis regarding downwind interstate transport impacts on an analytic year in the future. In its transport rules, the EPA has considered monitored air quality data in addition to future projections “because ‘will’ can mean either certainty or indicate the future tense,” and considering present-day data to inform the projected identification of downwind air quality problems “give[s] effect to both interpretations of the word.”<sup>26, 27</sup> Specifically, in those rules, the EPA explained that it had the most confidence in its projections of nonattainment for those counties that also measure nonattainment for the most recent period of available ambient data.<sup>28</sup> In the CSAPR Update, receptors that had clean measured data but were projected to have nonattainment problems in the future-year modeling were denoted by the EPA as maintenance-only receptors, acknowledging that while currently attaining the NAAQS, such areas could violate the standard in the future under certain meteorological conditions. The D.C. Circuit has upheld this balance struck by the

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<sup>26</sup> *North Carolina v. EPA*, 531 F.3d 896, 913-14 (D.C. Cir. 2008). See 63 FR 57356, 57375 (October 27, 1998) (NO<sub>x</sub> SIP Call) (relying on both monitored and modeled data); 70 FR 25162, 25241 (May 12, 2005) (CAIR); 81 FR 74504, 74517 (October 26, 2016) (CSAPR Update).

<sup>27</sup> The EPA did not consider current monitored data in conjunction with modeled projections of air quality in a future year in CSAPR because the most recent monitoring data prior to CSAPR's promulgation reflected effects of the unlawful CAIR. 76 FR 48208, 48230 (August 8, 2011).

<sup>28</sup> 81 FR 74517, 74531 (April 30, 2021).

EPA in considering historical monitored data as well as future projected modeled data as a method for identifying downwind air quality problems at Step 1.<sup>29</sup>

In CSAPR and the CSAPR Update, the EPA used a threshold of one percent of the NAAQS to determine whether a given upwind state was “linked” at step 2 of the four-step interstate transport framework and would, therefore, contribute to downwind nonattainment and maintenance sites identified in step 1. If a State’s impact did not equal or exceed the one percent threshold, the upwind state was not “linked” to a downwind air quality problem, and the EPA therefore concluded that the state will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind States. However, if a State’s impact equaled or exceeded one percent, the State’s emissions were further evaluated in step 3, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary to address the good neighbor provision. More recently, the EPA proposed to reconsider policies and actions underlying the Interstate Transport of Air Pollution for the 2015 Ozone NAAQS (Good Neighbor Plan).<sup>30</sup> In that proposed rule, the EPA proposed to identify 1 ppb as an acceptable contribution threshold at Step 2 of the interstate transport framework. The EPA finds New Hampshire’s use of the one percent of the NAAQS threshold as acceptable for this petition, as it is more conservative than if the state had used the more recently proposed 1 ppb interpretation.<sup>31</sup>

These first two steps of the 4-step interstate transport framework are particularly informative to analyze the standard for removal of areas from the OTR established by CAA section 176A(a)(2). In the previous action under CAA section 176A(a)(2) (EPA’s granting of Maine’s

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<sup>29</sup> See, e.g., *Wisconsin v. EPA*, 938 F.3d 303, 326 (D.C. Cir. 2019).

<sup>30</sup> 91 FR 4026 (January 30, 2026).

<sup>31</sup> The EPA noted in the proposal, “Any SIP that was approved under that threshold, which translates to 0.7 ppb, would be approvable under the 1 ppb threshold.” 91 FR at 4033 n.75.

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request), the EPA acknowledged that the specific inquiry posed by the OTR removal provision does not perfectly align with the inquiry in the CAA section 110 good neighbor provision or in CAA section 176A(a)(1). Read literally, rather than identify significant contribution *of emissions* to nonattainment or maintenance receptors—that is, determining whether a State’s emissions are large enough that they negatively impact air quality in another state and thus may warrant the imposition of control measures—CAA section 176A(a)(2) presents a different but related question: Whether OTR *controls* in a state will not significantly contribute to *attainment* anywhere in the OTR. Despite the framing of CAA section 176A(a)(2) as significant contribution to attainment rather than significant contribution to nonattainment, we continue to think CAA section 176A(a)(2) is best read within the context of the statutory section as a whole, and in conjunction with the other CAA provisions addressing interstate pollution transport and therefore focused on impacts to areas that are struggling with attaining or maintaining the NAAQS. While one *could* read CAA section 176A(a)(2) as asking the EPA to analyze only OTR areas that are already in attainment and determine whether such areas would remain so after the removal of a state or portion of a state from the OTR per CAA section 176A(a)(2),<sup>32</sup> a better interpretation of CAA section 176A(a)(2) is that it is establishing a standard that is the inverse of the question presented in CAA section 176A(a)(1). At base, CAA section 176A(a) presents two authorities—the Administrator may add a state or a portion of a state to the transport region whenever the Administrator has reason to believe that pollutants from that state significantly contribute to a violation of the NAAQS in the transport region and may remove a state or a portion of a state whenever the Administrator has reason to believe that the State’s continued

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<sup>32</sup> We note that this interpretation would not address whether the reductions achieved by OTR controls in a state are also effective at ameliorating air quality in areas that are in nonattainment. In addition, it would require the EPA to establish an entirely new framework to analyze how emissions control measures “significantly contribute” to attainment—a standard that would not necessarily be equivalent to or in harmony with the “significant contribution” standard of CAA section 110(a)(2)(D)(i)(I).

inclusion in the OTR will not be required for attainment in the transport region, *i.e.*, that the petitioning state is not significantly contributing to air quality problems in the region and *will not* so contribute if the state is removed from the OTR. Interpreting the statute in this way means that under CAA section 176A(a)(2), although there is no explicit reference to significant contribution to nonattainment or maintenance, the EPA's inquiry focuses on whether the state, or portion of the state, to be removed is significantly contributing or will contribute to nonattainment of the standard in the OTR. The EPA's inquiry, therefore, does not solely focus on consequences to areas that are already in attainment.

In determining whether removal is warranted under section 176A(a)(2), the EPA must also interpret the phrase “control of emissions in that State or portion of that State pursuant to this section.” Consistent with the previous action granting Maine’s 176A(a)(2) petition, the EPA reads “controls” to refer to new controls that would be required under CAA section 184(b) if the state or portion of the state were to remain in the OTR, as opposed to controls that the state has already adopted as required by the CAA due to its inclusion in the OTR. Interpreting “controls” in this manner gives effect to the forward-looking nature of the provision, which asks the Administrator to analyze whether removal of the state or portion of the state from the OTR “will” have the effect of contributing to air quality problems in any area in the OTR. In undertaking that forward-looking analysis, it is reasonable to assume that existing SIP-approved controls (not including, in this instance, New Hampshire’s vehicle I/M program) that were adopted by the state due to its inclusion in the OTR will remain in place.

