

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division for Air Quality

4 (Amended After Comments)

5 401 KAR 51:010. Attainment status designations.

6 RELATES TO: KRS 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 50, 51, 52, 53, 58,

7 75, 81, 318, 42 U.S.C. 7401-7626, 7407, 7501-7515, 7601]

8 STATUTORY AUTHORITY: KRS 224.10-100(5), 224.20-110, 42 U.S.C. 7407[~~7401-~~

9 ~~7626]~~

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the
11 [~~Environmental and Public Protection~~] cabinet to promulgate[~~prescribe~~] administrative
12 regulations for the prevention, abatement, and control of air pollution. This administrative
13 regulation designates the status of all areas of the Commonwealth of Kentucky with regard to
14 attainment of the ambient air quality standards.

15 Section 1. Definitions. (1) "Rest of state"[~~as used in Sections 4 through 7 of this~~
16 ~~administrative regulation~~] means the remainder of the state has been designated and identified on
17 a county by county basis.

18 (2) "Road" means a Kentucky route, a county road, a lane, or a U.S. route, highway, or
19 interstate.

20 (3) "Statewide"[~~as used in Section 8 of this administrative regulation~~] means the entire
21 state has been designated on a county by county basis.

1 ~~[(3) "Road" as used in Section 2(3) of this administrative regulation means a Kentucky~~
2 ~~route, a county road, a lane, a road, or a U.S. route, highway, or interstate.]~~

3 Section 2. Attainment Status Designations. (1) The attainment status of areas of the
4 Commonwealth of Kentucky with respect to the ambient air quality standards for carbon
5 monoxide, lead, nitrogen oxides, ozone, particulate matter and sulfur dioxide~~[, carbon monoxide,~~
6 ~~ozone and nitrogen oxides]~~ is listed in Sections 4 through 10~~[5 through 8]~~ of this administrative
7 regulation. ~~[The attainment status of areas of the Commonwealth of Kentucky with respect to~~
8 ~~total suspended particulates is listed in Section 4 of this administrative regulation.]~~

9 (2) Within sixty (60) days of revision by the U.S. Environmental Protection Agency (U.S.
10 EPA) of a national ambient air quality standard, the cabinet shall review applicable data and
11 submit to the U.S. EPA a revision to the attainment - nonattainment list pursuant to 42 U.S.C.
12 7407(d)(1).

13 (3) A road, junction, or intersection of two (2) or more roads as used in Section 7 of this
14 administrative regulation that defines a nonattainment boundary for an area which is a portion of
15 a county designated as nonattainment for ozone for any classification except marginal shall
16 include as nonattainment an area extending 750 feet from the center of the road, junction, or
17 intersection.

18 Section 3. Attainment Timetable. Primary and secondary ambient air quality standards
19 shall be attained as expeditiously as practicable.

20 Section 4. Attainment Status Designations for Carbon Monoxide (CO). The 1971
21 Standard is as follows:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Statewide</u>	<u>Unclassifiable/Attainment</u>

1 Section 5. Attainment Status Designations for Lead (Pb). The 2008 Standard is as
 2 follows:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Statewide</u>	<u>Unclassifiable/Attainment</u>

3 Section 6. Attainment Status Designations for Nitrogen Oxides (NO₂).

4 (1) 1971 Annual Standard:

<u>Designated Area</u>	<u>Does Not Meet Primary Standards</u>	<u>Cannot Be Classified or Better Than Standards</u>
<u>Statewide</u>		<u>X</u>

5 (2) 2010 One (1) Hour Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Statewide</u>	<u>Unclassifiable/Attainment</u>

6 Section 7. Attainment Status Designations for Ozone (O₃).

7 (1) The 1971 One (1) Hour Standard was revoked effective June 15, 2005, for all areas in
 8 the Commonwealth of Kentucky. The Cincinnati-Hamilton, Edmonson County, Huntington-
 9 Ashland, Lexington-Fayette, Louisville, Owensboro, and Paducah areas shall be considered
 10 maintenance areas for the one (1) hour national ambient air quality standards for the purposes of
 11 40 C.F.R. Part 51, Subpart X.

