



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Robert R. Scott, Commissioner



September 5, 2018

Alexandra Dunn, Regional Administrator  
U.S. Environmental Protection Agency, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: Certification of Adequacy for 2015 Ozone Standard

Dear Administrator Dunn:

As Governor Sununu's designee, I am enclosing for your review and approval New Hampshire's certification of adequacy for the 2015 annual National Ambient Air Quality Standard (NAAQS) for ozone (O<sub>3</sub>).

Under paragraphs 110(a)(1) and (2) of the Clean Air Act (Act), after promulgation of a new or revised NAAQS, each state is required to submit a plan to provide for the implementation, maintenance, and enforcement of the NAAQS. States are required to address basic state implementation plan (SIP) requirements, including emissions inventories, monitoring, and modeling, to assure attainment and maintenance of the standards. By statute, SIPs required by paragraphs 110(a)(1) and (2) are to be submitted by states within 3 years after promulgation of a new or revised standard. EPA advises that these subsection 110(a) "infrastructure" SIPs are due 3 years from the date of signature of the NAAQS, as this represents widespread dissemination and, therefore, promulgation of the NAAQS under 307(d) of the Act. For the 2015 O<sub>3</sub> standard, the due date is October 26, 2018.

There are fourteen elements within paragraphs 110(a) (1) and (2) that New Hampshire is required to meet in the certification of adequacy. The specific statutes and administrative rules of the New Hampshire program that address those elements are identified in the attached SIP revision. This submission meets the completeness criteria of Appendix V to 40 CFR 51 Section 2.1 by including:

- Enclosure A: Revision to New Hampshire State Implementation Plan to Meet the Requirements of the Clean Air Act, Section 110(a)(2)
- Enclosure B: New Hampshire Statute Title X, Chapter 125-C:4 that provides authority for Air Pollution Control
- Enclosure C: Public Participation Documentation
  - Notice of Public Hearing and Comment Period
  - Certification of Public Hearing
  - Hearing report and responses to all comments received.

As the Governor's designee, my signature on this letter is evidence that the State of New Hampshire has adopted this Certification of Adequacy and revision to the State Implementation Plan (SIP). The only state requirement for SIP submittals is that at least 30 days before the date of any public hearing related to SIP revisions, public notice shall be published in a newspaper of general daily statewide circulation.

If you have any questions, please contact me at (603) 271-6791 or Felice Janelle of my staff at (603) 271-4848.

Sincerely,



Craig A. Wright

Director

Air Resources Division

Enclosures

ec: Ariel Garcia, EPA Region 1  
Alison Simcox, EPA Region 1

## **Enclosure A**

### **Certification of State Implementation Plan Adequacy Regarding Clean Air Act Section 110(a)(1) and (2) for Ozone (O<sub>3</sub>)**

August 24, 2018



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**Certification of State Implementation Plan  
Adequacy Regarding Clean Air Act  
Section 110(a)(1) and (2) for Ozone (O<sub>3</sub>)**

**August 24, 2018**

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**Robert R. Scott, Commissioner  
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## TABLE OF CONTENTS

1.0	Introduction.....	1
2.0	Background.....	1
3.0	New Hampshire's Compliance with Clean Air Act Section 110(a)(1) and (2) SIP Requirements for Ozone (O <sub>3</sub> ).....	1
	Subsection 110(a)(2)(A): Emission Limits and Other Control Measures .....	1
	Applicable NH Laws and Regulations.....	2
	Subsection 110(a)(2)(B): Ambient Air Quality Monitoring/Data System .....	2
	Subsection 110(a)(2)(C): Program for Enforcement of Control Measures.....	3
	Applicable NH Laws and Regulations.....	3
	Subsection 110(a)(2)(D)(i): Interstate Transport .....	3
	Applicable NH Laws and Regulations.....	6
	Subsection 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Pollution Abatement .....	6
	Subsection 110(a)(2)(E): Adequate Resources .....	7
	Subsection 110(a)(2)(F): Stationary Source Emissions Monitoring and Reporting .....	8
	Subsection 110(a)(2)(G): Emergency Power.....	8
	Subsection 110(a)(2)(H): Future SIP revisions .....	10
	Subsection 110(a)(2)(I): Areas Designated Nonattainment .....	10
	Subsection 110(a)(2)(J)(i)(ii): Consultation with Government Officials; Public Notification; PSD; Visibility Protection.....	11
	Additional information.....	12
	Subsection 110(a)(2)(K): Air Quality Modeling/Data.....	12
	Additional information.....	12
	Subsection 110(a)(2)(L): Permitting Fees .....	12
	Subsection 110(a)(2)(M): Consultation and Participation by Affected Local Entities .....	13
4.0	Public Comment Period.....	13

## 1.0 Introduction

New Hampshire must certify to the U.S. Environmental Protection Agency (EPA) that its State Implementation Plan (SIP) provides for the implementation, maintenance, and enforcement of each primary or secondary national ambient air quality standard. This type of SIP submission, required under sections 110(a)(1) and (2) of the Clean Air Act (CAA), is commonly referred to as an “infrastructure SIP” or “iSIP.”

New Hampshire submits this certification in response to the revised National Ambient Air Quality Standards (NAAQS) for ozone (O<sub>3</sub>) as published by the EPA as a final rule on October 26, 2015 [80 FR 65292]. For states such as New Hampshire that are already meeting these air quality standards, EPA expects states to make certification of SIP adequacy within three years after the date of promulgation of the standards. Thus, this certification is provided ahead of its due date of October 26, 2018.