Under the CAA, a state seeking to revise its SIP must undergo a section 110(l) demonstration. Section 110(l) of the CAA states that the Administrator cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA.

Therefore, the EPA will only approve a SIP revision that removes or modifies control measures after the state has demonstrated that such removal or modification will not interfere with attainment of the NAAQS, Rate of Progress (ROP), RFP or any other applicable requirement of the CAA.

States may demonstrate a revision's noninterference with NAAQS-related requirements by substituting one measure with another that achieves equivalent or greater emissions reductions or air quality benefit or by preparing an air quality analysis showing that removing the measure will not interfere with other applicable requirements (*i.e.*, without a substitute measure).<sup>33</sup>

Additionally, for areas that do not have an attainment demonstration, the EPA would consider alternative analyses to demonstrate noninterference on a case-by-case basis. The level of rigor in the alternative demonstration would vary depending on the nature of the requirement, its potential impact on air quality in the area, and the air quality of the area in which the requirement applies.

Moreover, this reading of CAA section 176A(a)(2) is consistent with the EPA's treatment of nonattainment areas seeking redesignation to attainment under CAA section 107(d)(3). States seeking redesignation of a nonattainment area to attainment are required to demonstrate that the area will maintain the NAAQS, per CAA section 107(d)(3)(E)(iv) and CAA section 175A. In making demonstrations of maintenance, States perform air quality modeling or emissions projections showing that *existing* control requirements are sufficient to maintain the NAAQS in question. However, once redesignated, a state may seek revision of its SIP to remove nonattainment SIP measures that are not necessary to maintain the NAAQS, subject to a section 110(l) demonstration. We, therefore, think this analysis under CAA section 176A(a)(2) should, like a CAA section 175A maintenance demonstration, assume continued implementation of

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<sup>33</sup> 78 FR 68378, 68382 (November 14, 2013).

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existing OTR control measures even though such measures would no longer be statutorily mandated once the EPA removes a state or portion of the state from the OTR. As in the case of an area redesignated to attainment, a state could only stop actively implementing those measures and remove them from its SIP after satisfying its obligation under section 110(l), as discussed earlier. We note that in submitting its petition to the EPA to remove the state from the OTR, New Hampshire committed to retaining all existing OTR control measures in its SIP, except the vehicle I/M program. The request to remove the I/M program from the New Hampshire SIP is, as mentioned throughout this document, currently being evaluated by the EPA in a separate rulemaking document. We note that the request contains a section 110(l) analysis, as required by the CAA for New Hampshire's I/M SIP revision. The EPA has included some information later in this document regarding expected emissions trends with the proposed removal of I/M as described in that SIP revision.<sup>34</sup>

To establish the proper geographic scope of the EPA's CAA section 176A(a)(2) "significant contribution" analysis, another phrase in the provision must be interpreted: "any area in the region." This phrase could reasonably mean all existing areas in the OTR, including areas within the petitioning state.<sup>35</sup> Here, this would include the state of New Hampshire, because the entire state is included in the OTR as established under section 184. However, we recognize that it is possible that Congress intended the EPA to focus primarily on *interstate* impacts within the OTR, rather than impacts within the petitioning state.

Read literally, "any" is a broad term that, in this context, encompasses areas within the petitioning state because they are currently in the OTR. However, case law recognizes that

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<sup>34</sup> For New Hampshire's SIP revision request to repeal the New Hampshire I/M program and the EPA's action on that SIP revision request see Docket ID No. EPA-R01-OAR-2026-2147 at <https://www.regulations.gov>.

<sup>35</sup> 87 FR at 7736 (February 10, 2022).

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“‘any’ can and does mean different things depending upon the setting.”<sup>36</sup> Here, aspects of the statutory structure and context indicate that “any” may reasonably be interpreted to have a narrower scope than all areas of the current OTR. For instance, it could be relevant that the provision at issue is part of CAA section 176A, which is titled, “Interstate Transport Commissions,” and the provision at issue is located within the subsection entitled “Authority to Establish Interstate Transport Regions.” The basis under CAA section 176A(a) for creating or expanding a transport region is the *interstate* effects of air pollution. Further, under the CAA's cooperative federalism scheme, States retain the primary regulatory role in developing and implementing the necessary emissions reductions within their borders to meet the air quality standards established by the EPA.<sup>37</sup> If a State’s removal from the OTR were projected to have negative impacts on other areas within the state, under the CAA that state would retain jurisdiction, authority, and responsibility to address such air quality problems in the first instance.<sup>38</sup> Rejecting a State’s petition to be removed from the OTR solely on the basis of intrastate impacts could be seen as going beyond the purpose of CAA section 176A, which was promulgated to address the interstate effects of air pollution, *i.e.*, a problem in which affected States might otherwise have no recourse.

Nonetheless, it is also possible that Congress envisioned that the grounds for removing an area from the OTR should require a different bar (*i.e.*, a demonstration that removal would not cause air quality problems in other States *and* in one's own state) than the conditions for adding a new area to a transport region (which are limited to out-of-state impacts). This broader reading of the term “any” in this context also comports with the overall public health and welfare purposes

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<sup>36</sup> *Nixon v. Missouri Municipal League*, 541 U.S. 125, 132 (2004); *see also Small v. U.S.*, 544 U.S. 385, 388 (2005) (“The word ‘any’ considered alone cannot answer [the] question”).

<sup>37</sup> *See* CAA section 101(a)(3).

<sup>38</sup> *See, e.g.*, CAA sections 110, 172, 181, 182.

of the CAA. In this action, as explained below, the EPA proposes that New Hampshire's petition may be granted under either interpretation, because its own emissions' impact on itself does not—and is not expected to if the petition is granted—contribute to ozone NAAQS attainment problems within the state. Therefore, we need not decide whether we must apply the narrower or the broader interpretation.