12 (2) 1997 Eight (8) Hour Primary and Secondary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Boone County</u>	<u>Attainment⁽¹⁾</u>
<u>Boyd County</u>	<u>Attainment⁽¹⁾</u>
<u>Bullitt County</u>	<u>Attainment⁽¹⁾</u>

<u>Campbell County</u>	<u>Attainment⁽¹⁾</u>
<u>Christian County</u>	<u>Attainment⁽¹⁾</u>
<u>Jefferson County</u>	<u>Attainment⁽¹⁾</u>
<u>Kenton County</u>	<u>Attainment⁽¹⁾</u>
<u>Oldham County</u>	<u>Attainment⁽¹⁾</u>
<u>Rest of state</u>	<u>Unclassifiable/Attainment</u>

1 Footnote: ⁽¹⁾ Existing sources located in areas previously designated as
2 nonattainment shall continue to comply with all applicable conditions pursuant to 401
3 KAR Chapters 59 and 61.

4 (3) 2008 Eight (8) Hour Primary and Secondary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Boone County (part)</u> <u>2000 Census tracts: 701, 702, 703.01,</u> <u>703.04, 703.05, 703.06, 703.07,</u> <u>703.08, 703.09, 704.01, 704.02,</u> <u>705.01, 705.02, 706.03</u>	<u>Attainment⁽¹⁾</u>
<u>Campbell County (part)</u> <u>2000 Census tracts: 501, 502, 503,</u> <u>504, 505, 506, 511.01, 511.02, 512,</u> <u>513, 519.01, 519.03, 519.04, 521, 522,</u> <u>523.01, 523.02, 524, 525, 526, 528,</u> <u>529, 530, 531</u>	<u>Attainment⁽¹⁾</u>

<u>Kenton County (part)</u> <u>2000 Census tracts: 603, 607, 609, 610, 611, 612, 613, 614, 616, 636.03, 636.04, 636.05, 636.06, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655.01, 655.02, 656, 657, 658, 659, 668, 669, 670, 671</u>	<u>Attainment⁽¹⁾</u>
<u>Rest of state</u>	<u>Unclassifiable/Attainment</u>

1 Footnote: ⁽¹⁾ Existing sources located in areas previously designated as
2 nonattainment shall continue to comply with all applicable conditions pursuant to 401
3 KAR Chapters 59 and 61.

4 Section 8. Attainment Status Designations for PM_{2.5}.

5 (1) 1997 Annual Primary and Secondary Standard:

<u>Designated Area</u>	<u>Designation Type</u>	<u>Classification</u>
<u>Boone County</u>	<u>Attainment⁽¹⁾</u>	
<u>Boyd County</u>	<u>Attainment⁽¹⁾</u>	
<u>Bullitt County</u>	<u>Nonattainment</u>	<u>Moderate</u>
<u>Campbell County</u>	<u>Attainment⁽¹⁾</u>	
<u>Jefferson County</u>	<u>Nonattainment</u>	<u>Moderate</u>
<u>Kenton County</u>	<u>Attainment⁽¹⁾</u>	
<u>Lawrence County (part)</u> <u>The area described by U.S.</u>	<u>Attainment⁽¹⁾</u>	

<u>Census 2000 block group identifier 21-127-9901-6</u>		
<u>Rest of state</u>	<u>Unclassifiable/Attainment</u>	

1 Footnote: ⁽¹⁾ Existing sources located in areas previously designated as
2 nonattainment shall continue to comply with all applicable conditions pursuant to 401
3 KAR Chapters 59 and 61.

4 (2) 2012 Annual PM_{2.5} Primary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Bullitt County (part)</u> <u>2010 Census tracts: 201.01, 201.02,</u> <u>201.03, 202.01, 202.02, 203, 204, 205,</u> <u>206.01, 206.02, 207.01, 207.02, 208,</u> <u>211.01, and 211.02</u>	<u>Unclassifiable</u>
<u>Jefferson County</u>	<u>Unclassifiable</u>
<u>Rest of state</u>	<u>Unclassifiable/Attainment</u>

5 (3) 1997 Twenty-four (24) Hour Primary and Secondary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Statewide</u>	<u>Unclassifiable/Attainment</u>

6 (4) 2006 Twenty-four (24) Hour Primary and Secondary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Statewide</u>	<u>Unclassifiable/Attainment</u>

7 Section 9. Attainment Status Designations for Sulfur Dioxide (SO₂).

8 (1) 1971 Primary and Secondary Standard:

<u>Designated Area</u>	<u>Does Not Meet Primary Standards</u>	<u>Does Not Meet Secondary Standards</u>	<u>Cannot Be Classified</u>	<u>Better Than National Standards</u>
<u>Statewide</u>				<u>X</u>

