



July 13, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Submitted electronically via www.regulations.gov

**Re: Prime Mover Institute's Comment on the Proposed Rule Entitled:
Ozone Reclassification State Implementation Rule, 91 Fed. Reg. 35639
(June 12, 2026)**

Dear Administrator Zeldin:

Prime Mover Institute submits these comments on the U.S. Environmental Protection Agency's ("EPA" or "the Agency") proposed Ozone Reclassification State Implementation Plan Rule, 91 Fed. Reg. 35639 (June 12, 2026) ("Proposed Rule").

The Prime Mover Institute is a new public interest organization dedicated to advancing energy dominance in America. We work with coalition partners to engage in rulemaking processes with technical information and legal arguments, calling attention to the impacts regulation has on citizens, the grid, and the rule of law.

America stands at a crossroads. A legacy of bad policy and worse ideas threatens the nation with blackouts and bill hikes, right as demand for energy rises. In order for America to scale up its energy production and avoid the worst-case scenarios, we cannot cling to the policies and procedures that got us here. Fortunately, both policymakers and the private sector realize the need for dramatic change. And courts have begun to look more skeptically at accretions of arbitrary power, accretions that government officials used to thwart energy production and use. This points the way to a future of streamlined regulation, taxpayer savings, and cheaper, more abundant energy for all.

The main obstacle to energy dominance is what Robert Bryce calls the "anti-industry industry," the non-profits and lawyers dedicated to defending the status

quo. These groups have used litigation, regulatory comments, and intimidation to forestall change. They will no doubt keep at it. But, despite their vast funding, they will not be able to maintain a policy regime that's so far out of touch with the American public and their elected representatives. So long, that is, that the advocates of energy dominance show up to defend their ideas.

In the words of Vaclav Smil, "prime movers are energy converters able to produce kinetic (mechanical) energy in forms suitable for human uses." In the same way, Prime Mover Institute helps convert insight into action.

Thank you for the opportunity to comment.

Respectfully submitted,

/Russell Greene/
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Managing Director
Prime Mover Institute

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1. INTRODUCTION AND INTEREST OF PRIME MOVER INSTITUTE

Prime Mover Institute has a substantial interest in the lawful, cost-effective implementation of the ozone national ambient air quality standards (“NAAQS”) and in ensuring that the Clean Air Act’s (“CAA” or “the Act”) nonattainment provisions are applied as Congress wrote them.

Prime Mover Institute supports the Proposed Rule. EPA’s proposed interpretation — that a reclassified ozone nonattainment area is governed by the state implementation plan (“SIP”) requirements of its current classification, with lower-classification elements folded into the current-classification plan rather than remaining separately due — is the best reading of CAA section 182(i), and EPA is right to apply it to past and future reclassifications alike. These comments make two contributions to the record. First, they supply the reasoned-explanation material that will make the final rule durable, directly answering the January 2025 rule’s contrary findings and the anti-backsliding and retroactivity objections that opponents of the rule can be expected to raise. Second, they recommend one addition: EPA should confirm — in the preamble to the final rule, and if the Agency chooses, in the text of 40 C.F.R. § 51.1403 — that the reclassified-area SIP framework operates in harmony with CAA section 179B, 42 U.S.C. § 7509a, so that areas whose monitored ozone levels are elevated by emissions from outside the United States may use the demonstration pathway Congress provided rather than bearing escalating domestic planning burdens for pollution no domestic actor can control.

2. SUMMARY OF ARGUMENT

The current-classification interpretation is the best reading of section 182(i). The statute directs a reclassified area to meet the requirements “applicable to the area as reclassified,” and the classification framework of sections 181 and 182 assigns each area one classification at a time. (Section 4.1.1.)

The January 2025 rule’s concerns do not withstand scrutiny, and the final rule should say so directly. The “loophole” the January 2025 rule feared is foreclosed by the structure of the Act itself. Each step up the classification ladder brings more stringent substantive obligations, the ladder ends at Extreme, section 182(i) expressly bars the Administrator from adjusting attainment dates, and the substantive elements of lower classifications are not extinguished but folded into the current-classification plan. (Section 4.1.2.)