Turning back to the provision as a whole, informed by the backdrop and context of other CAA provisions addressing interstate pollution transport and the States' and the EPA's actions addressing those provisions, we think CAA section 176A(a)(2) is best read in a manner consistent with the EPA's 4-step interstate transport framework, and in particular here, Steps 1 and 2. Under this interpretation, the EPA determines whether air quality problems exist in the transport region (including the state or area of a state petitioned to be removed) based on projected air quality modeling and also current monitored data. If so, the EPA then determines whether the state (or portion of a state) to be removed from the OTR is contributing less than the contribution threshold to those problems, indicating that the state (or portion of a state) is not significantly contributing to air quality problems in the OTR, and that additional OTR controls in that state (or portion of that state) and continued OTR membership are, therefore, unnecessary for attainment of the NAAQS in the OTR. Applying that framework to the question presented by CAA section 176A(a)(2), we think the best reading requires the Administrator to identify whether there are ambient air monitoring sites in the OTR that either are projected to be in nonattainment based on modeling data, or potentially struggle with maintenance or are currently violating the NAAQS based on monitored data, and whether the area petitioned to be removed from the transport region contributes less than the contribution threshold to those monitors.<sup>39</sup>

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<sup>39</sup> As discussed earlier, New Hampshire used the 1 percent of the 2015 ozone NAAQS (0.70 ppb) threshold in its submission. In the recently proposed reconsideration of good neighbor obligations for the 2015 ozone NAAQS, EPA used the 1 ppb threshold. January 27, 2026 (91 FR 4026). We propose to find that the test for OTR removal is satisfied even when applying the more stringent 1 percent of NAAQS threshold.

#### *D. Previous New Hampshire Ozone Designations*

Consistent with the 1990 CAA Amendments, several New Hampshire counties were designated as nonattainment of the now-revoked 1979 1-hour ozone NAAQS (0.12 parts per million (ppm)). The more populous southeastern counties of Strafford, Rockingham, and Hillsborough had areas that were designated as Serious nonattainment areas. South centrally located Merrimack County was classified as a Marginal nonattainment area. Cheshire County, in the State's rural southwest corner, was designated as a nonattainment area on the basis of incomplete data. These areas were all subsequently redesignated as attainment in 2012.<sup>40</sup>

On July 18, 1997,<sup>41</sup> the EPA promulgated an 8-hour ozone standard of 0.08 ppm. On April 30, 2004, the EPA published a final rule designating and classifying areas under the 8-hour ozone NAAQS.<sup>42</sup> These designations and classifications became effective June 15, 2004. The EPA designated as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of air quality data, 2001-2003. The Boston-Manchester-Portsmouth Southern NH area was designated as nonattainment for the 1997 8-hour ozone standard and classified as a "Moderate" nonattainment area. This area includes 54 cities and towns in Hillsborough, Merrimack, Rockingham, and Strafford Counties.<sup>43</sup> This area was redesignated to attainment on January 31, 2013.<sup>44</sup> NHDES later submitted a Limited Maintenance Plan (LMP) to the EPA for the second 10-year maintenance period (2023 – 2032) for the Boston-Manchester-Portsmouth area which was approved on April 22, 2022.<sup>45</sup> On March 12, 2008, the EPA

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<sup>40</sup> 77 FR 31496 (May 29, 2012) and 77 FR 65625 (October 30, 2012).

<sup>41</sup> 62 FR 38856 (July 18, 1997).

<sup>42</sup> 69 FR 23858 (April 20, 2004).

<sup>43</sup> See 40 CFR 81.330 for exact listing of cities and towns.

<sup>44</sup> 78 FR 6741 (January 31, 2013).

<sup>45</sup> 87 FR 24058 (April 22, 2022).

promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 75 parts per billion (ppb).<sup>46</sup> On October 1, 2015, the EPA lowered the primary and secondary standards to 70 ppb.<sup>47</sup> New Hampshire was designated “Attainment/Unclassifiable” statewide for both the 2008 and 2015 8-hour ozone standards of 75 ppb and 70 ppb, respectively.<sup>48</sup>

#### **IV. New Hampshire CAA Section 176A Petition**

##### *A. Summary of the New Hampshire CAA Section 176A Petition*

On December 24, 2025, the state of New Hampshire petitioned the EPA pursuant to CAA section 176A(a)(2) for the removal of the state of New Hampshire from the OTR. The NHDES provided an analysis making the case that New Hampshire’s emissions are not a significant contributor to the nonattainment for the 8-hour ozone NAAQS in other States and in New Hampshire. New Hampshire's analysis consists of modeling “back trajectories” for ozone exceedance days in 2021, 2022, and 2024,<sup>49, 50</sup> ozone contribution modeling, emissions data, and an analysis of mobile source impacts. The EPA's assessment of the CAA section 176A petition is discussed in section V.

##### *B. Provisions Impacted by the New Hampshire CAA Section 176A Petition*

If the EPA takes final action granting New Hampshire’s petition, the main change is that New Hampshire will no longer be required to implement an Enhanced motor vehicle I/M program if the EPA also approves the SIP revision removing the program. On December 24, 2025, together with the 176A petition, New Hampshire submitted a request to revise its SIP to

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<sup>46</sup> See National Ambient Air Quality Standards for Ozone, Final Rule, 73 FR 16436 (March 27, 2008).

<sup>47</sup> See National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015).

<sup>48</sup> 77 FR 30088 (May 12, 2012) and 82 FR 54232 (November 16, 2017).

<sup>49</sup> The year 2023 was excluded from the analysis due to extensive wildfires which could potentially give inaccurate conclusions about trajectory results.

<sup>50</sup> Back trajectory analyses use interpolated measured or modeled meteorological fields to estimate the most likely central path over geographical areas that an air parcel travels before reaching a specific location at a given time. This document is a prepublication version signed by EPA Administrator, Lee Zeldin, on 08/06/2026. We have taken steps to ensure the accuracy of this version, but it is not the official version.

remove the State's vehicle I/M program. Concurrent with today's proposal to grant New Hampshire's 176A petition, the EPA is also proposing to approve New Hampshire's SIP revision in a separate Notice of Proposed Rulemaking in the *Federal Register*.

In the December 24, 2025, petition to remove the state from the OTR, New Hampshire confirmed that no current control requirements in the SIP will be relaxed as a result of the petition request with the exception of the I/M program. To date, other than for the removal of the I/M program, New Hampshire has not submitted any SIP revisions to modify current OTR control requirements. Should the EPA grant final approval of New Hampshire's petition, this would not in itself have the effect of revising New Hampshire's existing SIP requirements. A more detailed discussion of the changes follows in paragraphs i-iv.

i. NSR

The NSR provisions in Parts C and D of title I of the CAA are a combination of air quality planning and air pollution control technology provisions that require stationary sources of air pollution to obtain permits before they are first constructed or engage in a modification of an existing facility. To comply with the requirements of the CAA and the NSR implementing regulations at 40 CFR 51.160 through 51.166, most States have EPA-approved SIPs in place to implement the Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and minor NSR preconstruction permit programs. The state of New Hampshire implements its CAA permitting program requirements through Env-A 600, Statewide Permit System. Revisions to the NNSR and PSD programs were last approved into the New Hampshire SIP on May 25, 2017.<sup>51</sup> Together, New Hampshire's PSD, NNSR, and minor NSR permitting programs ensure that construction of new and modified stationary sources of air pollutant

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<sup>51</sup> 82 FR 24057 (May 25, 2017).

emissions do not significantly deteriorate air quality, impede reasonable further progress in nonattainment areas, or interfere with maintenance of any NAAQS.