## 2.0 Background

To protect public health and welfare, EPA established NAAQS for six criteria pollutants – particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), carbon monoxide (CO), lead (Pb) and ozone (O<sub>3</sub>). Ozone can cause or exacerbate respiratory ailments, particularly in vulnerable populations such as people with asthma, children, older adults, and people who are active outdoors. Ground level ozone is not emitted directly into the air but is created by chemical reactions between NO<sub>x</sub> and volatile organic compounds (VOC). Ozone is the main component of smog.

In 2015, the EPA revised the level of the standard from 0.075 ppm to 0.070 ppm to provide increased public health protection against health effects associated with long- and short-term exposures. EPA retained the form of the standard – the annual fourth-highest daily maximum averaged over three years. The standard is met if the calculated value, referred to as the design value, is 0.070 ppm or lower.

## 3.0 New Hampshire’s Compliance with Clean Air Act Section 110(a)(1) and (2) SIP Requirements for Ozone (O<sub>3</sub>)

The submittal of this document is intended to meet New Hampshire’s obligations under the CAA with respect to section 110(a)(1) and (2). The following describes how New Hampshire’s SIP meets these requirements with specific reference to subsections 110(a)(2)(A) through (M).

### Subsection 110(a)(2)(A): Emission Limits and Other Control Measures

*Clean Air Act (CAA) Citation:*

*“Each such plan shall...include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Chapter.”*

This section describes the state's basic structural provisions for implementation of the NAAQS. New Hampshire's Revised Statutes Annotated (RSA) at Chapter 21–O<sup>1</sup> established the New Hampshire Department of Environmental Services (NHDES), and RSA Chapter 125–C<sup>2</sup> gives the Commissioner of NHDES the authority to develop rules and regulations necessary to meet state and Federal ambient air quality standards.

The infrastructure SIP for the 2008 O<sub>3</sub> NAAQS and transport amendment were approved by EPA on December 16, 2015 [\[80 FR 78135\]](#) and October 13, 2016 [\[81 FR 70631\]](#). The transport amendment for the 1997 O<sub>3</sub> NAAQS that New Hampshire submitted on March 11, 2008 was approved on April 10, 2017 [\[82 FR 17124\]](#).

### Applicable NH Laws and Regulations

The following regulations have relevance to the control of ozone and ozone precursors:

- [Env-A 300: Ambient Air Quality Standards](#)
- [Env-A 600: Statewide Permit System](#)
  - Env-A 618: Nonattainment New Source Review
  - Env-A 619: Prevention of Significant Deterioration<sup>3</sup>
- [Env-A 800: Testing and Monitoring Procedures](#)
- [Env-A 900: Owner or Operator Recordkeeping and Reporting Obligations](#)
- [Env-A 1200: Volatile Organic Compounds \(VOCs\) Reasonably Available Control Technology \(RACT\)](#)
- [Env-A 1300: Nitrogen Oxides \(NOx\) Reasonably Available Control Technology \(RACT\)](#)<sup>4</sup>
- [Env-A 1500: Conformity](#)
- [Env-A 2300: Mitigation of Regional Haze](#)
- [Env-A 3200: NOx Budget Trading Program](#)
- [Saf-C 3200: Official Motor Vehicle Inspection Requirements](#)
  - Saf-C 3220: Emissions Requirements
  - Saf-C 3222: On-Board Diagnostic System

Additional chapters and parts have general and specific applicability to sources of ozone and ozone precursors.

All areas in New Hampshire are currently classified attainment/unclassifiable for O<sub>3</sub>.

### Subsection 110(a)(2)(B): Ambient Air Quality Monitoring/Data System

#### *CAA Citation:*

*"Each such plan shall...provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator."*

SIPs must include provisions to provide for establishing and operating an air monitoring program. RSA Chapter 125-C:6 III, IV and XVI<sup>5</sup> grants the Commissioner the power and duty to

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<sup>1</sup> [Chapter 21-O](#)

<sup>2</sup> [Chapter 125-C](#)

<sup>3</sup> NH amended Env-A 619 and 619: Prevention of Significant Deterioration, effective October 22, 2016. Approved by EPA effective date July 24, 2017 [\[82 FR 24057\]](#).

<sup>4</sup> NH adopted Env-A 1300: Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT). NHDES submitted this rule in 2011 and is currently in the process of updating it for the 2015 standard.

conduct studies related to air quality, to disseminate the results, and to assure the reliability and accuracy of monitoring equipment to meet federal EPA standards. NHDES operates a monitoring network in accordance with 40 CFR 58, and EPA approved the state's most recent Annual Network Review and Plan (2015/2016) in September 2015.<sup>6</sup> NHDES submits network review and assessments every five years. Furthermore, NHDES populates AQS with air quality monitoring data in a timely manner and provides EPA with prior notification when considering a change to its monitoring network or plan. NHDES currently monitors O<sub>3</sub> at eleven locations in the state.