Neither CAA section 172(e) nor section 193 poses an anti-backsliding obstacle. The Proposed Rule relaxes no NAAQS and removes no adopted control requirement; it addresses only which planning submissions are due and when. (Section 4.1.3.)

Retroactive application is lawful and should be finalized. Applying the interpretation to past reclassifications operates prospectively — it changes the submissions due going forward and divests no vested right — and EPA’s own recent practice confirms the Agency’s authority to revisit the consequences of past reclassification actions. (Section 4.1.4.)

EPA should confirm that reclassified-area SIPs may incorporate section 179B.

Section 179B(a) entitles a qualifying State to approval of a plan that meets every applicable requirement except the attainment demonstration, where the area would attain but for international emissions. Section 179B(b) protects a qualifying area from reclassification upon failure to attain and from section 185 fees. The Proposed Rule does not mention section 179B, and confirming the interaction now — as part of the implementation impacts on which EPA has solicited comment — would complete the framework. (Section 4.2.)

Texas illustrates the point. Texas’s three major ozone nonattainment areas were voluntarily reclassified from Moderate to Serious in 2024, and Texas has already produced a section 179B demonstration — for El Paso — that EPA proposed to approve. The combined effect of the Proposed Rule and EPA’s revitalized section 179B practice would let qualifying areas plan against the pollution their own sources actually cause. (Section 4.3.)

3. STATUTORY AND REGULATORY BACKGROUND

3.1. The Act assigns each ozone nonattainment area a single classification and escalates its obligations until it attains.

The Clean Air Act sorts ozone nonattainment areas into five classifications — Marginal, Moderate, Serious, Severe, and Extreme — by the severity of the area’s measured ozone. 42 U.S.C. § 7511(a). An area’s classification determines both how long an area has to attain the NAAQS and how stringent its planning and control obligations must be, and the two move together: the more time an area is given, the more it must do. Attainment deadlines lengthen with each step, from three years for Marginal areas to twenty years for Extreme areas. *Id.* § 7511(a) (table 1). And the substantive obligations ratchet upward in lockstep:

- **Major-source thresholds decrease.** The emission level at which a stationary source becomes “major” — and so subject to Reasonably Available Control Technology (“RACT”) and to nonattainment new source review — is the default 100 tons per year for Marginal and Moderate areas, but drops to 50 tons per year for Serious areas, 25 for Severe, and 10 for Extreme. 42 U.S.C. § 7511a(c), (d), (e); *see id.* § 7602(j). Each step pulls additional, smaller sources into the control regime.
- **Offset ratios rise.** New or expanding major sources must offset their emissions at ratios that climb with classification — 1.15 to 1 for Moderate areas, 1.2 to 1 for Serious, 1.3 to 1 for Severe, and 1.5 to 1 for Extreme. *Id.* §§ 7511a(b)(5), (c)(10), (d)(2), (e)(1).
- **Progress and control requirements intensify.** Moderate areas must demonstrate 15 percent reasonable further progress over six years, *id.* § 7511a(b)(1); Serious and higher areas must demonstrate an average 3 percent per year thereafter, *id.* § 7511a(c)(2)(B), and must implement enhanced vehicle inspection and maintenance programs, *id.* § 7511a(c)(3), among other escalating requirements.
- **Severe and Extreme areas face fee liability.** An area classified Severe or above that fails to attain by its date owes fees on its major stationary sources under CAA section 185. *Id.* §§ 7511a(d)(3), 7511d.