Pursuant to New Hampshire's NNSR program, new major stationary sources are subject to New Hampshire's NNSR permitting program requirements, including installing control technology that meets the statutory definition of the Lowest Achievable Emission Rate (LAER) and obtaining emissions offsets, for any pollutant (i.e., NO<sub>x</sub> or VOC) which the source has the potential to emit in amounts equal to or greater than the respective major source threshold. For existing major stationary sources in New Hampshire, NNSR permitting requirements apply to construction projects, or "major modifications," that would result in a significant net emissions increase of NO<sub>x</sub> or VOC.

New Hampshire, in its submittal, indicated that the state intends to keep the NNSR program intact, so any new major sources and major modifications at existing major sources would still be subject to NNSR (including LAER and emissions offsets.). If, in the future, the state requested to change this program, it would need to submit a request to modify Env-A 600 in the SIP, which would also require an anti-backsliding demonstration under section 110(l).

## ii. New Hampshire I/M Program

Section 184(b)(1)(A) of the Act requires certain areas in the OTR to adopt and implement an inspection and maintenance program meeting the EPA's Enhanced I/M performance standard. The EPA's I/M rule was established on November 5, 1992.<sup>52</sup> The I/M regulation was codified at 40 CFR part 51, subpart S, and requires States subject to the I/M requirement to submit an I/M SIP revision that includes all necessary legal authority and the items specified in 40 CFR 51.350 through 51.373. New Hampshire will no longer be required by CAA section 184(b)(1)(A) to implement an I/M program if the EPA approves the State's petition to withdraw from the OTR.

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<sup>52</sup> 57 FR 52950 (November 5, 1992). The EPA made significant revisions to the I/M rule on September 18, 1995 (60 FR 48035), and on July 25, 1996 (61 FR 39036).

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New Hampshire's I/M program, however, is approved in the SIP, and requires a formal request from the state to remove it. New Hampshire submitted a request for a SIP revision to remove this program, along with a section 110(l) anti-backsliding analysis, on the same day it submitted the 176A petition. That SIP revision is being addressed in more detail in a separate rulemaking document (see Docket ID No. EPA-R01-OAR-2026-2147 at <https://www.regulations.gov>).

### iii. Stage II Refueling Vapor Recovery

Stage II refueling vapor recovery systems and vehicle onboard refueling vapor recovery (ORVR) systems were initially both required by the 1990 Amendments to the CAA. Section 182(b)(3) requires ozone nonattainment areas classified Moderate and above to implement Stage II refueling vapor recovery programs. Under CAA section 184(b)(2), States in the OTR were also required to implement Stage II or comparable measures. CAA section 202(a)(6) required the EPA to promulgate regulations for ORVR for light duty vehicles (passenger cars).<sup>53</sup> New Hampshire's Stage II requirements were included in Env-Or 500 "Recovery of Gasoline Vapors." With the widespread use of ORVR, New Hampshire's revised Env-Or 500 decommissioning Stage II vapor recovery requirements was approved into the SIP.<sup>54</sup> The EPA's proposed granting of New Hampshire's 176A petition would have no impact on Stage II requirements due to the decommissioning of the program in New Hampshire.

### iv. RACT

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<sup>53</sup> The EPA adopted these requirements in 1994. ORVR equipment has been phased in for new passenger vehicles beginning with model year 1998 and starting with model year 2001 for light-duty trucks and most heavy-duty gasoline powered vehicles. ORVR equipment has been installed on nearly all new gasoline-powered light-duty vehicles, light-duty trucks, and heavy-duty vehicles since 2006. During the phase-in of ORVR controls, Stage II provided volatile organic compound (VOC) reductions in ozone nonattainment areas and certain attainment areas of the OTR. Congress recognized that ORVR systems and Stage II vapor recovery systems would eventually become largely redundant technologies and provided authority to the EPA to allow States to remove Stage II vapor recovery programs from their SIPs after the EPA finds that ORVR is in "widespread use."

<sup>54</sup> 79 FR 30735 (May 29, 2014).

Sections 182(b)(2) and 184(b)(1)(B) of the CAA require States with ozone nonattainment areas that are classified as Moderate or above, as well as areas in the OTR, to submit a SIP revision requiring the implementation of RACT for sources covered by a control techniques guideline (CTG) and for all major sources of VOCs and NO<sub>x</sub>. A CTG is a document issued by the EPA that is used to help determine VOC RACT for a specific VOC source category. RACT is defined as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The CTGs usually identify a particular control level that informs a RACT analysis. States in the OTR are required to address RACT for the source categories covered by CTGs through adoption of rules as part of the SIP, and they are also required to adopt RACT for major sources of VOCs (50 tpy) and major sources of NO<sub>x</sub> (50 tpy) even if a CTG does not apply. The EPA approved New Hampshire's RACT certification for the 2008 and 2015 ozone standards on September 6, 2023,<sup>55</sup> and on April 30, 2024.<sup>56</sup>

If finalized, the EPA's grant of New Hampshire's petition would terminate New Hampshire's federal obligation under CAA section 184 to adopt RACT requirements for any potential future ozone NAAQS. As noted above in the NSR discussion, New Hampshire has indicated in its 176A petition that it does not intend or desire to remove any stationary source programs currently in the SIP from the SIP. The EPA notes again that if, in the future, the state decided to seek to relax or remove RACT requirements in its SIP, any such revision would be required to satisfy an anti-backsliding demonstration under section 110(l).

## **V. The EPA's Technical Assessment of the New Hampshire CAA Section 176A Petition**

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<sup>55</sup> 88 FR 60893 (September 6, 2023).

<sup>56</sup> 89 FR 34137 (April 30, 2024).