#### Subsection 110(a)(2)(C): Program for Enforcement of Control Measures

##### *CAA Citation:*

*"Each such plan shall...include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter."*

States must enforce the SIP measures that they enact. NHDES staffs and implements an enforcement program pursuant to RSA Chapter 125–C Air Pollution Control. New Hampshire's RSA Chapter 125–C:15 authorizes the Commissioner of the NHDES or their authorized representative, upon finding a violation of Chapter 125–C has occurred, to issue a notice of violation or an order of abatement, and to include within it a schedule for compliance. Additionally, this chapter sanctions penalties for violations.

Prevention of Significant Deterioration (PSD) applies to new major sources, or modifications made to major sources, located in an area that is in attainment or unclassifiable with regard to the relevant NAAQS. EPA approved NHDES's PSD (Part Env-A 619) program on May 25, 2017 [82 FR 24057].

#### Applicable NH Laws and Regulations

In addition to the provisions noted above, New Hampshire's permitting program at Env-A 600 includes requirements for minor sources and modifications at Part Env-A 607: Temporary Permits, Part Env-A 608: State Permits to Operate, and Env-A 609: Title V Operating Permits.<sup>7</sup>

#### Subsection 110(a)(2)(D)(i): Interstate Transport

##### *CAA Citation:*

*"Each such plan shall...contain adequate provisions – (i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will – (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be*

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<sup>5</sup> Chapter 125-C:6 Powers and Duties of the Commissioner

<sup>6</sup> The New Hampshire Annual Network Review and Plan was approved by the EPA on September 30, 2015.

<sup>7</sup> New Hampshire's Title V Operating Permit Program was approved by EPA on September 24, 2001.



*included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.”*

The EPA provided information to assist states in developing SIPs to fulfill the interstate transport requirements for the 2015 ozone NAAQS. In a 2015 memo,<sup>8</sup> the EPA stated their intention to provide timely information relative to the transport element using the framework of the Cross State Air Pollution Rule (CSAPR) rule. The EPA’s subsequent Notice of Data Availability (NODA)<sup>9</sup> includes preliminary air quality modeling data to help states as they develop their 2015 ozone NAAQS infrastructure SIPs. This data was updated in a subsequent memorandum in October 2017.<sup>10</sup>

The CSAPR framework referenced above is a 4-step process where step 1 entails identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS, and step 2 is determining which upwind states contribute to these problems in amounts sufficient to connect them to downwind air quality problems. The NODA and subsequent memorandum provide the results of analyses that may be used to evaluating interstate transport with respect to the 2015 ozone NAAQS.

Using Comprehensive Air Quality Modeling with Extensions (CAMx) v. 6.32, the EPA projected that nine monitors in the eastern half of the United States would be in nonattainment of the 2015 ozone NAAQS in 2023, defined as having a projected average design value above 0.070 ppm. Of these, three are in Texas, two each in Connecticut and Wisconsin, and one each in Maryland and New York. Five eastern monitors were identified as projected 2023 maintenance areas: three in Texas, two in Connecticut and one in New York (Table 1). Maintenance areas were those having a projected maximum design value above the NAAQS and a projected average design value below it.

EPA next performed nationwide, state-level ozone source apportionment modeling using the CAMx Anthropogenic Precursor Culpability Analysis (APCA) technique. The source apportionment model simulation was performed for the period May 1 through September 30 using the 2023 future base case nitrogen oxides (NOx) and volatile organic compound (VOC) and 2011 meteorology for the time period to obtain projected 2023 ozone concentrations from a number of contribution categories. Additional details of the modeling exercise can be found in the March 2018 memorandum.<sup>11</sup> Contributions from each source category were processed to obtain the 8-hour average concentrations corresponding to the time period of the 8-hour daily maximum concentration on each day in the 2023 model simulation. Contributions from each

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<sup>8</sup> Memorandum from Janet McCabe, Acting Assistant administrator, Office of Air Quality of Planning and Radiation to Regional Administrators, Regions 1-10, “Implementing the 2015 Ozone National Ambient Air Quality Standards,” October 1, 2015.

<sup>9</sup> “Notice of Availability of the Environmental Protection Agency’s Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality Standard (NAAQS),” Summary of Tables 3-1 and 3-2, 82 FR 1733 (January 6, 2017), pp 1733-1741.

<sup>10</sup> Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Regions 1-10, “Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under the Clean Air Act Section 110(a)(2)(D)(i)(I),” October 27, 2017.

<sup>11</sup> Memorandum from Peter Tsirigotis, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Regions 1-10, “Information on the Interstate Transport Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under the Clean Air Act Sections (a)(2)(D)(i)(I),” March 27, 2018.

state to 2023 downwind nonattainment receptors and to downwind maintenance-only receptors is provided in the memorandum.<sup>12</sup> New Hampshire's contribution is listed as 0.00 to 2 ppb to nonattainment areas and 0.00 to 6 ppb to maintenance receptors (See Table 1). This is well below the screening threshold, 1% of the NAAQS, or 7 ppb, indicating that New Hampshire complies with section 110(a)(2)(D)(i)(I) good neighbor provisions as defined by EPA.