1 (2) 2010 Primary Standard:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Boyd County</u>	<u>Unclassifiable/Attainment</u>
<u>Campbell County (part)</u> <u>That portion of Campbell County which lies south and west of the Ohio River described as follows:</u> <u>Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to KY Hwy 1566; continuing running southwesterly along KY Hwy 1566 to KY Hwy 9 (AA Highway); running northwesterly along KY Hwy 9 (AA Highway) from Hwy 1566 to Interstate 275; running northeasterly along Interstate 275 to Hwy 2345 (John's Hill Rd.), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude</u>	<u>Attainment⁽¹⁾</u>
<u>Daviess County</u>	<u>Unclassifiable/Attainment</u>

<u>Fayette County</u>	<u>Unclassifiable/Attainment</u>
<u>Greenup County</u>	<u>Unclassifiable/Attainment</u>
<u>Henderson County</u>	<u>Unclassifiable/Attainment</u>
<u>Jefferson County (part)</u> <u>That portion of Jefferson County compassed by the</u> <u>polygon with the vertices using Universal</u> <u>Transverse Mercator (UTM) coordinates in UTM</u> <u>zone 16 with datum NAD83: Ethan Allen Way</u> <u>extended to the Ohio River at UTM Easting (m)</u> <u>595738, UTM Northing 4214086 and Dixie Hwy</u> <u>(US60 and US31W) at UTM Easting (m) 597515,</u> <u>UTM Northing 4212946; along Dixie Hwy from</u> <u>UTM Easting (m) 597515, UTM Northing 4212946</u> <u>to UTM Easting (m) 595859, UTM Northing</u> <u>4210678; Near the adjacent property lines of</u> <u>Louisville Gas and Electric-Mill Creek Electric</u> <u>Generating Station and Kosmos Cement where they</u> <u>join Dixie Hwy at UTM Easting (m) 595859, UTM</u> <u>Northing 4210678 and the Ohio River at UTM</u> <u>Easting (m) 595326, UTM Northing 4211014; Along</u> <u>the Ohio River from UTM Easting (m) 595326,</u> <u>UTM Northing 4211014 to UTM Easting (m)</u> <u>595738, UTM Northing 4214086</u>	<u>Nonattainment</u>

<u>Jessamine County</u>	<u>Unclassifiable/Attainment</u>
<u>Livingston County</u>	<u>Unclassifiable/Attainment</u>
<u>McCracken County</u>	<u>Unclassifiable/Attainment</u>
<u>Rest of state</u>	<u>Unclassifiable</u>

- 1 Footnote: ⁽¹⁾ Existing sources located in areas previously designated as
2 nonattainment shall continue to comply with all applicable conditions pursuant to 401
3 KAR Chapters 59 and 61.

<u>Designated Area</u>	<u>Designation Type</u>
<p><u>Campbell County (part)</u></p> <p><u>That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to KY Hwy 1566 to KY Hwy 9 (AA Highway); running northwesterly along KY Hwy 9 (AA Highway) from Hwy 1566 to Interstate 275; running northeasterly along Interstate 275 to Hwy 2345 (John's Hill Rd.); Hwy 2345 to US 27, US 27 to I 275, I 275 to the Ohio River; running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude</u></p>	<p><u>Attainment</u></p>

<p><u>Jefferson County (part)</u></p> <p><u>That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83: Ethan Allen Way extended to the Ohio River at UTM Easting (m) 59738, UTM Northing 4214086 and Dixie Hwy (US60 and US31W) at UTM Easting (m) 59751, UTM Northing 4212946; along Dixie Hwy from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; Near the adjacent property lines of Louisville Gas and Electric Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Hwy at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086</u></p>	<p><u>Nonattainment</u></p>
<p><u>Rest of state</u></p>	<p><u>Unclassifiable/Attainment]</u></p>

1 Section 10. Attainment Status Designations for Total Suspended Particulates (TSP). The
2 1971 Standard is as follows:

<u>Designated Area</u>	<u>Does Not Meet</u> <u>Primary</u>	<u>Does Not Meet</u> <u>Secondary</u>	<u>Cannot Be</u> <u>Classified</u>	<u>Better Than</u> <u>National</u>
------------------------	--	--	---------------------------------------	---------------------------------------