*A. Description of the Technical Analysis Included in the New Hampshire CAA Section 176A  
Petition*

As noted previously, the New Hampshire petition included detailed technical analyses for VOC and NO<sub>x</sub> emissions in the state, including an analysis of whether emissions from New Hampshire impact other areas in the OTR. The State's analysis contains back trajectories using the National Oceanic and Atmospheric Administration (NOAA) Air Resources Laboratory's Hybrid Single-Particle Lagrangian Integrated Trajectory (HYSPLIT) model and photochemical contribution modeling.<sup>57</sup> HYSPLIT trajectory analyses provide information on wind patterns and can indicate whether air masses originating over New Hampshire emissions sources reached locations near violating ozone monitors (forward trajectories) and whether air masses impacting violating monitors originated from or passed over New Hampshire locations (back trajectories). These wind patterns could potentially be used to exclude impacts if air from New Hampshire did not reach violating monitors. However, trajectories alone cannot be used to indicate the magnitude or significance of contributions because wind patterns do not show whether, or to what extent, emissions from the upwind locations impact air pollution concentrations at a downwind receptor, only that transport of air from the upwind location was present. In contrast, the photochemical contribution modeling tools referenced in this assessment calculate combined impacts of emissions, mixing, transport and chemistry to provide quantitative estimates of ozone impacts due to tracked emissions from the upwind state.

New Hampshire used a four-phase analysis to demonstrate how it does not, and will not, contribute to attainment status for areas in the OTR. In Phase 1, NHDES performed an initial screening of potential New Hampshire connections to OTR 8-hour ozone exceedances by

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<sup>57</sup> For more information about HYSPLIT, please refer to the following document by Roland R. Draxler and G.D. Hess: Description of the HYSPLIT 4 Modeling System, *available at* <https://www.arl.noaa.gov/documents/reports/arl-224.pdf>.

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conducting HYSPLIT 48-hour forward trajectory analysis. In phase 2, New Hampshire conducted additional HYSPLIT back trajectory analysis for dates and approximate locations of ozone exceedances in States directly adjacent to New Hampshire as well as dates and approximate locations of ozone exceedances in any other OTR state where the NHDES Phase 1 forward trajectories passed within approximately 100 kilometers of an exceeding monitor. Phase 3 further refined the HYSPLIT back trajectory analysis to more specifically assess transport to the exact location of violating monitors at the exact times impacting the measured exceedances. In Phase 4, NHDES examined photochemical contribution modeling to quantify the State's contribution to these nonattainment areas. NHDES provided further inspection of New Hampshire's emissions trends in their technical demonstration to supplement the HYSPLIT and source apportionment modeling analyses.

For Phase 1, New Hampshire applied HYSPLIT v5.4.0 with NAM 12 km meteorology; and produced 48-hour forward trajectories at 100 m and 750 m AGL start heights with four start times per day (starting two days before the exceedance day). New Hampshire identified 324 site-day combinations experiencing ozone NAAQS exceedances within the OTR in 2021, with 27 of those exceedances being in the neighboring States of Maine and Massachusetts.<sup>58</sup> In 2022, 177 site-day combinations experienced ozone exceedances within the OTR, with 17 of the exceedances occurring in Maine and Massachusetts. In 2024, New Hampshire found 304 site-day combinations experiencing ozone NAAQS exceedances within the OTR, with 11 of these in Maine and Massachusetts. New Hampshire performed forward trajectories for 105 dates<sup>59</sup> for Phase 1, including 34 for 2021, 32 for 2022, and 39 for 2024, for all States in the OTR.

Accounting for the two different starting elevations, New Hampshire completed a total of 840

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<sup>58</sup> There were no exceedances of the ozone NAAQS in the neighboring State of Vermont in 2021, 2022, and 2024.

<sup>59</sup> Using forward trajectories for phase 1 allowed for simulating trajectories from a single location (at multiple heights) on each of these 105 days in contrast to back trajectories which would require a larger number of simulations to capture starting points representing each of the exceeding monitor locations on each of the 105 days. This document is a prepublication version signed by EPA Administrator, Lee Zeldin, on 08/06/2026. We have taken steps to ensure the accuracy of this version, but it is not the official version.

forward trajectories for Phase 1. New Hampshire, through Phase 1 modeling, found 21 dates during 2021, 2022 and 2024 on which ozone exceedance either occurred in neighboring States to New Hampshire or on which forward trajectories passed within approximately 100 kilometers of an exceeding monitor in a non-neighboring OTR state. NHDES determined that further analysis was warranted on these dates for which New Hampshire emissions could potentially influence ozone exceedances in other OTR States. These dates were further analyzed in Phase 2.

For Phase 2, NHDES conducted 48-hour back trajectories using the data and methods listed below for each day where NHDES determined that Phase 1 trajectories identified the potential for New Hampshire ozone precursor emission influence on ozone exceedances observed elsewhere in the OTR (and for the above-mentioned neighboring States' exceedances).<sup>60</sup> While NHDES did not conduct a separate back trajectory for every violating monitor location on these days, they determined that using a smaller number of representative monitoring locations appropriately captured the transport of air parcels relevant to ozone exceedances within the OTR. NHDES selected a total of 47 site-day combinations as starting points for HYSPLIT back trajectories relevant to monitored ozone exceedances during 27 dates in the Phase 2 assessment. Again, HYSPLIT trajectories applied the same two starting elevations as were used in the Phase 1 forward trajectories. NHDES then performed back trajectories for each of these exceedances. The air trajectories used by NHDES are four-dimensional representations of the path an air parcel follows, in 3-D space and time, based on surface and upper-level meteorological data during the day of and days prior to the measured exceedances. A back trajectory represents the path an air parcel takes to reach a specific point in time and space. Through the Phase 2 back trajectory analysis, NHDES concluded that New Hampshire emissions

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<sup>60</sup> See tables 6 and 7 of the NH petition.

could potentially influence exceedances at monitors in three other OTR States on three dates.<sup>61</sup>

New Hampshire further evaluated these monitor exceedances in Phase 3.

For Phase 3 of the analysis, NHDES again conducted 48-hour back trajectories for monitors beginning on the dates of the ozone exceedances, but this time using the exact locations of all exceeding monitors and the exceedance hours starting on hour 3, 5, and 7 on the 8-hour period to represent the maximum daily exceedance period. NHDES used 10, 100, and 750-meter start heights, and again used the HYSPLIT v5.4.0 model with NAM 12km meteorology. NHDES, through this analysis, identified four ozone exceedances (one in Connecticut, three in New Jersey) that could suggest potential back trajectory linkage to emissions from New Hampshire. These monitors are located in Chester, NJ; Ramapo, NJ; Columbia, NJ; and Groton, CT.<sup>62</sup> For each of these exceedances, according to NHDES, the only trajectory that showed any possible New Hampshire connection started at the highest altitude (750-m) while trajectories starting at lower altitudes did not show potential linkages.<sup>63</sup> NHDES indicated that these trajectories passed over only the very northern portion of New Hampshire (which has very low population and emission density), and any emissions from these areas were small compared to emissions occurring along the lower-level trajectories from high density areas like New York City and New Jersey. Given the form of the ozone NAAQS which is based on the 3-year average of the annual 4<sup>th</sup> highest value, NHDES maintained that the fact that this analysis only found these four locations with potential linkages over the three years analyzed, makes it extremely unlikely that emissions from New Hampshire contributed to nonattainment anywhere in the OTR. NHDES further analyzed the potential for the State's emissions to impact ozone attainment in Phase 4.