Two features of this structure bear directly on the Proposed Rule. First, the requirements of each classification incorporate and build upon those below it; a Serious-area plan does not stand beside a Moderate-area plan but subsumes and exceeds it. Second, the engine that actually drives an area toward attainment is not the paperwork of any one classification’s SIP submissions but the fixed attainment date paired with a mechanical, design-value-based determination of whether the

area met it. An area that misses its date is reclassified “by operation of law” to the next classification and its more stringent obligations, whether or not it asks to be. *Id.* § 7511(b)(2). These two features — subsumption and date-driven escalation — mean that a reclassified area’s progress is governed by its current classification, not by the accumulated paperwork of the classifications it has passed through.

3.2. Section 179B is Congress’s own mechanism for nonattainment driven by emissions from abroad

Woven into this same framework — enacted in the same 1990 amendments that built the modern classification system — is a provision addressed to a specific problem: ozone that a domestic area cannot control because it originates outside the United States. Section 179B provides:

Notwithstanding any other provision of law, an implementation plan or plan revision required under this chapter shall be approved by the Administrator if — (1) such plan or revision meets all the requirements applicable to it under the chapter other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this chapter, or in a regulation promulgated under such provision, and (2) the submitting State establishes to the satisfaction of the Administrator that the implementation plan of such State would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this chapter, or in a regulation promulgated under such provision, but for emissions emanating from outside of the United States.

42 U.S.C. § 7509a(a). For ozone specifically, subsection (b) provides that a State establishing that an area “would have attained the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 7511(a)(2) or (5) of this title or section 7511d of this title.” *Id.* § 7509a(b). In operation, subsection (a) excuses one plan element — the attainment demonstration — where the plan would otherwise attain but for international emissions; subsection (b) relieves a qualifying ozone area of the failure-to-attain reclassification machinery and of the section 185 fee program. The relief is specific, enumerated, and mandatory: “shall be approved”; “shall not be subject.”

Section 179B is Congress’s own instruction for how this framework treats an area whose monitored ozone reflects pollution no domestic actor can control. It

calibrates what a State must *demonstrate*; it leaves untouched what the area's sources must *control*.

3.3. The Agency's shifting treatment of reclassified-area obligations

For the 2008 and 2015 ozone NAAQS, EPA promulgated implementation rules setting the substantive requirements and SIP-submission deadlines for each classification level. Areas designated Moderate for the 2015 NAAQS were required to submit their Moderate-area SIP elements by January 1, 2023. When numerous States did not, EPA issued a finding of failure to submit covering eleven States, effective November 17, 2023, which started sanctions clocks under CAA section 179 and a federal-implementation-plan clock under section 110(c). 88 Fed. Reg. 71757 (Oct. 18, 2023) (“October 2023 FFS”). Separately, eighteen areas in fifteen States were reclassified from Moderate to Serious by operation of law upon failing to attain, and three major Texas areas were reclassified from Moderate to Serious at the State's own request. See 91 Fed. Reg. at 35648; 89 Fed. Reg. 51829 (June 20, 2024).

In January 2025, the prior Administration compounded the burden on reclassified areas. Its “leftover SIP elements” rule held that the planning obligations of an area's *former* classification remained independently due on their original deadlines after reclassification — requiring a State that had already moved up to a more stringent classification to keep generating the full lower-classification apparatus alongside its new plan, much of it on deadlines the area could no longer meet, save for a handful of elements EPA conceded were “impossible to fulfill” once the prior attainment date had passed. 90 Fed. Reg. 5651, 5664–67 (Jan. 17, 2025). That approach demanded duplicative paperwork that did nothing to improve air quality. The Proposed Rule corrects it. Upon reclassification, the area's current classification governs which SIP requirements apply; already-satisfied lower-tier elements are deemed fulfilled; and the correction reaches past reclassifications as well as future ones — so that States no longer labor under superseded obligations, including the outstanding Moderate-area obligations behind the October 2023 FFS. 91 Fed. Reg. at 35641–48. EPA is right to make this change.