	<u>Standards</u>	<u>Standards</u>		<u>Standards</u>
<u>Bell County</u>				<u>X</u>
<u>Boyd County</u>			<u>X</u>	
<u>That portion of Bullitt County in Shepherdsville</u>				<u>X</u>
<u>That portion of Campbell County in Newport</u>				<u>X</u>
<u>That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south, and by the Beltline (KY 212) projected to the river on the east</u>			<u>X</u>	
<u>That portion of Henderson County in Henderson</u>			<u>X</u>	
<u>Jefferson County</u>			<u>X</u>	
<u>That portion of Lawrence County in Louisa</u>			<u>X</u>	
<u>McCracken County</u>				<u>X</u>

<u>That portion of Madison County in Richmond</u>			<u>X</u>	
<u>Marshall County</u>				<u>X</u>
<u>Muhlenberg County</u>				<u>X</u>
<u>That portion of Perry County in Hazard</u>			<u>X</u>	
<u>That portion of Pike County in Pikeville</u>			<u>X</u>	
<u>That portion of Whitley County in Corbin</u>				<u>X</u>
<u>Rest of state</u>				<u>X</u>

<u>Designated Area</u>	<u>Does Not Meet Primary Standards</u>	<u>Does Not Meet Secondary Standards</u>	<u>Cannot Be Classified</u>	<u>Better Than National Standards</u>
<u>Bell County</u>			<u>X</u>	
<u>Boyd County</u>			<u>X</u>	
<u>That portion of Bullitt County in Shepherdsville</u>			<u>X</u>	
<u>That portion of Campbell County in Newport</u>			<u>X</u>	
<u>That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south, and by the Beltline (KY 212) projected to the river on the east</u>			<u>X</u>	
<u>That portion of Henderson County in Henderson</u>			<u>X</u>	
<u>Jefferson County</u>			<u>X</u>	

<u>That portion of Lawrence County in Louisa</u>			<u>X</u>	
<u>McCracken County</u>			<u>X</u>	
<u>That portion of Madison County in Richmond</u>			<u>X</u>	
<u>Muhlenberg County</u>			<u>X</u>	
<u>That portion of Perry County in Hazard</u>			<u>X</u>	
<u>That portion of Pike County in Pikeville</u>			<u>X</u>	
<u>That portion of Whitley County in Corbin</u>			<u>X</u>	
<u>Rest of state</u>				<u>X</u>

1 [Attainment Status Designations for Total Suspended Particulates.

Designated Areas	Does Not Meet Primary Standard	Does Not Meet Secondary Standards	Better Than Standard	Cannot Be Classified
Bell Co.	-	-	<u>X</u>	-
Boyd Co.	-	-	-	<u>X</u>
That portion of Bullitt County in Shepherdsville	-	-	<u>X</u>	-
That portion of Campbell County in	-	-	<u>X</u>	-

Newport				
That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south and by the Beltline (KY 212) projected to the river on the east	-	-	-	X
That portion of Henderson County in Henderson	-	-	-	X
Jefferson County	-	-	-	X
That portion of Lawrence County in Louisa	-	-	-	X
McCracken County	-	-	X	-
Marshall County	-	-	X	-
That portion of Madison County in Richmond	-	-	-	X
Muhlenberg County	-	-	X	-
That portion of Perry County in Hazard	-	-	-	X
That portion of Pike County in Pikeville	-	-	-	X
That portion of Whitley County in Corbin	-	-	X	-
Rest of State	-	-	X	-

1

~~Section 5. Attainment Status Designations for Sulfur Dioxide.~~

Designated Areas	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Better Than Standards
That portion of Boyd County south of the Northern UTM line 4251 Km	X	X	-
Muhlenberg County	-	X	-
Rest of State	-	-	X

2

~~Section 6. Attainment Status Designations for Carbon Monoxide.~~

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified Or Better Than Standards
Jefferson Co.	-	X
Rest of State	-	X

3

~~Section 7. Attainment Status Designations for Ozone.~~

Designated Areas	Moderate	Marginal	Cannot be Classified or Better Than Standards
Boone County	X	-	-
Boyd County	-	-	X
That portion of Bullitt County within the boundaries	X	-	-