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<sup>61</sup> See table 11 of the NH petition.

<sup>62</sup> See table 12 of the NH petition.

<sup>63</sup> Ozone monitor inlets are generally sited at 3-5 m, so backward trajectories with starting heights of 10-100 m are likely to provide information that is most relevant to measured ozone exceedances.

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In addition to the trajectory analysis discussed above, New Hampshire's petition uses the EPA's photochemical modeling for the EPA's Transport Assessment contribution modeling with emissions that were projected from a 2016 base year to a 2023 analytic year. New Hampshire also analyzed an OTC version of a similar scenario using the same base and projected years as the EPA model. Both modeling platforms provided similar results. New Hampshire found, through analyzing the EPA model results, that total anthropogenic emissions in the State of New Hampshire contributed less than the 1 percent of the NAAQS contribution threshold to all OTR monitors outside of Maine and Massachusetts. The largest NH contributions at monitors outside of Maine and Massachusetts were 0.2 ppb or 0.28% for Chester, NJ; 0.06 ppb or 0.08% for Ramapo, NJ; 0.21 ppb or 0.30% for Columbia, NJ; and 0.01 ppb or 0.02% for Groton, CT. These results were all well below the 1 percent of NAAQS contribution threshold New Hampshire chose to apply, as described in section III.C. of this document. Additionally, New Hampshire asserted that higher contributions modeled to occur at monitoring sites in Maine and Massachusetts are not currently interfering with those States' attainment of the ozone NAAQS as evidenced by ozone design values below the 70 ppb NAAQS standard based on current and recent air quality data (this is further evaluated later in this document).

New Hampshire supplemented the analysis by examining an EPA Transport Climatology study for several ozone nonattainment areas throughout the country. The analysis conducted back trajectories for a 12-year period from 2010 through 2021 for specific monitors of interest, including monitors in Connecticut. The study found that back trajectories to Connecticut ozone exceedances rarely passed over New Hampshire.<sup>64</sup>

Additionally, New Hampshire provided graphical figures showing NO<sub>x</sub> and VOC historical statewide emissions trends as well as projected emissions trends out to 2038. The projected

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<sup>64</sup> See appendix C4 and C5 of the NH petition.

emissions data are broken out into four source types (on-road vehicles, non-road equipment, point sources, and nonpoint sources), and show that emissions in the state are declining and are expected to continue to decline through 2038. Additionally, the petition provides data to show that the total annual anthropogenic NO<sub>x</sub> and VOC emissions in 2022 for the entire State of New Hampshire are just over 2% and 3%, respectively, of the OTR total.<sup>65</sup>

Finally, New Hampshire provided a demonstration of how emissions from vehicles registered and residing in New Hampshire will not impact air quality in other OTR States. New Hampshire found that for the mobile source emissions sector in 2022, the emissions from the state accounted for only 2.48% of NO<sub>x</sub> and 3.54% of VOC emissions in the OTR. NHDES also analyzed commuter patterns compiled by the New Hampshire Department of Employment Security based on information from the American Community Survey (ACS). NHDES, in this analysis, found overall low mobile source emissions from New Hampshire vehicles commuting to other States, especially when offset by emissions from vehicles from other States commuting to New Hampshire.

#### *B. The EPA's Technical Assessment of the New Hampshire Section 176A Petition*

As noted in section III.C. of this proposed document, the EPA views the inquiry under CAA section 176A(a)(2) as necessitating the identification of current and future air quality problems in the OTR, determining whether the petitioning area is significantly contributing to those problems, and examining whether removal of the petitioning area from the OTR will significantly contribute to nonattainment or maintenance problems in the future. The EPA proposes to find that the technical analyses submitted by New Hampshire in its CAA section 176A petition, in conjunction with analysis performed by the EPA, support New Hampshire's petition to remove the state from the OTR.

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<sup>65</sup> See table 16 of the NH petition.

Typically, the EPA has relied on photochemical grid modeling in the first instance when conducting analysis of potential linkages between upwind and downwind States for purposes of evaluating interstate transport obligations for ozone. However, in this case the HYSPLIT analyses performed by New Hampshire and summarized in section V.A. are a technically sound and appropriate method to support showing the potential (or lack of potential) of an area to contribute to high-ozone values at a downwind location. This type of trajectory analysis is a commonly used method to examine potential source-receptor relationships based on air transport patterns. We are proposing to agree that the analysis provided by New Hampshire showed that in 2021, 2022, and 2024, air parcels containing high-ozone concentrations at monitors in the OTR on ozone exceedance days rarely ever originated from or recently passed over New Hampshire. The analysis NHDES conducted using HYSPLIT accords with the available photochemical grid modeling in demonstrating that New Hampshire does not contribute above even a 1 percent of NAAQS threshold to any locations struggling to attain or maintain the ozone NAAQS in the OTR.

The EPA agrees that the forward and back trajectories provided by NHDES in the petition demonstrate that emissions from New Hampshire are extremely unlikely to contribute to attainment problems in the OTR. NHDES indicated only four monitor locations, on two dates over three years of monitoring data (2021, 2022, and 2024), that showed any potential linkage to emissions from New Hampshire, and even on those dates, the back trajectories showed linkages only from airmasses aloft at the highest modeled start height (750 m). The lower-level modeled back trajectories at the 10-m and 100-m start heights passed through New York City (NYC) and New Jersey (NJ), areas with much higher population and emissions density and higher mobile source emissions. Given the higher emissions from NYC and NJ and the trajectories from NYC and NJ having a closer proximity to the monitors than New Hampshire emissions, the NYC and

NJ areas would likely have had a much larger impact on the monitor values for those days than any potential New Hampshire contribution aloft at 750 m.<sup>66</sup>

The EPA also provided NHDES with a Transport Climatology Study<sup>67</sup> that conducted back trajectories for a 12-year period from 2010 through 2021. NHDES used this study to supplement their own analysis and closely examined the back trajectories—focusing on the most recent years of 2019-2021. The EPA agrees that the Transport Climatology analysis supports the conclusion that New Hampshire ozone precursor emissions do not significantly contribute to nonattainment areas within the OTR. The back trajectories in the images provided by NHDES rarely, if ever, pass over the state of New Hampshire during the hours leading up to measured exceedance days.