Running in parallel, EPA has revived section 179B — the provision that spares an area the burden of planning for pollution it cannot control. In April 2025, the Agency rescinded December 2020 guidance that had made international-emissions demonstrations unnecessarily difficult and committed to work with States to develop section 179B relief. It has since put that commitment into practice. In March 2026, EPA determined that the Phoenix-Mesa, Arizona area would have attained the 2015 ozone NAAQS but for international emissions, so that the area remains classified Moderate instead of being bumped up. And in April 2026, it proposed to go further still — using a section 179B(b) determination to unwind a reclassification that had already taken effect, restoring the Northern

Wasatch Front, Utah area to its Moderate classification. These actions, detailed in Section 5.2 below, reflect a considered judgment that the Act should not penalize areas for foreign pollution. The reclassified-area SIPs policy and the section 179B revival advance the same principle, and Prime Mover Institute urges EPA to make their relationship explicit.

4. COMMENTS OF PRIME MOVER INSTITUTE

4.1. EPA Should Finalize the Reclassified-Area SIPs Policy

4.1.1. The current-classification interpretation is the best reading of section 182(i)

Section 182(i) provides:

Each State containing an ozone nonattainment area reclassified under section 7511(b)(2) of this title shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

42 U.S.C. § 7511a(i).

By its terms, section 182(i) directs a reclassified State to meet “such requirements ... as may be applicable to the area as reclassified” — the requirements of the area’s current classification — “according to the schedules prescribed in connection with such requirements,” that is, on the current classification’s timeline. The provision nowhere states that the requirements of a superseded classification remain independently due on their original schedules. Nor is the carry-forward reading necessary to protect air quality. As Section 3.1 explains, the requirements of each higher classification subsume and exceed those of the tiers below, so a Serious-area plan that satisfies section 182(c) already addresses the subject matter of the Moderate-area elements. Requiring the State to submit the Moderate versions separately, on a schedule keyed to a classification the area no longer holds, adds paperwork rather than protection.

Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the question is simply which reading is best. Prime Mover Institute agrees with EPA that the current-classification interpretation is the best reading of section 182(i), and that the interpretation the Agency adopted in January 2025 layered duplicative, multi-classification obligations onto States without a statutory basis.

4.1.2. The final rule should directly answer the January 2025 rule's contrary findings

EPA is right to return to the current-classification reading, and Prime Mover Institute offers the following to help the Agency make the repeal durable against challenge. A reviewing court will expect EPA to account for its change of course, particularly because the January 2025 rule rested its contrary interpretation in part on predictive findings about what a current-classification reading would permit. See *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *FDA v. Wages & White Lion Investments, LLC*, 604 U.S. 542 (2025). The Proposed Rule ably explains why the current-classification reading is the better one; these comments supply the complement — the reasons the January 2025 rule's predictive findings do not withstand scrutiny — so the record answers them directly. The central such finding was that the reading would make it “fully possible for a state to elude duties imposed on them under the CAA by waiting until the attainment date has nearly passed, requesting a voluntary reclassification, and waiting for the next attainment date to request an additional voluntary reclassification without planning for, making, or demonstrating meaningful progress toward achieving the NAAQS,” rendering the NAAQS, in the prior rule's words, “wholly irrelevant with such a loophole.” 90 Fed. Reg. 5651, 5667 (Jan. 17, 2025). That concern is mistaken on the statute's own terms, for five reasons.

First, reclassification under the Act is escalation, not escape. Each step up the classification ladder subjects the area to more stringent substantive requirements — lower major-source thresholds that sweep more facilities into Reasonably Available Control Technology (“RACT”) obligations, higher new source review offset ratios, expanded inspection and maintenance programs, and additional demonstration requirements. See 42 U.S.C. § 7511a(b)–(e). An area classified Severe or higher also faces the section 185 fee program. 42 U.S.C. § 7511d. A State that sought to “elude duties” by climbing the ladder would be binding its sources progressively more tightly with each request.