~~described as follows: Beginning at the intersection of KY 1020 and the Jefferson Bullitt County line proceeding to the east along the county line to the intersection of county road 567 and the Jefferson Bullitt County line; proceeding south on county road 567 to the junction with KY 1116 (also known as Zoneton Road); proceeding to the south on KY 1116 to the junction with Hebron Lane; proceeding to the south on Hebron Lane to Cedar Creek; proceeding south on Cedar Creek to the confluence of Floyds Fork turning southeast along a creek that meets KY 44 at Stallings Cemetery; proceeding west along KY 44 to the eastern most point in the Shepherdsville city limits; proceeding south along the Shepherdsville city limits to the Salt River and west to a point across the river from Mooney Lane; proceeding south along Mooney Lane to the junction of KY 480; proceeding west on KY 480 to the junction with KY 2237; proceeding south on KY 2237 to the junction with KY 61 and proceeding north on KY 61 to the junction with KY 1494; proceeding south on KY 1494 to the junction with the perimeter of the Fort Knox military reservation; proceeding north along the military reservation perimeter to Castleman Branch~~

<p>Road; proceeding north on Castleman Branch Road to KY 44; proceeding a very short distance west on KY 44 to a junction with KY 2723; proceeding north on KY 2723 to the junction of Chillicoop Road; proceeding northeast on Chillicoop Road to the junction of KY 2678; proceeding north on KY 2673 to the junction of KY 1020; proceeding north on KY 1020 to the beginning.</p>			
Caldwell County	-	-	X
Calloway County	-	-	X
Campbell County	X	-	-
Christian County	-	-	X
Fayette County	-	-	X
<p>That portion of Greenup County within the boundaries described as follows: Beginning at a point where the Ohio River meets the Greenup-Boyd County Line; proceeding southwest along the Greenup-Boyd County Line to the junction of the East Fork of the Little Sandy River and the Greenup-Boyd County Line; proceeding north and west along the East Fork of the Little Sandy River to the confluence of the Little Sandy River; proceeding north along the Little Sandy River to the confluence of the Ohio River; proceeding</p>	-	-	X

east along the Ohio River to the beginning.			
Jefferson County	X	-	-
Kenton County	X	-	-
That portion of Oldham County within the boundaries described as follows: Beginning at the intersection of the Oldham Jefferson County line with the southbound lane of Interstate 71; proceeding to the northeast along the southbound lane of Interstate 71 to the intersection of KY 329 and the southbound lane of Interstate 71; proceeding to the northwest on KY 329 to the intersection of Zaring Road and KY 329; proceeding to the east-northeast on Zaring Road to the junction of Cedar Point Road and Zaring Road; proceeding to the north-northeast on Cedar Point Road to the junction of KY 393 and Cedar Point Road; proceeding to the south-southeast on KY 393 to the junction of the access road on the north side of Reformatory Lake and the Reformatory; proceeding to the east-northeast on the access road to the junction with Dawkins Lane and the access road; proceeding to follow an electric power line east-northeast across from the junction of County Road 746 and Dawkins Lane to the east-northeast across KY 53 on to the LaGrange Water Filtration	X	-	-

~~Plant; proceeding on to the east southeast along the power line then south across Fort Pickens Road to a power substation on KY 146; proceeding along the power line south across KY 146 and the Seaboard System Railroad Track to adjoin the incorporated city limits of LaGrange; then proceeding east then south along the LaGrange city limits to a point abutting the north side of KY 712; proceeding east southeast on KY 712 to the junction of Massie School Road and KY 712; proceeding to the south southwest on Massie School Road to the intersection of Massie School Road and Zale Smith Road; proceeding northwest on Zale Smith Road to the junction of KY 53 and Zale Smith Road; proceeding on KY 53 to the north northwest to the junction of new Moody Lane and KY 53; proceeding on new Moody Lane to the south southwest until meeting the city limits of LaGrange; then briefly proceeding north following the LaGrange city limits to the intersection of the northbound lane of Interstate 71 and the LaGrange city limits; proceeding southwest on the northbound lane of Interstate 71 until intersecting with the North Fork of Currys Fork; proceeding south southwest beyond the confluence of~~

Currys Fork to the south southwest beyond the confluence of Floyds Fork continuing on to the Oldham Jefferson County Line; proceeding northwest along the Oldham Jefferson County Line to the beginning.			
Trigg County	-	-	X
Rest of State	-	-	X

1 Section 8. Attainment Status Designations for Nitrogen Oxides.

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than Standards
Statewide		X]

401 KAR 51:010 approved for filing.

7/11/2016
Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 401 KAR 51:010

Contact person: Cassandra Jobe

(1) Provide a brief summary of:

- (a) What this administrative regulation does:** This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of ambient air quality standards. Under the Clean Air Act (CAA), states have the primary responsibility for assuring air quality within the entire geographic area of the state by submitting an implementation plan to specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in a state.
- (b) The necessity of this administrative regulation:** This administrative regulation is necessary to identify geographic areas pursuant to Section 107 of the CAA and designate whether the area is attaining ambient air quality standards.
- (c) How this administrative regulation conforms to the content of the authorizing statutes:** Section 107 of the Clean Air Act provides states with the primary responsibility for assuring air quality within the entire geographic area of the state. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards for the purposes of planning and implementation of air pollution control strategies. Further, KRS 224.20-110 prohibits pollution of the air of the Commonwealth in contravention of the emission standards or the ambient air standards adopted by the cabinet.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** The applicability of several regulations relates to the designation of an area as listed in this administrative regulation. The Kentucky state implementation plan (SIP) specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in the state depending on the designation of the area as prescribed in this administrative regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation:** This amendment makes corrections to the tables in Section 9(2) and Section 10 and adds footnotes to other tables for clarification purposes.
- (b) The necessity of the amendment to this administrative regulation:** This amendment is necessary in order to clarify attainment status designations and to correct the tables in Section 9(2) and Section 10 of this administrative regulation.

- (c) **How the amendment conforms to the content of the authorizing statutes:** This amendment conforms to the content of the authorizing statutes by correcting the tables in Section 9(2) and Section 10 and adding clarification language to tables with attainment status designations.
- (d) **How the amendment will assist in the effective administration of statutes:** The applicability of several regulations relates to the designation of an area as listed in this administrative regulation. The Kentucky SIP specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in a state depending on the designation of the area as prescribed in this administrative regulation.
- (3) **List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation.** This administrative regulation designates all areas of the Commonwealth of Kentucky with regard to attainment of the NAAQS based on air quality data. The impact of this administrative regulation is indirect, as other regulations refer to the status designation. The number and types of affected facilities will vary depending on location of the facility and regulatory requirements based on the facility's operating parameters.
- (4) **Provide an assessment of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment:**
- (a) **List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** Entities will not have to take any action to directly comply with this administrative regulation. However, an entity may be required to meet more stringent requirements set forth in another administrative regulation due to the status designation in this regulation.
- (b) **In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** There is no cost associated with this proposed amendment as it updates the status designations to be consistent with federal regulations. Entities will not have to take any action to directly comply with this administrative regulation. However, an entity may be required to meet standards set forth in another administrative regulation due to the status designation in this regulation.
- (c) **As a result of compliance, what benefits will accrue to the entities identified in question (3):** As a result of compliance and upon the designation of Attainment status, new sources will be subject to less stringent requirements than those in Nonattainment as a result of the air quality in that particular area, thus attracting new businesses and thereby encouraging economic development.

- (5) **Provide an estimate of how much it will cost to implement this administrative regulation:**
- (a) **Initially:**
The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation.
 - (b) **On a continuing basis:**
The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**
The Division for Air Quality's current operating budget will be used for the implementation and enforcement of this administrative regulation.
- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment.**
No increase in fees or funding is necessary to implement this amendment.
- (8) **State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees.**
This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.
- (9) **TIERING: Is tiering applied? (Explain why tiering was or was not used.):** Yes, tiering is applied. An area's air quality designation status is determined by ambient air quality data. The regulation is tiered based upon the severity of the area's non-compliance and triggers more stringent control strategies for areas not meeting the ambient air quality standards.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 401 KAR 51:010

Contact person: Cassandra Jobe

Phone number: (502) 782-6670

- (1) **What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Division for Air Quality will continue to use the status designations in this regulation to determine applicability of other regulations. State and local governments that own or operate affected facilities may be subject to other regulatory requirements based on the location of the affected facility and the facility's operating parameters.

- (2) **Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation.**

KRS 224.10-100(5), KRS 224.20-110, 42 U.S.C. 7407, 40 C.F.R. 81.318

- (3) **Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.**

- (a) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

The proposed administrative regulation will not generate revenue in the first year.

- (b) **How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

The proposed administrative regulation will not generate revenue in subsequent years.

- (c) **How much will it cost to administer this program for the first year?**

The Division for Air Quality's current operating budget will be used to administer this program for the first year.

- (d) **How much will it cost to administer this program for subsequent years?**

The Division for Air Quality's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation:

There is no further explanation.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 401 KAR 51:010

Contact person: Cassandra Jobe

1. Federal statute or regulation constituting the federal mandate.

U.S. EPA promulgated the federal regulations in 40 C.F.R. 81.318 pursuant to 42 U.S.C. 7407.