Table 1. EPA Predicted 2023 8-Hour Ozone Concentrations (in ppb) at Northeast Monitors Exceeding 71 ppb<sup>13</sup> and NH Contribution

Monitor ID	State	County	Average 2023 DV	Maximum 2023 DV	NH Contribution
<b>Projected Nonattainment Areas (Average 2023 DV ≥71.0)</b>					
90013007	Connecticut	Fairfield	71.0	75.0	0.02
90019003	Connecticut	Fairfield	73.0	75.9	0.02
361030002	New York	Suffolk	74.0	75.5	0.01
480391004	Texas	Brazoria	74.0	74.9	0.00
482011039	Texas	Harris	71.8	73.5	0.00
484392003	Texas	Tarrant	72.5	74.8	0.00
550790085	Wisconsin	Milwaukee	71.2	73.0	0.00
551170006	Wisconsin	Sheboygan	72.8	75.1	0.00
<b>Projected Maintenance Areas (Maximum 2023 DV ≥71.0)</b>					
90010017	Connecticut	Fairfield	68.9	71.2	0.01
90013007	Connecticut	Fairfield	71.0	75.0	0.02
90019003	Connecticut	Fairfield	73.0	75.9	0.02
90099002	Connecticut	New Haven	69.9	72.6	0.03
360810124	New York	Queens	70.2	72.0	0.06
361030002	New York	Suffolk	74.0	75.5	0.01
480391004	Texas	Brazoria	74.0	74.9	0.00
481210034	Texas	Denton	69.7	72.0	0.00
482010024	Texas	Harris	70.4	72.8	0.00
482011034	Texas	Harris	70.8	71.6	0.00
482011039	Texas	Harris	71.8	73.5	0.00
484392003	Texas	Tarrant	72.5	74.8	0.00
550790085	Wisconsin	Milwaukee	71.2	73.0	0.00
551170006	Wisconsin	Sheboygan	72.8	75.1	0.00

The March 2018 memorandum also contained projected ozone design values at individual monitoring sites nationwide based on EPA's updated transport modeling for 2023, including projected 2023 average and maximum design values based on the "3x3" approach recommended in EPA's photochemical modeling guidance. The average and maximum 8-hour ozone design value concentrations predicted by this modeling for monitors in New Hampshire

<sup>12</sup> Ibid.

<sup>13</sup> "2015 Ozone NAAQS Interstate Transport Assessment Design Values and Contributions," [https://www.epa.gov/sites/production/files/2018-05/updated\\_2023\\_modeling\\_dvs\\_collective\\_contributions.xlsx](https://www.epa.gov/sites/production/files/2018-05/updated_2023_modeling_dvs_collective_contributions.xlsx), May 2018.



indicate values well below the standard. These values are corroborated by the Gamma modeling<sup>14</sup> performed by the Ozone Transport Commission (OTC)(Table 2). These values suggest that ozone concentrations in New Hampshire will continue to be well below the 2015 ozone NAAQS in 2023, the expected attainment year for Moderate ozone nonattainment areas.

Table 2. EPA<sup>15</sup> and OTC Predicted 2023 8-Hour Ozone Concentrations (in ppb) at New Hampshire Monitors

Site	County	EPA 2023 3x 3 avg	EPA 2023 3x 3 max	OTC predicted design values 2023
<b>330090010</b>	Grafton	48.1	48.4	48.4
<b>330111011</b>	Hillsborough	53.6	54.2	52.9
<b>330115001</b>	Hillsborough	55.5	56.3	54.9
<b>330131007</b>	Merrimack	51.6	51.8	51.2
<b>330150014</b>	Rockingham	53.6	53.6	53.2
<b>330150016</b>	Rockingham	53.8	54.4	53.4
<b>330150018</b>	Rockingham	55.1	55.1	54.3
<b>330012004</b>	Belknap	50.4	51.0	50.3
<b>330050007</b>	Cheshire	49.7	50.2	49.4
<b>330074001</b>	Coos	57.1	57.7	56.7
<b>330074002</b>	Coos	49.3	50.4	49.0

#### Applicable NH Laws and Regulations

Part Env-A 619 Prevention of Significant Deterioration and Part Env-A 618 Nonattainment New Source Review were approved on May 25, 2017 [82 FR 24057]. New Hampshire's Mitigation of Regional Haze rule (Env-A 2300) was approved by EPA on August 22, 2012 [77 FR 50602].

Additionally, EPA has approved into the SIP NHDES regulations related Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOCs)<sup>16</sup> and for Oxides of Nitrogen (NOx).<sup>17</sup> NHDES is currently revising its NOx RACT with the intention of making it applicable to both the 2008 and 2015 8-hour ozone standards. Final adoption of the revision is expected in the summer of 2018. NHDES is concurrently updating its RACT Certification SIP submission, also intended to meet both the 2008 and 2015 ozone standards.

#### Subsection 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Pollution Abatement

##### *CAA Citation:*

*"Each such plan shall...contain adequate provisions...(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."*

<sup>14</sup> Details of this modeling effort are provided in Appendix A.

<sup>15</sup> These values are from the updated 2023 contribution modeling released by the EPA in March 2018.

<sup>16</sup> Env-A 1200 [81 FR 53926]

<sup>17</sup> Env-A 1300 [79 FR 49458]

SIPs must contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. There are no final findings under section 115 of the CAA against New Hampshire with respect to O<sub>3</sub>. In addition, there are currently no sources in the state that are subject to any finding under CAA Section 126 with respect to the 2015 ozone NAAQS.

As previously noted, EPA has approved into the SIP New Hampshire's Prevention of Significant Deterioration program (Env-A 619).