Second, the classification ladder is finite, so the gaming strategy the January 2025 rule imagined has no exit. An area can be reclassified no higher than Extreme, and each rung it climbs binds its sources more tightly — at Extreme, the major-source threshold falls to 10 tons per year and offsets reach 1.5 to 1. See 42 U.S.C. § 7511a(e); *id.* § 7511(a) (table 1). A State that kept requesting reclassifications to buy time would not shed its obligations; it would arrive, sooner, at the most stringent control regime the Act provides, still bound by a fixed outer attainment date and still required to attain. Deferral up a finite ladder is not escape.

Third, section 182(i) itself withholds the tool that the imagined gaming strategy would require. The Administrator may adjust submission deadlines for a reclassified area only “to the extent such adjustment is necessary or appropriate to

assure consistency among the required submissions,” and expressly may not adjust “attainment dates.” 42 U.S.C. § 7511a(i). Attainment dates are fixed by section 181(a) as a function of classification, and the determination whether an area attained by its date is made mechanically from the area’s design value, followed by reclassification by operation of law upon a failure to attain. 42 U.S.C. § 7511(b)(2). The machinery that actually drives progress toward the NAAQS — fixed attainment dates, monitored design values, and mandatory bump-ups — runs identically under either interpretation of section 182(i). No submission-timing interpretation can render the NAAQS “irrelevant.”

Fourth, the substantive content of lower-classification requirements is preserved, not canceled. Under the Proposed Rule, an unfulfilled lower-tier element is folded into the current-classification plan and remains due as part of that plan; an element the State has already satisfied is deemed satisfied and its adopted measures remain in the SIP, enforceable until revised through the ordinary process of CAA section 110. See 91 Fed. Reg. at 35645–48. The January 2025 rule’s concern that folding forward cancels substance — its example was the Moderate-area 15 percent reasonable further progress requirement, 90 Fed. Reg. at 5667 — is answered by the Proposed Rule’s own mechanics. The unfulfilled Moderate element does not disappear; it becomes part of the Serious-area plan, due on the Serious-area schedule. As the preamble explains, “[t]he newly classified Serious area does not escape the Moderate area requirements. The State must submit the Serious area SIP elements, which necessarily include all of the Moderate area SIP elements, on the timeline that accords with the new Serious area classification.” 91 Fed. Reg. at 35641; see *id.* at 35646–47.

Fifth, to the extent the concern is specific to voluntary reclassification, it is a concern with the statute Congress wrote, not with EPA’s interpretation of it. Congress directed that the Administrator “shall grant the request of any State to reclassify a nonattainment area in that State” to a higher classification. 42 U.S.C. § 7511(b)(3). The January 2025 rule itself recognized that some lower-classification elements must fall away upon reclassification to avoid absurdity. 90 Fed. Reg. at 5666–67. The dispute has always been about where to draw that line, and section 182(i) draws it at the current classification.

4.1.3. Sections 172(e) and 193 pose no anti-backsliding obstacle

Opponents of the Proposed Rule can be expected to argue that extinguishing separately-due lower-classification submissions is impermissible backsliding. Neither of the Act’s anti-backsliding provisions applies.

Section 172(e) addresses the consequences of EPA *relaxing a national primary ambient air quality standard*, requiring that controls in affected nonattainment areas be “not less stringent” than before the relaxation. 42 U.S.C. § 7502(e). The

Proposed Rule relaxes no NAAQS. The 2008 and 2015 ozone standards remain in force at their current levels, and every area's classification, design-value obligations, and attainment date are untouched.

Section 193, the savings clause, preserves regulations, standards, and requirements in effect before the 1990 amendments and restricts modification of certain pre-1990 control requirements. 42 U.S.C. § 7515. The Proposed Rule modifies no control requirement at all. Adopted SIP measures remain federally enforceable components of the applicable implementation plan unless and until revised under section 110, including the anti-interference demonstration of section 110(l). 42 U.S.C. § 7410(l). What the Proposed Rule changes is which *planning submissions* are due after a reclassification and on what schedule. Submission timing for reclassified areas is exactly the subject Congress committed to the Administrator's judgment in section 182(i), and no adopted emission control anywhere becomes less stringent by operation of this rule.