2. State compliance standards.

This administrative regulation designates the status of a geographic area in the Commonwealth as related to ambient air quality standards.

3. Minimum or uniform standards contained in the federal mandate.

42 U.S.C. 7407 obligates each state with the primary responsibility for assuring air quality within the entire geographic area of the state. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of ambient air quality standards for the purposes of planning and implementation of air pollution control strategies.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No. Stricter standards or requirements are not imposed. The amendment to this administrative regulation provides regulatory consistency with 40 C.F.R. 81.318.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Stricter standards or requirements are not imposed.

**STATEMENT OF CONSIDERATION RELATING TO
401 KAR 51:010
Amended After Comments**

Energy and Environment Cabinet
Department for Environmental Protection
Division for Air Quality

I. The public hearing on 401 KAR 51:010 scheduled for May 26, 2016 at 10:00 a.m. in Conference Room 201 B at 200 Fair Oaks Lane, Frankfort, Kentucky, 40601 was cancelled in accordance with KRS 13A.270(7). However, written comments were received.

II. The following individual submitted written comments:

<u>Name and Title</u>	<u>Affiliation</u>
R. Scott Davis, Chief	Air Planning and Implementation Branch, U.S. EPA

III. The following individuals responded to comments:

<u>Name and Title</u>	<u>Affiliation</u>
Sean O. Alteri, Director	Division for Air Quality
Cassandra Jobe*, Supervisor, PPA	Division for Air Quality

*Cabinet representative

IV. **Summary of Comments and Responses**

(1) **Subject Matter: Attainment Status Designations for Ozone (O₃).**

(a) **Comment: R. Scott Davis, U.S. EPA**

“Under Section 7 “Attainment Status Designations for Ozone (O₃)” the partial County boundaries 2000 Census tracts listed in paragraph (3) does not match the 2000 Census tracts listed in 40 CFR 81.318. Please clarify.”

(b) **Response:**

The Cabinet concurs and provides additional clarification. In the proposed amendment to the administrative regulation, the Cabinet removes 2000 Census tracts 706.01 and 706.04 in Boone County, consistent with 77 FR 34221. Also, the Cabinet removes 2000 Census tracts 520.01 and 520.02 in Campbell County, consistent with 77 FR 34221.

Additionally, the Cabinet includes 2000 Census tracts 511.01 and 511.02 in Campbell County, consistent with 77 FR 30123. Therefore, the Cabinet is not making a change to the proposed amendment to this administrative regulation in response to this comment.

The Cabinet requests EPA to correct 40 CFR 81.318 to accurately reflect the 2000 Census tracts for designation purposes, as published in the referenced Federal Registers.

(2) Subject Matter: Attainment Status Designations for Sulfur Dioxide (SO₂).

(a) Comment: R. Scott Davis, U.S. EPA

“Under Section 9 “Attainment Status Designations for Sulfur Dioxide (SO₂)” the partial County boundary for Jefferson County listed in paragraph (2) titled “2010 Primary Standard” has Universal Transverse Mercator coordinates (or UTM) that do not match the UTM listed in 40 CFR 81.318.”

(b) Response:

The Cabinet concurs in part and amends the proposed administrative regulation to correct the UTM coordinates, from 59738 to 595738 and from 59751 to 597515.

The Cabinet requests EPA to correct 40 CFR 81.318 to accurately record the UTM coordinate from 59751 to 597515 in the description of Jefferson County.

(3) Subject Matter: Attainment Status Designations for Sulfur Dioxide (SO₂).

(a) Comment: R. Scott Davis, U.S. EPA

“The statement “Rest of state – Unclassifiable/attainment: is not accurate, as the EPA has not yet concluded SO₂ designations for all areas of Kentucky and is in the process of completing these designations.”

(b) Response:

The Cabinet concurs in part. The Cabinet agrees that EPA has not yet designated all areas in the manner mandated by Section 107(d)(1)(B) of the Clean Air Act. Therefore, the Cabinet is amending the proposed administrative regulation to reflect the appropriate designations consistent with Section 107(d)(1)(A)(i-iii). Where the Cabinet and EPA has available sufficient quality-assured ambient air monitoring data, the Cabinet designates the area as to whether the area is achieving the 2010 SO₂ Primary National Ambient Air Quality Standard (NAAQS). In response to EPA’s comment, the Cabinet amends the “Rest of state” designation for the 2010 SO₂ Primary NAAQS to be “unclassifiable.”