The EPA's interstate transport modeling for the 2015 ozone NAAQS further supports the conclusions that: (1) New Hampshire has historically contributed below 0.70 ppb to all States other than Maine and Massachusetts (neither of which contain current or projected ozone nonattainment receptors (as defined within the EPA's 4-step framework)) and contributes well below that threshold to any such receptors in the OTR; and (2) the State will continue to contribute below that threshold to all receptors in the OTR in the future. Further, the EPA agrees with NHDES's analysis in the petition that New Hampshire does not have any monitors showing design values above the 70-ppb standard and that granting the petition would not cause any to fall into nonattainment in the future. As discussed throughout this document, New Hampshire has indicated that it intends to keep SIP approved measures other than the I/M program intact, which will help New Hampshire stay in attainment. The EPA's source apportionment modeling employs enhanced techniques that track the formation and transport of ozone from specific emissions sources and calculates the contribution of sources and precursors to ozone for

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<sup>66</sup> See appendix C3 of the New Hampshire petition.

<sup>67</sup> See appendix C4 of the New Hampshire petition.

individual receptor locations. The strength of the photochemical model source apportionment technique is that all modeled ozone at a given receptor location in the modeling domain is tracked back to specific sources of emissions and boundary conditions to fully characterize culpable sources.

Data from the contribution analysis are summarized within table 15 of the State's submittal, showing the maximum modeled ozone contribution from New Hampshire's emissions in other OTR States. The data indicate a maximum modeled impact of only 0.21 ppb for a receptor in any state containing an ozone nonattainment area in 2023 (New Jersey) which is well below one percent of the NAAQS (0.70 ppb) that New Hampshire chose to apply as described in III.C of this proposed action. The EPA also examined its 2023 contribution modeling to identify the highest contribution from New Hampshire to any other monitor in another state, regardless of attainment status. The EPA agrees with NHDES that New Hampshire's highest contributions to monitors in other States are to monitors located in southern Maine and northeastern Massachusetts, which are areas that are in attainment for the 2008 and 2015 ozone NAAQS, and have shown no indication that they will struggle with attainment in the future.<sup>68, 69</sup>

EPA notes that the projected modeled contributions were for the year 2023, which was not one of the years for which NHDES performed HYSPLIT trajectory analyses. The 2023 contributions were modeled using 2016 meteorology, 2016 emissions from natural sources such as biogenics and fires, and projected 2023 anthropogenic emission inventories. Although NHDES did not analyze 2023 for back trajectories the projected 2023 model results from the

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<sup>68</sup> See <https://www.epa.gov/outdoor-air-quality-data/download-daily-data> for monitor values in these (or any other) States.

<sup>69</sup> Dukes County, in southeastern Massachusetts, is in nonattainment for the 2008 ozone standard, but the modeling did not find any contributions from NH above the 1% threshold that NH chose to apply to monitors in this area. Since the initial designation, Dukes County has recorded design values below the 2008 standard and was found to be in attainment for the more stringent 2015 standard. Massachusetts has not yet requested to have this area redesignated to attainment, mostly due to resource and administrative constraints.

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EPA's 2016v3 modeling are informative for this assessment. 2023 back trajectories were not analyzed at the EPA's suggestion due to the complexity of interpreting potential for contributions using HYSPLIT trajectories in a year with substantial wildfire emissions that originated from locations upwind of New Hampshire.<sup>70</sup> However, those wildfire events did not affect the validity of the EPA modeling of the 2023 analytic year, which used a 2016 base year. The EPA also notes that both the EPA and OTC 2023 modeled scenarios displayed a very low contribution from New Hampshire to any of the potentially affected monitors.<sup>71</sup>

We also propose to find that the NO<sub>x</sub> and VOC historical emissions trends and projected future emissions trends information to 2032 and 2038 provided in New Hampshire's submittal further support removal of the petitioning area from the OTR. VOC and NO<sub>x</sub> emissions in New Hampshire have declined since 2005 and are expected to continue to decline into the future. The historical and projected downward trend is driven, in large part, by emissions reductions from the point source and on-road mobile source categories.<sup>72</sup>

The EPA notes that New Hampshire's future year emissions projections for the years 2022, 2026, 2032, and 2038 were developed using EPA's 2022v1 Emissions Modeling Platform (2022v1 EMP). The 2022v1 EMP used EPA's Motor Vehicle Emission Simulator (MOVES) model version 4 (MOVES4) to estimate emissions from onroad and nonroad mobile sources. On February 12, 2026, the EPA finalized the rescission of the Greenhouse Gas (GHG) Endangerment Finding and repealed all GHG emission standards for light-duty, medium-duty,

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<sup>70</sup> See section IV.A.

<sup>71</sup> As noted, NHDES found that New Hampshire's highest contributions were to attaining monitors in Massachusetts and Maine.

<sup>72</sup> In New Hampshire's December 24, 2025, I/M SIP Revision submission, which is being further evaluated in a separate rulemaking document, included on page 27 is table 8 that shows New Hampshire's mobile source emissions, including NO<sub>x</sub>, VOC, and CO emissions, will continue to decrease even without their I/M program (see Docket ID No. EPA-R01-OAR-2026-2147 at <https://www.regulations.gov>).

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and heavy-duty vehicles and engines (“Endangerment Finding Rescission Rule”).<sup>73</sup> Due to this action, aspects of the State’s planning assumptions from the MOVES4 model may no longer be entirely consistent with the latest information. The EPA recognizes that States have relied on MOVES4 and MOVES model version 5, including the national default electric vehicle (EV) projections tied in part to the implementation of these now-repealed standards, in developing some actions that have been submitted to the EPA.

Per the EPA’s MOVES Policy Guidance, States “should use the latest version of MOVES that is available at the time that a SIP is developed.”<sup>74</sup> In this guidance, the EPA also stated that an earlier version of MOVES can be used if significant work has already been completed using that earlier version.<sup>75</sup> In addition, the EPA indicated that for fuel type distributions for onroad vehicles that include estimates of EVs, States should use local data if available and could rely on the default information within the model as planning assumptions.<sup>76</sup> While this action is not a SIP revision, this guidance for SIPs, including mobile source emissions inventories, could be applied to the emissions inventories in this petition. Therefore, based on the EPA’s statements in the EPA’s MOVES Policy and Technical Guidance, the State reasonably relied on the assumptions in MOVES4 and thus the 2022v1 EMP.