Nor does the D.C. Circuit's anti-backsliding case law counsel otherwise. In *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006), the court applied section 172(e)'s anti-backsliding principle to EPA's *revocation* of the 1-hour ozone NAAQS in the transition to the 8-hour standard, holding that controls applicable under the revoked standard had to be retained. The premise of that holding is absent here. Nothing is revoked, relaxed, or withdrawn; the 2008 and 2015 ozone standards remain in force, every adopted control remains in the applicable implementation plan, and each area's classification and attainment date are unchanged.

4.1.4. Retroactive application is lawful and should be finalized

EPA is "specifically seeking comments on the concept that this proposed rulemaking, if finalized, would apply to reclassification actions that occurred in the past." 91 Fed. Reg. at 35642. Prime Mover Institute supports that application, for three reasons.

First, the application is prospective in operation. Applying the current-classification interpretation to areas reclassified in 2024 and 2025 changes the submissions those States owe *going forward*; it attaches no new legal consequence to completed conduct, imposes no liability, and divests no party of a vested right. Cf. *Landgraf v. USI Film Products*, 511 U.S. 244, 269–70 (1994) (retroactivity turns on whether a rule attaches new legal consequences to events completed before its enactment); *Bowen v. Georgetown University Hospital*, 488 U.S. 204, 208 (1988) (the presumption against retroactive rulemaking concerns rules that alter the past legal consequences of past actions). A finding of failure to submit is not a private entitlement, and the sanctions and federal implementation plan ("FIP") clocks it starts are ongoing federal consequences that EPA administers. Where the

predicate submission is no longer required, the finding is moot and the clocks properly stop. See 91 Fed. Reg. at 35647–48. The practical disruption is minimal in any event; the sanctions clocks associated with the October 2023 finding of failure to submit have already been terminated by completeness determinations for all eleven affected States. See 91 Fed. Reg. at 35648 n.51.

Second, uniform application avoids arbitrary line-drawing. The eighteen areas in fifteen States reclassified from Moderate to Serious for the 2015 ozone NAAQS in 2024 and 2025, see 91 Fed. Reg. at 35648, would otherwise carry indefinitely a set of Moderate-area obligations that no future reclassified area will bear — a distinction with no statutory basis.

Third, retroactive application reflects the Agency’s current practice with respect to past reclassification-related actions. This spring EPA proposed to reconsider and repeal a 2024 finding of failure to attain and the resulting Serious reclassification of the Northern Wasatch Front, Utah area, based on a demonstration under CAA section 179B(b). 91 Fed. Reg. 23209 (Apr. 30, 2026). The retroactive dimension of the Proposed Rule is of a piece with that action.

EPA has also asked whether any reliance interest exists that the Agency has not considered. 91 Fed. Reg. at 35643. Prime Mover Institute is aware of none. The parties who acted in reliance on the January 2025 framework are the States that budgeted planning resources for duplicative submissions — reliance that cuts in favor of the Proposed Rule, not against it. And reliance on a planning schedule is not reliance on adopted controls, which this rule leaves untouched.

4.2. EPA Should Confirm That Reclassified-Area SIPs May Incorporate Section 179B

4.2.1. EPA should confirm how section 179B operates within the reclassified-area framework

EPA has invited comment on the “implementation impacts” of the Proposed Rule, 91 Fed. Reg. at 35648, and the interaction between the reclassified-area SIPs policy and CAA section 179B is one such impact. Prime Mover Institute respectfully asks the Agency to address it. Section 179B, set out in Section 3.2, speaks directly to what a qualifying reclassified area must demonstrate, and because the Proposed Rule reorganizes how a reclassified area’s demonstration obligations are assembled, the final rule is a natural occasion to confirm how section 179B fits within that framework. Confirmation costs the Agency nothing on the merits. Nothing in section 179B disturbs the escalating control obligations catalogued in Section 3.1; RACT, new source review, and inspection and maintenance requirements continue to apply according to the area’s classification. The statute excuses only the attainment demonstration, in subsection (a), and the

failure-to-attain reclassification and fee consequences, in subsection (b). Section 179B calibrates what a State must demonstrate, not what its sources must control.

