



July 13, 2026

Lee Zeldin, Administrator
U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460
Attention: Docket ID No. EPA-HQ-OAR-2025-0201

Re: Ozone Reclassification State Implementation Plan Rule

Dear Administrator Zeldin:

The Ozone Transport Commission (OTC) is providing these comments on the U.S. Environmental Protection Agency's (EPA's) proposed Ozone Reclassification State Implementation Plan Rule [91 Fed. Reg. 35639 (June 13, 2026)] (hereinafter referred to as the "proposed rule"). The OTC is a non-partisan multi-state organization created under the Clean Air Act (CAA) and led by the governors and their designated representatives from twelve states and the District of Columbia¹ to advise the EPA on addressing ground-level ozone pollution. Protecting public health and the environment from the harms of ozone pollution is at the core of the OTC's work.

OTC states have worked together for decades to move towards attainment of the National Ambient Air Quality Standards (NAAQS) for ground-level ozone. The programs and State Implementation Plans (SIP) required by the Clean Air Act and U.S. Environmental Protection Agency (EPA) have contributed to significant improvements in air quality. Even with this progress, more than thirty million people in the Ozone Transport Region (OTR) continue to be exposed to unhealthy levels of ozone air pollution, which particularly impacts the young, elderly, and people with compromised health. While the proposed rule contains some administrative changes that OTC states have requested in the past that relieve some of the duplicative demonstration requirements when an area moves to a more stringent classification level, the OTC is concerned that the proposed rule will unreasonably delay implementation of legally required clean air programs associated with emissions reductions and will thereby delay attainment and jeopardize public health.

OTC states are regularly subjected to ozone pollution that is transported from upwind contributing states. Therefore, in addition to implementing programs

¹ The Washington, DC mayor designates its two OTC representatives.

Connecticut

Delaware

District of Columbia

Maine

Maryland

Massachusetts

New Hampshire

New Jersey

New York

Pennsylvania

Rhode Island

Vermont

Virginia

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within OTC states, the OTC must rely on EPA and other states' implementation of the SIP requirements in the CAA provisions to move nonattainment areas (NAA) in the OTR closer to attainment. The OTC is concerned that, if finalized as proposed, this rule would lead to delays regarding when a state must take action to curb ozone pollution. If a state is reclassified, the new program implementation deadlines imposed by the next classification could be years later than the previous classification. If finalized, deadlines for SIP component submittal and program implementation will also be later than they would have been if the area was originally classified at the higher classification, contrary to what is stated in the proposed rule. If the rule is finalized as written, delays of this nature will cause further inequities between states that choose to submit SIPs and enact policies based on earlier ozone NAA classification deadlines, and those that follow EPA's newly revised, longer timelines for ozone pollution reductions free from the encouragement currently provided by potential CAA sanctions.

Under the current regulation (EPA's January 2025 rulemaking), states must demonstrate compliance with the CAA and must implement programs that are not tied to an attainment demonstration based on their earlier classification deadlines, such as emissions inventories, emission statement programs, inspection and maintenance programs, permitting programs, Reasonably Available Control Technology (RACT) for VOC and NO_x emissions, Reasonable Further Progress (RFP), and enhanced monitoring.² These programs reduce ozone air pollution and improve public health based on the timeline of the NAA original classification, and OTC states rely on these state-level programs, both within and outside the region, to protect our citizens from unhealthy air. Under the proposed rule, the timeframe for implementing these programs could be delayed approximately 18 months or even years later with each reclassification until a state is at the highest possible classification.³ This could force Americans living in the most polluted areas to suffer a decade or more breathing unhealthy air before their state implements the necessary and required programs. Such an outcome clearly contradicts EPA's first pillar of "Clean Air, Land, and Water for Every American" and the goals of the Clean Air Act.