New Hampshire’s documentation shows that statewide point source emissions of NO<sub>x</sub> and VOC decreased by 87 and 62 percent, respectively from 2005 to 2020. New Hampshire’s projections predict that NO<sub>x</sub> and VOC emissions will continue to decrease into the future. For example, New Hampshire’s analysis of statewide emissions shows NO<sub>x</sub> and VOC reductions of

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<sup>73</sup> Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act, 91 FR 7686 (February 18, 2026).

<sup>74</sup> See section 6 “Use of MOVES4 in SIPs” on page 8 of “Policy Guidance on the Use of MOVES4 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes” (EPA-420-B-23-009, August 2023).

<sup>75</sup> *Id.*

<sup>76</sup> See section of 4.8.3 (page 54) of “MOVES4 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity” (EPA-420-B-23-011, August 2023).

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30 and 7 percent, respectively, between 2022 and 2038. The EPA, therefore, proposes to find that granting New Hampshire's petition to remove the state from the OTR, and the changes in the extent of emissions controls that would result, will not significantly contribute to nonattainment or maintenance problems for any area in the OTR. As noted, the emissions trends in New Hampshire indicate continued decline in emissions of ozone precursors associated with on-the-books emissions controls and do not depend on any new emissions limitations that would be driven by OTR control requirements under CAA section 184(b). In addition, New Hampshire's highest modeled contribution to any currently identified receptor in the OTR that has struggled with attainment of the 2015 ozone NAAQS is only 0.21 ppb. This suggests that the ozone contribution from anthropogenic ozone precursor emissions in New Hampshire would have to increase by more than a factor of three for New Hampshire to potentially contribute above one percent of the 2015 ozone NAAQS to an existing or projected ozone nonattainment or maintenance problem in the OTR. The EPA finds that granting the petition would not result in a change in emissions sufficient to increase its downwind ozone contribution by a factor of more than three resulting from either removal of existing emissions controls or unchecked growth in new source emissions. The historic emissions trends in New Hampshire and the CAA's section 110(l) anti-backsliding provisions for SIP revisions provide assurances that a substantial increase in emissions is highly unlikely and would represent an unprecedented reversal in overall emissions reductions for any state, whether in the OTR or not.

Further, the primary change in the ozone control regime that will result from granting the petition would be if the EPA approves New Hampshire's SIP revision to remove the I/M program. This revision is discussed in a separate rulemaking, but the New Hampshire submittal includes a section 110(l) demonstration that shows how removing the program will not interfere with attainment or maintenance of any NAAQS or other CAA requirements.

Finally, the EPA acknowledges the significant amount of time and resources required by New Hampshire to develop this petition. In the evaluation of this petition, the EPA is considering the modeling and information provided by New Hampshire and affirming that the State relied on the appropriate EPA models and guidance information available at the time it developed this petition. To acknowledge and accommodate reliance interests States may have had in MOVES4, and thus the 2022v1 EMP, based on the EPA's statements in the EPA's MOVES Policy and Technical Guidance, the EPA is proposing to find that New Hampshire appropriately considered onroad mobile source emissions for this petition. The EPA also notes that the New Hampshire modeled scenario displays an overall reduction in both VOCs and NO<sub>x</sub> by 2038, even when disregarding the projected on-road sector emission reductions.<sup>77</sup>

## **VI. The EPA's Proposed Action on the New Hampshire CAA Section 176A Petition**

Based on the information discussed in this document, the EPA is proposing to grant New Hampshire's CAA section 176A petition. In consideration of monitoring data, emissions data, technical demonstrations (including air quality modeling and trajectory analyses), and the potential impact to air quality control regimes, the EPA proposes to find that additional OTR controls under CAA section 184(b) for New Hampshire will not significantly contribute to attainment of any ozone NAAQS in any area of the OTR. In support of this proposed conclusion, the EPA finds that removing the state from the OTR will not result in emissions changes that would significantly contribute to nonattainment or interfere with maintenance of any ozone NAAQS in any area of the OTR. The entire state of New Hampshire has been designated attainment for ozone since 2013. Technical demonstrations from New Hampshire's HYSPLIT back trajectory analysis, the EPA's ozone source apportionment modeling, and emissions trends all support the assertion that emissions from New Hampshire will not significantly contribute to

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<sup>77</sup> See Figures 9 and 10 of the New Hampshire petition.

nonattainment or maintenance problems in any area in the OTR, including within the state of New Hampshire itself, in the foreseeable future. Furthermore, removing the state from the OTR will not result in unchecked relaxation of existing NO<sub>x</sub> and VOC controls included in New Hampshire's SIP or revoke permitted emissions limits at existing facilities. Any future revisions to New Hampshire's SIP (including potential removal of the State's I/M program) would be subject to CAA section 110(l) anti-backsliding demonstrations. Accordingly, the EPA proposes to grant the CAA section 176A petition filed by the state of New Hampshire. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

## **VII. Judicial Review and Determinations Under Sections 307(b)(1) and 307(d) of the CAA**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action, if finalized, must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of publication of any final action. Filing a petition for reconsideration by the Administrator of this rule, if finalized, will not affect the finality of the rule for the purposes of judicial review nor will it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. The Administrator of the EPA hereby determines that this action is subject to CAA section 307(d), as authorized by section 307(d)(1)(V).

### **List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Ozone, Particulate matter.

**Authority:** 42 U.S.C. 7401 *et seq.*

Lee Zeldin,  
Administrator.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 81 as follows:

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et. seq.*

**Subpart E—Identification of Interstate Transport Regions**

2. Revise § 81.457 to read as follows:

**§ 81.457 Ozone Transport Region.**

Except as provided in paragraph (a), the Ozone Transport Region is comprised of the areas identified by Congress under 42 U.S.C. 7511c(a).

(a) *Ozone Transport Region boundary.* As of **[DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, the boundary for the Ozone Transport Region consists of the entire States of Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; portions of Maine identified in this section under table 1 to Paragraph (a); and the Consolidated Metropolitan Statistical Area that includes the District of Columbia and the following counties and cities in Virginia: Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

(b) *Applicability.* As of March 14, 2022, the provisions of 42 U.S.C. 7511c will no longer be applicable in the following areas of Maine: The State of Maine, with the exception of the towns and cities listed in this section under table 1 to paragraph (a). As of **[DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER]**, the provisions of 42 U.S.C. 7511c will no longer be applicable in New Hampshire.