Under the reclassified-area SIPs policy, the substantive elements of an area's planning obligations — including the attainment demonstration — are assembled into a single current-classification plan on the current classification's schedule. Section 179B(a) speaks precisely to that plan. Where the plan meets all other applicable requirements and the State establishes that it would be adequate to attain the NAAQS by the applicable attainment date but for international emissions, the Act entitles the plan to approval. The Proposed Rule does not address this interaction, and while EPA has described its intent to revise 40 C.F.R. § 51.1403 to codify the reclassified-area SIPs policy, see 91 Fed. Reg. at 35641, the notice contains no proposed regulatory text. To foreclose any suggestion that the reorganized framework displaces section 179B — which it does not — Prime Mover Institute respectfully asks EPA to confirm two propositions in the final rule's preamble:

1. A SIP revision addressing the requirements applicable to a reclassified area may rely on a demonstration under section 179B(a), and where the revision meets all other applicable requirements and the State makes the required showing, the plan shall be approved as section 179B(a) provides; and
2. A determination under section 179B(b) that an area would have attained but for international emissions keeps the area at its existing classification — as EPA's Phoenix-Mesa determination confirms, see *infra* Section 4.2.2 — and so relieves the area of the entire escalated package that reclassification would otherwise trigger: the lower major-source thresholds, the tighter offset ratios, the enhanced inspection-and-maintenance requirements, and the section 185 fee program. The area is spared these obligations not because any one of them is modified, but because it never becomes subject to them. This relief operates according to the statute's terms, including for areas previously reclassified by operation of law.

If the Agency prefers to codify the point, Prime Mover Institute suggests including a sentence in the regulatory text the final rule adopts, along the following lines:

Nothing in this section limits or displaces Clean Air Act section 179B, 42 U.S.C. 7509a. A plan or plan revision addressing the requirements applicable to a reclassified area may rely in part on a demonstration under section 179B(a) of the Act, and a determination under section 179B(b) of the Act has the consequences enumerated in that section.

This confirmation asks EPA to waive nothing and to create nothing; it restates what the statute already commands, in the one place where States and EPA regional offices will look when assembling reclassified-area SIPs. A single paragraph resolves the matter at no cost to the Agency's schedule or scope, and because section 179B relief is itself statutory, harmonizing the final rule with it strengthens rather than weakens the rule's standing on judicial review. Cf. *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983) (agency decisionmaking should address the significant aspects of the problem before it).

4.2.2. EPA's recent determinations show that a section 179B demonstration is rigorous and administrable

EPA has applied section 179B repeatedly over the past two years, and its record shows that a State's demonstration that its area would attain but for international emissions is a rigorous, replicable exercise the Agency is well equipped to evaluate. In April 2025, EPA rescinded December 2020 guidance that had made international-emissions demonstrations unnecessarily difficult and committed to work with State and local air agencies on section 179B relief. See EPA, *Administrator Zeldin Moves Forward with Ensuring U.S. States Are Not Punished for Foreign Air* (Apr. 7, 2025), <https://www.epa.gov/newsreleases/administrator-zeldin-moves-forward-ensuring-us-states-are-not-punished-foreign-air>. In March 2026, EPA issued a final determination that the Phoenix-Mesa, Arizona area would have attained the 2015 ozone NAAQS by its Moderate-area attainment date but for international emissions, with the consequence that the area "is not subject to the Clean Air Act (CAA) requirements pertaining to reclassification upon failure to attain and remains classified as a Moderate nonattainment area." 91 Fed. Reg. 13777, 13777-78 (Mar. 23, 2026). And in April 2026, EPA proposed to reconsider and repeal the finding of failure to attain and Serious reclassification of the Northern Wasatch Front, Utah area and to substitute a section 179B(b) determination. 91 Fed. Reg. 23209 (Apr. 30, 2026). The underlying technical method is likewise well established: the Texas Commission on Environmental Quality's ("TCEQ") section 179B(b) demonstration for the El Paso portion of the El Paso-Las Cruces, Texas-New Mexico area — which EPA proposed to approve in 2023, 88 Fed. Reg. 14095 (Mar. 7, 2023) — applied photochemical grid modeling together with corroborating ambient-monitoring and meteorological analysis under a weight-of-evidence standard. These determinations rest on established science and ordinary notice-and-comment process. All that remains is for EPA to state how that well-worn demonstration method fits the reclassified-area framework this rulemaking establishes.