The proposed rule claims that because an area can be "subject to only one nonattainment classification at any point in time for the same ozone NAAQS"⁴ that EPA is precluded from requiring state policy and program changes implemented through a SIP on a deadline using the area's previous classification status. The OTC strongly disagrees; while an area may indeed be only in one classification category at a time, Section 182 of the CAA still provides EPA with the statutory obligation to require that SIPs be submitted and programs be implemented by a deadline that corresponds to the area's earlier classifications. This satisfies the CAA by implementing the required programs (not tied to the attainment date) in the timeframe originally

² U.S. EPA, 90 FR 5651. (January 17, 2025)

³ U.S. EPA, Applying or Implementing Ozone Standards, <https://www.epa.gov/ground-level-ozone-pollution/applying-or-implementing-ozone-standards>, Retrieved on July 8, 2026.

⁴ U.S. EPA, 91 FR 35639 35641, 1. A., (June 12, 2026)

required. By proposing to allow states to bypass earlier deadlines and only meet the longest possible deadline associated with more stringent classifications, EPA is all but ensuring Americans living in nonattainment areas will be subjected to unhealthy air quality for longer than they would otherwise under current policies.

EPA's assertion that "legitimate reliance interests...are minimal, if any" because "the nature of the proposed revisions are deregulatory" is a narrow and wholly inappropriate interpretation of whose interests are under consideration by EPA, and of how and why ozone SIPs are developed. First, downwind states like those in the OTR could experience additional ozone pollution burden if their upwind neighbors delay programs to curb ozone pollution, resulting in higher regulatory burden for OTC member states.⁵ In addition, OTC states, and indeed all states, have a reliance interest in reducing air pollution so that costs to their healthcare systems are not burdened by emergency room visits, lost productivity, and other costs associated with air pollution.⁶

The proposed rule raises a number of questions for states who have been following ozone SIP requirements for decades and have worked to meet the Clean Air Act requirements to reduce ozone air pollution.

- **2008 and 2015 8-Hour Ozone NAAQS:** The proposed rule creates confusion about the intersection between the 2008 and 2015 ozone NAAQS, and how EPA plans to address this going forward should this proposal be finalized. Given that the proposal says a state cannot have more than one classification at a time, OTC would like confirmation from EPA that a state can be subject to one classification under the 2008 standard and a different classification under the 2015 standard.
- **RACT and Nonattainment New Source Review (NNSR):** If the NNSR applicability threshold and offset ratio of the previous classification is new to a state, and they have never submitted an NNSR demonstration for that threshold, or don't have an NNSR program at all, the rule appears to allow that state to delay that demonstration and program implementation upon reclassification, until the later SIP deadline. OTC believes a state is still required to have an NNSR program consistent with the earlier classification in accordance with the earlier deadline. The rule adoption should clarify that program implementation is still required by the deadline of the lower classification. Similarly, for RACT which requires NNSR thresholds, if a state does not have RACT in place for the appropriate threshold, a state can delay RACT implementation under the proposed rule. The rule adoption should clarify that program implementation is still required by the deadline of the lower classification.
- **Reasonable Further Progress (RFP):** States with ozone classifications of Moderate and above are required to submit RFP plans. The plans are subject to a 6-year baseline period during which states must show significant NO_x and/or VOC emissions reductions, and

⁵ Ozone Transport Commission, Comments in response to U.S. EPA 91 FR 4026, Interstate Transport Plan Review for the 2015 Ozone NAAQS. (March 23, 2026)

⁶ American Lung Association, State of the Air 2026 Report. (April 22, 2026)

NAAAs with longer attainment deadlines must show progress every three years thereafter. OTC requests EPA clarify that these existing milestone years will still be valid under the rule.

