

06-096 C.M.R. Chapter 100: Definitions Regulation

Basis Statement: On February 6, 2020, the Maine Board of Environmental Protection voted to authorize the submission on behalf of the Governor of a petition to the Environmental Protection Agency (EPA) Administrator, pursuant to Section 176A of the Clean Air Act (CAA), to remove certain portions of Maine from the Ozone Transport Region (OTR).

Section 176A(a)(2) of the CAA provides that the Administrator may remove any state or portion of a state from the OTR whenever the Administrator has reason to believe that control of emissions in that state or portion of a state will “not significantly contribute to the attainment of the standard [the ozone National Ambient Air Quality Standards (NAAQS)] in any area in the region.” The Department’s Section 176A(a)(2) petition is based on a technical demonstration that emissions from northern, western, and far eastern Maine are not significant contributors to nonattainment of the ozone standard in other states, nor do they interfere with maintenance or attainment of the ozone standard in those Maine municipalities that will remain in the OTR. The petition was submitted on February 24, 2020, and is currently being reviewed by EPA.

During its review of the Department’s petition, EPA notified the Department that amending the definition of “Ozone Transport Region” in the Department’s Chapter 100: Definitions Regulation is necessary to facilitate processing of the Department’s petition because the current State Implementation Plan-approved definition includes the entire state of Maine:

111. Ozone Transport Region. "Ozone Transport Region" (OTR) means that part of the State of Maine included in a region of states comprised of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, established by Section 184 of the CAA for the control of interstate ozone air pollution. **For the State of Maine, the Ozone Transport Region includes all of the counties in the State.** (emphasis added)

Because EPA approval of the Department’s Section 176A Petition would reduce the geographic extent of the OTR in Maine, the Department proposed to revise the last sentence of this definition to eliminate the potential conflict with the OTR as modified through the petition process.

Public notice of this rulemaking was published on October 16, 2020, to comply with CAA notice requirements, and on October 28, 2020, to comply with the Maine APA notice requirements. The Board held a public hearing on the proposed rulemaking on November 19, 2020, and the period for submitting public comments closed on November 30, 2020. No comments were received at the public hearing. One written comment was received during the comment period.

RESPONSE TO COMMENTS
For the comment period ending on November 30, 2020**Commenter**

- 1) Maggie Trout

Summary of Comments and Department Response

1. **Comment:** Commenter objects to any changes in the OTR in Maine, stating “no standards, nor geographic areas for ozone containment can be reduced in the State of Maine.” Commenter points to Maine’s Section 176A petition and includes references to automobile emissions and a new power line proposal by Central Maine Power. (Commenter 1)

Response: The Department recognizes the commenter’s concerns and appreciates her willingness to participate in the rulemaking process. The proposed change to the definition in Chapter 100, however, will not by itself make any change to the OTR in Maine. The revised definition will merely reflect any change in the OTR that may be approved by EPA through the CAA Section 176A petition process referenced above. The commenter’s comments are more relevant to that petition and the issues raised by the commenter have been considered by the Department in that process. No changes were made in response to this comment.