4.3. Illustration: Texas and Other Areas Affected by International Emissions

Texas's major ozone areas show how the current-classification policy and section 179B work together to relieve a State of planning burdens for pollution its own sources did not create. In June 2024, at the State's request under CAA section 181(b)(3), EPA reclassified the Dallas-Fort Worth, Houston-Galveston-Brazoria, and San Antonio areas from Moderate to Serious nonattainment for the 2015 ozone NAAQS, effective July 22, 2024. 89 Fed. Reg. 51829 (June 20, 2024). Those areas are now assembling Serious-area plans. Under the Proposed Rule, their planning obligations consolidate into the current Serious classification — a result Prime Mover Institute supports for the reasons in Section 4. Section 182(i) by its terms addresses areas reclassified under section 181(b)(2), but the current-classification principle applies with equal force to an area that holds its classification by the State's own request; the area has only one classification either way, and the Proposed Rule's policy extends to voluntary reclassifications. See 91 Fed. Reg. at 35647 (addressing deadlines upon voluntary reclassification).

Because the Texas reclassifications were voluntary rather than imposed upon a failure to attain, the section 179B(a) plan-approval pathway is the operative one for these areas going forward. Where the State establishes that a reclassified area's plan meets all other applicable requirements and would be adequate to attain the NAAQS but for emissions emanating from outside the United States, the Act entitles the plan to approval on that basis. Section 179B(b) supplies a further, forward-looking protection: should such an area later fail to attain by its Serious attainment date, a demonstration that it would have attained but for international emissions would spare it the mandatory bump-up to Severe and the still-greater burdens that would follow — the same relief EPA granted the Phoenix-Mesa area and proposed for the Northern Wasatch Front. Whether any particular area can make that showing is a technical question for the State's air agency, and a demonstration built on one area's record does not transfer automatically to another. But the capability is not in doubt — TCEQ has produced a rigorous section 179B demonstration before, the El Paso showing EPA proposed to approve in 2023, see *supra* Section 4.2 — and the pathway should be equally visible in the reclassified-area framework.

The same logic reaches every area whose monitors record ozone that domestic controls cannot eliminate, whether from cross-border transport in border States or international and intercontinental contributions in the Intermountain West, as the Phoenix-Mesa and Northern Wasatch Front proceedings illustrate. The Proposed Rule rationalizes what reclassified areas must plan for. Section 179B calibrates what they must demonstrate. Confirming that the two operate together gives

States a coherent, statutorily-grounded framework in place of the duplicative obligations the January 2025 rule imposed.

5. CONCLUSION

Prime Mover Institute supports the Proposed Rule and urges EPA to finalize it, including its application to past reclassifications. The current-classification interpretation is the best reading of section 182(i), and the final rule will be stronger still if it directly answers the January 2025 rule's findings and the anti-backsliding and retroactivity objections, as outlined above. Prime Mover Institute further urges EPA to confirm, in the final preamble and if the Agency chooses in the text of 40 C.F.R. § 51.1403, that reclassified-area SIPs may incorporate the demonstration pathway of CAA section 179B — so that the Act's classification machinery addresses the pollution American sources can control, and Congress's chosen mechanism addresses the pollution they cannot.