- **Transportation Conformity**⁷ approval is tied to RFP when there is no attainment demonstration. Conformity requires federally funded projects to conform to a state's approved SIP. RFP requires baseline and milestone year inventories. The proposed rule does not address transportation conformity. The OTC requests EPA clarify how transportation conformity will be addressed. Specifically, please clarify how transportation conformity budgets will be determined in instances where there are no RFP demonstrations and no future year inventories required. Additionally, OTC requests EPA clarify at what point a transportation conformity budget is required if a state never satisfies any of its inventory requirements until a Severe classification.
 - **Major Source Emissions Statement:** If a state does not have a major source emissions statement program, the proposed rule appears to allow states to delay the program upon reclassification. This baseline information is a critical element to any state's ozone pollution reduction program, which OTC suggests should be required on the shortest timeframe in accordance with an area's initial classification status.
 - **Enhanced Inspection and Maintenance (I/M):** The CAA requires states in the OTR to implement an enhanced I/M program in order to reduce mobile sources of pollution that are a key source of ozone precursor emissions. However, it is concerning that the proposed rule appears to allow other states to delay implementation of a basic or enhanced I/M program. OTC suggests EPA clarify that states are required to meet earlier implementation deadlines for these programs.
 - **Enhanced Monitoring:** An enhanced monitoring program is required for areas classified as Serious nonattainment. OTC is concerned that this proposed rule could allow states to delay implementing an enhanced monitoring network. OTC suggests EPA clarify that states are required to meet the earlier implementation deadline for this program.
- Timeline:** The OTC finds that the proposed rule would result in significant delays in implementation timelines. For example, for the 75 ppb 8-hour Ozone NAAQS, designations were effective 7/20/2012. In the 3/6/2015 rule titled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," RACT implementation SIPs for all areas Moderate and above were due 1/1/2017. After reclassification from Moderate to Serious, a state was given until 7/20/21 to implement Serious RACT. After reclassification from Serious to Severe, a state was given until 11/7/25 to implement Severe RACT. If the state did not implement Moderate or Serious RACT until the Severe deadline, that is 8 years and 10 months after the original deadline for all classifications.

⁷ 40 CFR Part 93 Subpart A

- **Resubmittal of OTR RACT SIP Requirements:** The proposal is silent on the additional requirements placed on the states in the OTR under Clean Air Act § 184 (b). Under § 184 (b)(2), states in the OTR are required to submit RACT SIPs regardless of nonattainment status or classification. This has resulted in states submitting RACT SIPs when areas are classified as Marginal; EPA has then required states to resubmit the SIP under a new process upon reclassification to Moderate. Any final rule should make it clear that, in OTC Marginal nonattainment areas, submittals of RACT SIPs that were timely under a Marginal classification do not need to be resubmitted when such an area is reclassified to Moderate.

OTC states remain committed to fulfilling their obligations under the Clean Air Act to reduce ozone pollution. States in the OTR have made considerable progress in reducing ozone pollution from stationary and mobile sources of emissions, and have worked together with each other, with other states, and with EPA to effectively measure and model ozone pollution in the region. Many densely populated urban areas in our region continue to be in nonattainment, and in addition to substantial efforts on the part of OTC member states to reduce emissions, OTC also relies on upwind states to fulfill their obligations and develop strong programs under their SIPs that will reduce ozone transport affecting downwind states. The delays in implementation timelines that will result from this proposed rule will make it harder for OTC states to come into attainment with current and future ozone NAAQS.

Although OTC agrees that the rule as proposed would alleviate some administrative burden in SIP preparation for states acting in good faith and intent on meeting all applicable CAA requirements associated with their prior nonattainment classification, the proposed rule contains significant implementation delays that could result in worsening of ozone air pollution for years, until states either comply with the relevant NAAQS by operation of time or are eventually forced to meet deadlines imposed by a more stringent nonattainment classification. OTC urges EPA to review the provisions outlined in this comment letter and provide clarification on implementing changes to SIP requirements and deadlines as a result of this proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Jackson', with a stylized, flowing script.

Richard Jackson
Chair, Ozone Transport Commission, and
Director, District of Columbia Department of Energy and Environment

cc: OTC Air Pollution Control Officials