#### Subsection 110(a)(2)(E): Adequate Resources

##### *CAA Citation:*

*"Each such plan shall...provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and ... provide (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision."*

New Hampshire has documented through prior infrastructure SIP submittals that its air agency has the requisite authority and resources to carry out its SIP obligations. New Hampshire RSA 125-C:6, Powers and Duties of the Commissioner, authorizes the Commissioner of the NHDES to enforce the state's air laws, establish a permit program, accept and administer grants, and exercise incidental powers necessary to carry out the law. Additionally, RSA 125-C:12, Administrative Requirements, authorizes the Commissioner to collect fees to recover the costs of reviewing and acting upon permit applications and enforcing the terms of permits issued.

RSA 21-O:11, Air Resources Council,<sup>18</sup> establishes the New Hampshire Air Resources Council, a state board that has the authority to hear enforcement and permit appeals. Under state law, permits and enforcement orders issued by the Commissioner can be appealed to the Air Resources Council in an adjudicative proceeding.<sup>19</sup> New Hampshire RSA 21-O:11, Air Resources Council, was approved into the SIP by the December 16, 2015 [80 FR 78140].

With respect to sub-element (iii), the State of New Hampshire does not rely on any local or regional government, agency, or instrumentality for the implementation of any provision of the SIP.

#### Applicable NH Laws and Regulations

A list of NH rules that have been submitted for inclusion in the SIP are provided throughout this document.

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<sup>18</sup> Section 21-O:11 Air Resources Council.

<sup>19</sup> Section 21-O:14 Administrative Appeals.

Subsection 110(a)(2)(F): Stationary Source Emissions Monitoring and Reporting

*CAA Citation:*

*"Each such plan shall...require, as may be prescribed by the Administrator - (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Chapter, which reports shall be available at reasonable times for public inspection."*

New Hampshire RSA 125–C: 6, Powers and Duties of the Commissioner, authorizes the Commissioner of NHDES to require the installation, maintenance, and use of emissions monitoring devices and to require periodic reporting to the Commissioner of the nature and extent of the emissions. This authority also enables the Commissioner to correlate this information to any applicable emissions standard and to make the information available to the public. NHDES implements Chapter Env-A 800, Testing and Monitoring Procedures, and Chapter Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as the primary means of fulfilling these obligations. New Hampshire's Chapters Env-A 800 and 900 were approved into the SIP on November 5, 2012 [77 FR 66388]. Additionally, under RSA 125–C:6, VII and Env-A 103.04, emissions data are not considered confidential information. New Hampshire routinely collects information on air emissions from its industrial sources and makes this information available to the public. The State does not have any provisions which would prevent the use of valid emissions data.

Subsection 110(a)(2)(G): Emergency Power

*CAA Citation:*

*"Each such plan shall...provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority."*

RSA 125–C:9 Authority of the Commissioner in Cases of Emergency, authorizes the Commissioner of NHDES, with the consent of the Governor and Executive Council, to issue an order requiring actions to be taken as the Commissioner deems necessary to address an air pollution emergency. Such orders are effective immediately upon issuance.

RSA 125-C:15 I. Whenever the commissioner or the commissioner's authorized representative finds that any device, non-Title V source, affected source of air pollution, or any other source of air pollution has resulted in a violation of any of the provisions of this chapter or any rules in force hereunder, or any condition in a permit issued under this chapter, the commissioner shall issue a notice of violation and, where appropriate, an order of abatement establishing a compliance schedule with which the device, non-Title V source, affected source, or any other source shall comply. Any order of abatement shall become final and enforceable by the commissioner within 30 days of its issuance unless an appeal is filed with the air resources council before the expiration of said 30-day period. ... Upon a finding by the commissioner that there is an imminent and substantial endangerment to the public health or welfare or the

environment, the commissioner shall issue an order of abatement requiring immediate compliance and said order shall be final and enforceable upon issuance, but may be appealed to the council within 30 days of its issuance, and the council may, after hearing, uphold, modify, or abrogate said order.

The cited law provides authority comparable to that in section 303. The State has broad statutory authority to address activities causing imminent and substantial endangerment to public health. NHDES procedures in response to elevated ozone levels are similar to the notification and communication requirements of 40 CFR 51.152(c). NHDES performs as follows: Through the EPA AirNow and EnviroFlash systems, NHDES posts forecasted ozone levels statewide for each day during the ozone season. Notices are sent out to ENVIROFLASH participants whenever levels in New Hampshire are forecasted to exceed the current 8-hour ozone standard. In addition, the media are alerted to these high-ozone forecasts through a press release, and the National Weather Service is notified to issue an Air Quality Advisory through the normal National Weather Service weather alert system.

Additionally, the Commissioner is authorized, under RSA 125-C:15, to enforce any violation established under Chapter 125 – Air Quality Control or any rules in force thereunder via notice of violation and, where appropriate, an order of abatement.

40 CFR 51.152 establishes contingency planning requirements for certain priority regions. As provided in 51.152(d)(1), the EPA administrator may exempt Priority I regions from contingency planning requirements if those regions have been designated as attainment or unclassifiable for the NAAQS. As previously stated, EPA has designated all areas of New Hampshire as “unclassifiable/attainment” for the 2015 ozone NAAQS.

