necessary for compliance with the maintenance aspects of section 110(a)(2)(D), as discussed in more detail in the SNPRM. In the SNPRM and NPRM discussions, EPA emphasized the relocation of maintenance in general to section 175A in the 1990 Amendments to the Act, together with the retention of maintenance as an explicit consideration under section 110(a)(2)(D) for purposes of addressing pollution transport. Particularly in light of the staggered attainment deadlines under section 181 for ozone, upwind areas with later deadlines may continue to generate emissions interfering with downwind maintenance in downwind areas with shorter attainment deadlines. As with the attainment analysis, EPA concludes that it is important to act now, because reductions from the OTC LEV and LEV-equivalent programs are dependent on fleet turnover, and delay would cause the irrevocable loss of emissions reductions necessary for downwind maintenance. Also, uncertainty in the factual analysis for maintenance should be resolved in favor of health and the environment for the same reasons EPA described in the attainment discussion.

EPA also concludes maintenance is a proper consideration under section 184(c), as described in more detail in the SNPRM and NPRM. While the language of section 184(c) references timely attainment and does not explicitly refer to maintenance, EPA concluded that "attainment" should be understood to include "maintenance" where the issue is whether measures are "necessary" to comply with pollution transport requirements. This is because it does not make sense to believe Congress intended that section 184 would not reach a measure in fact necessary for maintenance, when the result of a failure to implement the measure would therefore be downwind areas' relapse into nonattainment. Also, EPA believes that the OTC is an entity also established under section 176A, which encompasses both the attainment and maintenance aspects of section 110(a)(2)(D). Section 184 simply adds stringency to section 176A in light of the serious problem in the northeast. It therefore makes sense to believe Congress did not intend in section 184(c) to displace the more general authority of a commission under section 176A to make recommendations, and for EPA to approve recommendations, concerning both the attainment and maintenance aspects of section 110(a)(2)(D). EPA has reviewed the comments submitted on this issue and continues to believe that it has the

authority to consider maintenance when acting pursuant either to section 110 or section 184 for the reasons given in the SNPRM and in the response-tocomments documents.

Beyond that, as described earlier, EPA believes that it may treat the OTC submittal also as a request with recommendations under section 176A, which plainly authorizes EPA to approve such a request if its recommended measures are necessary to prevent interference with maintenance in downwind states under section 110(a)(2)(D).

## b. Technical Analysis

EPA is concluding that, unless an acceptable LEV-equivalent program is in effect, the OTC LEV program is necessary for states in the OTR to maintain the ozone NAAQS after they achieve the standard, as discussed in the SNPRM. See 59 FR at 48688. EPA bases this conclusion on its analysis of emissions growth in the OTR which the additional measures must neutralize, even after sufficient controls for attainment by the attainment deadlines are in place. This growth results especially from increasing vehicle miles traveled (VMT), which tends to overcome reductions resulting from turnover to the Tier 1 standards and implementation of advanced inspection/ maintenance programs. Therefore, the high level of reductions needed to attain the NAAQS are also needed from the same areas to maintain the NAAQS, and OTC LEV or a LEV-equivalent program is needed from those areas for the same reason.

The Agency's analysis of available control options shows that they are insufficient to produce the emissions reductions needed to bring downwind areas into attainment without more stringent standards for new motor vehicles. The Agency therefore concludes that such options would a fortiori be insufficient to achieve the emissions reductions needed to maintain the standard over two consecutive ten-year periods following redesignation (as required under section 175A). The additional ROM and meteorological studies described above tend to confirm that the serious areas in the Northeast Corridor-including the New England areas—will not be able to attain and maintain the ozone standard without a combination of measures including OTC LEV or a LEV-equivalent program. (The response-to-comments documents include additional support for this conclusion.)

EPA explained that the OTC LEV or LEV-equivalent program will continue to accrue additional benefits through the year 2028. EPA calculated that in 2015 (the latest year for which it has projected emissions reductions), the program would yield a 39% reduction in NO<sub>x</sub> emissions and a 38% reduction in VOC emissions from highway vehicles compared to emissions in that year without the program.

EPA acknowledges that for the most part, sources in Maine do not directly contribute emissions or ozone to an interstate ozone nonattainment problem. Maine is included because vehicles purchased in Maine may release emissions in parts of the OTR that do contribute to a nonattainment or maintenance problem. A vehicle purchased in Maine may travel to another state in the OTR because a Maine resident who purchased the vehicle in Maine moved to the other state or traveled there for purposes of work or recreation. This pattern is more common in southeastern Maine, which is close to the New Hampshire city of Portsmouth.

EPA's rationale for finding LEV necessary in New Hampshire is severalfold. Parts of southern and central New Hampshire are northwest of Boston, and trajectory studies support the hypothesis that emissions and ozone from these areas contribute to the Boston nonattainment problem. In addition, part of New Hampshire is in the Boston nonattainment area; thus, vehicles in this area generate local NO<sub>X</sub> and VOC emissions that are part of the problem on the Massachusetts side of the state border. Vehicles in other parts of New Hampshire should be subject to the OTC LEV program for the same reason as vehicles in Maine, discussed above

In addition, New Hampshire lies to the south and southwest of Maine, and thus contributes to Portland and other Maine nonattainment problems. Although the Maine areas are moderate with an attainment date of 1996, it is possible that the LEV reductions, which will not begin until 1999, will be necessary for attainment and maintenance in Maine. At the least, this possibility provides EPA with another reason to resolve any uncertainty over the necessity of OTC LEV in this state in favor of requiring OTC LEV.

Specifically, the OTC ROM and the New York UAM/ROM Study clarify the extent to which LEV may be needed for attainment and maintenance in the northeastern portions of the OTR. Both studies (i) apply ROM 2.2 to analyze what would happen with a recurrence of the July 1988 meteorological episodes in the year 2005, and (ii) incorporate the interim regional emissions inventory as well as emissions reductions from