EPA's last update to the priority classifications for New Hampshire occurred in 1972. See 37 FR 10879, May 31, 1972. In its infrastructure submittal addressing the 2008 ozone NAAQS in December 2012, and a supplement to that submittal made on May 21, 2015, New Hampshire cited recent ozone air quality data indicating that the proper ozone classification for the New Hampshire portion of the Merrimack Valley—Southern New Hampshire Interstate AQCR would be Priority I. EPA approved this classification [80 FR 78135], revising New Hampshire's priority classification for this AQCR from Priority III to Priority I for ozone. The reclassification triggers the contingency plan obligation requirement of 40 CFR 51.151, but New Hampshire requests, as it did for the 2008 ozone standard and pursuant to 40 CFR 51.152(d)(1), an exemption from this obligation because the state is designated as unclassifiable/attainment for the 2015 ozone standard. Moreover, the state has not exceeded 0.1 ppm ozone as a 1-hour maximum in the last five years, as shown in Table 3.

Table 3. Merrimack Valley-Southern New Hampshire Air Quality Control Region Annual 1-hour Ozone Maxima (ppm) 2013-2017

County/Monitoring Site	2013	2014	2015	2016	2017
<b>Belknap</b>					
330012004	0.069	0.075	0.073	0.075	0.068
<b>Cheshire</b>					
330050007	0.073	0.087	0.072	0.078	0.074

County/Monitoring Site	2013	2014	2015	2016	2017
<b>Hillsborough</b>					
330111011	0.081	0.084	0.078	0.084	0.082
330115001	0.085	0.09	0.087	0.082	0.082
<b>Merrimack</b>					
330131007	0.071	0.078	0.078	0.081	0.07
<b>Rockingham</b>					
330150014	0.097	0.088	0.087	0.078	0.089
330150016	0.087	0.089	0.09	0.087	0.091
330150018	0.082	0.085	0.079	0.084	0.091

#### Subsection 110(a)(2)(H): Future SIP revisions

##### *CAA Citation:*

*"Each such plan shall...provide for revision of such plan – (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Chapter."*

New Hampshire RSA 125–C:6, Powers and Duties of the Commissioner, provides that the Commissioner of NHDES may develop a comprehensive program and provide services for the study, prevention and abatement of air pollution. Additionally, Chapter Env-A 200, Procedural Rules, which was approved into the New Hampshire SIP on October 28, 2002 [67 FR 65710] provides for public hearings for SIP revision requests prior to their submittal to EPA at Env-A 202.06.

As evidence of New Hampshire's commitment to fulfilling the requirements of this subsection, NHDES has made numerous SIP revisions in the past for the purpose of meeting the National Ambient Air Quality Standards.

#### Subsection 110(a)(2)(I): Areas Designated Nonattainment

##### *CAA Citation:*

*"Each such plan shall...in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas)."*

EPA does not expect infrastructure SIP submissions to address subsection 110(a)(2)(I). The specific SIP submission for designated nonattainment areas required under part D follow a different schedule from the section 110 infrastructure elements and are reviewed and acted upon through a separate process.<sup>20</sup> Note that New Hampshire was designated unclassifiable/

<sup>20</sup> EPA Memorandum, Stephen D. Page to Regional Air Division Directors, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Clean Air Act Sections 110(a)(1) and 110(a)(2) ", September 13, 2013.



attainment state-wide for the 2015 8-hour ozone NAAQS in a letter to Governor Christopher Sununu dated November 6, 2017.<sup>21</sup>

Subsection 110(a)(2)(J)(i)(ii): Consultation with Government Officials; Public Notification; PSD; Visibility Protection

*CAA Citation:*

*"Each such plan shall...meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection..."*

New Hampshire informs the public relative to air quality by posting real time data from its monitoring network on the Air Quality Current Data section of its website. In addition, NHDES's Air Quality Forecast webpage provide forecasts for two different air pollutants: ground-level ozone and particle pollution. The pollutant whose concentration is highest relative to federal standards is shown on the webpage. An Air Quality Action Day is issued when unhealthy levels are forecast for either pollutant. The air quality forecast for New Hampshire is also available on the New Hampshire Department of Environmental Services' *Air Quality Information Line* at **(800) 935-SMOG**. Air Quality Forecast data is updated daily.

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements, and requires states to notify the public if NAAQS are exceeded in an area.

New Hampshire RSA 125-C:6 Powers Duties of the Commissioner, authorizes the Commissioner of NHDES to advise, consult, and cooperate with the cities, towns, and other agencies of the state and federal government, interstate agencies, and other groups or agencies in matters relating to air quality. Additionally, RSA 125-C:6 enables the Commissioner to coordinate and regulate the air pollution control programs of political subdivisions to plan and implement programs for the control and abatement of air pollution and to collect and disseminate the results of studies relating to air quality. Furthermore, New Hampshire regulations at Part Env-A 621 direct NHDES to notify town officials, regional planning agencies, and FLMs, among others, of the receipt of certain permit applications and the NHDES' preliminary determination to issue, amend, or deny such permits.

As previously noted, Part Env-A 619 Prevention of Significant Deterioration and Part Env-A 618 Nonattainment New Source Review have been approved into the SIP [82 FR 24057]. New Hampshire's submitted a revision to the rule that addresses 40 CFR 51.165 (a)(6) and (7), 40 CFR 51.165 (a)(5)(i), and 40 CFR 51.166(q)(2)(iv) in November 2016. New Hampshire's Mitigation of Regional Haze rule (Env-A 2300) was approved by EPA on August 22, 2012 [77 FR 50602], and a five-year progress report was approved on October 12, 2016 [80 FR 70361].

In prior rulings [80 FR 42446], EPA has found that no new visibility obligation is triggered when a new NAAQS becomes effective, therefore the visibility protections of Section 110(a)(3)(J) are not germane for infrastructure SIPs.

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<sup>21</sup> Pruitt, Administrator E. Scott. Letter to Honorable Chris Sununu. 6 November 2017.

### Additional information

Chapter Env-A 1500 Conformity provides for consultation with local agencies and planning commissions with respect to transportation conformity at Env-A 1503.05 and the conformity of federal actions related to transportation projects at Env-A 1503.03. New Hampshire's conformity rule was approved by the EPA on November 26, 2013 [78 FR 71504].

NHDES supplies local air quality information to the public via EPA [AirNow](#).

### Subsection 110(a)(2)(K): Air Quality Modeling/Data

#### *CAA Citation:*

*"Each such plan shall...provide for – (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator."*

State air agencies must demonstrate that they have the authority to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant, and to submit data to EPA upon request. Pursuant to the authority granted to the Commissioner of NHDES in RSA 125–C:6, New Hampshire reviews the potential impact of major sources consistent with 40 CFR part 51, Appendix W "Guidelines on Air Quality Models." The modeling data are sent to EPA along with the draft major permits. Air pollution dispersion modeling impact analyses are also required for some non-major sources.

### Additional information

New Hampshire's Title V program was approved by the EPA on September 24, 2001.

### Subsection 110(a)(2)(L): Permitting Fees

#### *CAA Citation:*

*"Each such plan shall...require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover – (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V."*

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit. New Hampshire implements and operates the Title V permit program, which EPA approved on September 24, 2001[66 FR 48806]. Chapter Env–A 700, Permit Fee System, establishes a fee system requiring the payment of fees to cover the costs of: reviewing and acting upon applications for the issuance of, amendment to, modification to, or renewal of a temporary permit, state permit to operate, or Title V operating permit (Part Env-a-701.01(a)); implementing and enforcing the



terms and conditions of these permits (Part Env-a-701.01(b)); and developing, implementing, and administering the Title V operating permit program (Part Env-a-701.01(d)). In addition, fees are established for activities related to permit development (e.g., application review, modeling) in Part Env-A 702. Part Env-A 705 establishes the emission-based fee program for Title V and non-Title V sources.

Subsection 110(a)(2)(M): Consultation and Participation by Affected Local Entities

*CAA Citation:*

*"Each such plan shall...provide for consultation and participation by local political subdivisions affected by the plan."*

States must consult with, and allow participation from, local political subdivisions affected by the SIP. Chapter Env-A 200, Part Env-A 204 provides a public participation process for all stakeholders that includes a minimum of a 30-day comment period and an opportunity for public hearing for all SIP-related actions. Additionally, RSA 125-C:6, Powers and Duties of the Commissioner, states that the Commissioner shall consult with the cities, towns, other agencies of the state and federal government, interstate agencies, and other affected agencies or groups in matters relating to air quality.

New Hampshire posts on the internet daily forecasted fine particulate levels through the EPA AIRNOW and EPA ENVIROFLASH systems. When levels are forecast to exceed the ozone 8-hour standard in New Hampshire, notices are sent out to ENVIROFLASH participants, the media are alerted via a press release, and the National Weather Service (NWS) is alerted to issue an Air Quality Advisory through the normal NWS weather alert system. These actions are similar to the notification and communication requirements of 40 CFR 51.152.

#### **4.0 Public Comment Period**

New Hampshire is submitting this document to the EPA as an amendment to the New Hampshire SIP in fulfillment of Sections 110(a) (1) and (2) of the CAA for the 2015 O<sub>3</sub> NAAQS. A notice of a public comment period and the opportunity to request a public hearing on these findings and this document was posted on the web site of the New Hampshire Department of Environmental Services (NHDES) and in a newspaper with statewide circulation on July 20, 2018. A public hearing was held on August 23, 2018, and comments were accepted until 4 PM that day. No comments were received.

# **TITLE X**

## **PUBLIC HEALTH**

### **CHAPTER 125-C**

#### **AIR POLLUTION CONTROL**

##### **Section 125-C:4**

###### **125-C:4 Rulemaking Authority; Subpoena Power. –**

I. The commissioner shall adopt rules under RSA 541-A, relative to:

(a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.

(b) Primary and secondary ambient air quality standards.

(c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.

(d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.

(e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.

(f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.

(g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.

(h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.

(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.

(j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.

(k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.

(l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.

(m) Procedures for granting variances, as authorized by RSA 125-C:16.

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference

standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

**Source.** 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2. 2005, 173:3. 2008, 113:3. 2010, 183:6, eff. June 21, 2010.

**Enclosure C – Public Participation Documentation**

**Attachment 1 – Notice of Public Hearing and Comment Period**

**Attachment 2 – Hearing Certification**

**Attachment 3 – Hearing Memo to File**

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
AIR RESOURCES DIVISION  
CONCORD, NEW HAMPSHIRE**

**NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING**

In accordance with New Hampshire Administrative Rule Env-A 204.01(b) and Title 40 of the Code of Federal Regulations (CFR) Section 51.102, notice is hereby given that the New Hampshire Department of Environmental Services, Air Resources Division (the Department) has prepared, and intends to submit to the U.S. Environmental Protection Agency, a certification of the adequacy of New Hampshire's State Implementation Plan (SIP) to meet the requirements of the federal Clean Air Act, section 110 (a) (1) and (2), pertaining to infrastructure elements for implementation of the federal air quality standards for ozone. These standards that New Hampshire and other states must meet are contained in Title 40: Protection of Environment, section 50.15, National Primary and Secondary Air Quality Standards for Ozone.

This SIP certification is submitted in response to the revised National Ambient Air Quality Standards (NAAQS) for Ozone as promulgated by EPA final rule on October 26, 2015 [80 FR 65292]. For states such as New Hampshire that are already meeting these air quality standards, EPA expects states to make certification of SIP adequacy within three years after the date of promulgation of the standards.

The Department solicited comments and scheduled a public hearing on the SIP certification. Comments were required to be submitted *in writing* or *by email or fax* to Felice Janelle, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095; email [felice.janelle@des.nh.gov](mailto:felice.janelle@des.nh.gov); fax (603)271-1381.

A public hearing at the Department offices was held at 9:00 a.m., Thursday, August 23, 2018, in Room 114 at 29 Hazen Drive, Concord, NH 03301.

All comments on the proposed SIP certification were due by 4:00 p.m. on Thursday, August 23, 2018, in order to be entered into the record.

A copy of the SIP certification of adequacy was available for public inspection at the Department's offices at 29 Hazen Drive, Concord, NH, during regular working hours from 8:00 a.m. to 4:00 p.m., Monday through Friday. The main text of the SIP certification could be downloaded at <http://des.nh.gov/organization/divisions/air/do/sip/index.htm> under "Ozone." In addition, the public was notified whom to contact for more information or to make arrangements for anyone wishing to attend the hearing who may need special assistance.

Craig A. Wright  
Director, Air Resources Division  
NH Department of Environmental Services

Dated: July 20, 2018

**UNION LEADER CORPORATION**

**P O BOX 9513  
MANCHESTER, NH 03108**

RECEIVED  
NEW HAMPSHIRE

JUL 23 2018

AIR RESOURCES DIVISION

0000059625  
STATE OF NH - AIR RESOURCES CO  
ATTN: ELAINE BOLDUC  
PO BOX 95  
CONCORD NH 03302-0095

I hereby certify that the legal notice: (0002431350) PUB HEARING 8/23/18 AT 9AM  
was published in the New Hampshire Union Leader

On:  
07/20/2018.

*Kelly M Cross*  
*7/20/18*

**State of New Hampshire  
Hillsborough County**

**Subscribed and sworn to before me this**

*20th*

day of

*July 2018*

*Terry M Clark*

**Notary Public**





The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Robert R. Scott, Commissioner



**CERTIFICATION OF PUBLIC HEARING:**  
**Certification of State Implementation Plan Adequacy**  
**Regarding Clean Air Act Section 110(a)(1) and (2)**  
**for the 2015 Primary 8-Hour Ozone NAAQS**

I hereby certify that:

In accordance with New Hampshire Administrative Rule Env-A 204.01(b) and Federal regulations at 40 CFR § 51.102, public notice was given that the New Hampshire Department of Environmental Services (the Department) intended to submit for the approval of the U.S. Environmental Protection Agency (EPA) a certification that New Hampshire's State Implementation Plan (SIP) fulfills the "infrastructure" requirements established in sections 110(a)(1) and (2) of the Clean Air Act (CAA) for ozone (O<sub>3</sub>).


A public hearing on the SIP submittal was held at 9:00 a.m., Thursday, August 23, 2018, in the Room 114 at the Department's offices at 29 Hazen Drive, Concord, NH 03301. Opportunity was provided for members of the public to submit oral comments during the hearing or written comments at any time up to 4:00 p.m. on the hearing date, for consideration by the Department in preparing the final SIP submittal.

A copy of the draft SIP submittal was available for public inspection at the Department's offices at 29 Hazen Drive, Concord, NH, during regular working hours from 8:00 a.m. to 4:00 p.m., Monday through Friday, throughout the comment period. The draft SIP revision was also available for downloading from the Department's website at <http://des.nh.gov>.

The notice was published in the *Union Leader*, a newspaper of general, statewide circulation, on Friday, July 20, 2018, more than 30 days prior to the hearing date.

The above statements are true to the best of my knowledge and belief.

  
\_\_\_\_\_  
Craig A. Wright  
Director, Air Resources Division

  
\_\_\_\_\_  
Date



**Memo to File**

TO: 2015 Ozone NAAQS Infrastructure SIP Files  
FROM: Felice Janelle, SIP Planning Analyst  
DATE: August 23, 2018  
RE: Public Hearing on 2012 Annual PM<sub>2.5</sub> Infrastructure SIP

On Tuesday, August 23, at 9:00 AM, a public hearing was held in Room 114 of 29 Hazen Drive, Department of Environmental Services. This hearing was noticed in the Union Leader on July 20, 2018.

No members of the public attended the hearing, so it was determined that it was not necessary to present the proposed 2015 ozone infrastructure SIP revision and record the hearing. The hearing was closed at 9:10 AM.

By the end of the comment period, August 23, 2018 at 4 PM, no comments, written or verbal, had been received.