(4) Subject Matter: Attainment Status Designations for Total Suspended Particulates (TSP).

(a) Comment: R. Scott Davis, U.S. EPA

“Under Section 10 “Attainment Status Designations for Total Suspended Particulates (TSP)” the entry for “That portion of Daviess County in Owensboro” does not match the boundary listed in 40 CFR 81.318. Please clarify.”

(b) Response:

To clarify, the Cabinet submitted a redesignation request to US. EPA pursuant to Section 107(d)(4) of the Clean Air Act for TSP nonattainment areas on June 23, 1987. In the redesignation request, the Cabinet stated:

“That portion of Daviess County in Owensboro is a primary and secondary non-attainment area. Monitors 4007, 4059, 4058 show compliance with air quality data for the 24 hour primary standard which has persisted for six years. Monitors 4007, 4058, and 4260 show compliance air quality data for the 24 hour secondary standard which has persisted for six years. Compliance air quality data for the annual geometric mean has persisted for five years at monitors 4007 and 4059; and for six years at monitors 4058, and 4260. Additionally, compliance air quality data for all TSP standards has persisted for four years at monitor 4262 (Special purpose TSP site for Lead) and for three years at monitor 4308 (Special purpose TSP site for Lead). Presently, compliance data now exists for all monitoring sites except 18-3140-002 (monitor 4059), which shows a monitored violation of the secondary standard for Owensboro. After examining the locations of the other Owensboro monitoring sites, this agency has determined that site 18-0080-002 (4059) represents ambient air quality in a specific area bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by the 4th Street and U.S. 60 on the south and by the Beltline (Ky 212) projected to the river on the east. Since the existing data are sufficient for the redesignation of all of Owensboro to attainment for the primary TSP standard and all of Owensboro except for the portion contained within the above-defined boundaries as attainment for the secondary TSP standard, the Commonwealth of Kentucky requests the secondary non-attainment area be redefined to include only the area represented by monitoring site 18-0080-002.”

It is important to note that the boundary designation for Daviess County became effective in Kentucky law on April 14, 1988. Further, as mentioned previously, EPA responded to Kentucky's June 23, 1987 submittal in the Federal Register, published February 28, 1989, with an effective date of May 1, 1989 (54 FR 8322). In addition, EPA explained in the February 7, 1990 Federal Register that:

“EPA agrees with the Kentucky redesignation request and is also hereby approving the redesignation request for the following non-attainment areas to unclassified for TSP: Bell County, Boyd County, Bullitt County (Shepherdsville), Campbell County (Newport), Daviess County (Owensboro), Henderson County (Henderson), Jefferson County, Lawrence County (Louisa), Madison County (Richmond), McCracken County, Muhlenberg County, Perry County (Hazard), Pike County (Pikeville), and Whitley County (Corbin).” (55 FR 4169)

The proposed administrative regulation has been amended as a result of the comment to be consistent with the redesignation request submitted by the Cabinet.

V. Summary of Action Taken by Promulgating Agency

401 KAR 51:010: Comments were considered and the following amendments are proposed:

Pages 3 and 4

Section 7(2)

Table

Insert a superscript “⁽¹⁾” after each instance of the word “Attainment” in the right-hand column labeled “Designation Type”. Do not add the superscript “⁽¹⁾” after the words “Unclassifiable/Attainment” in the right-hand column labeled “Designation Type”.

Page 4

Section 7(2)

Line 1

After the table, but before (3), insert the following:

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

Pages 4 and 5

Section 7(3)

Table

Insert a superscript “⁽¹⁾” after each instance of the word “Attainment” in the right-hand column labeled “Designation Type”. Do not add the superscript “⁽¹⁾” after the words “Unclassifiable/Attainment” in the right-hand column labeled “Designation Type”.

Page 5

Section 7(3)

Line 1

After the table, but before Section 8, insert the following:

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

Page 5

Section 8(1)

Table

Insert a superscript “⁽¹⁾” after each instance of the word “Attainment” in the center column labeled “Designation Type”. Do not add the superscript “⁽¹⁾” after the words “Nonattainment” or “Unclassifiable/Attainment” in the center column labeled “Designation Type”.

Pages 5 and 6

Section 8(1)

Line 1

After the table, but before (2), insert the following:

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

Pages 7
 Section 9(2)
 Line 1

After "(2) 2010 Primary Standard:", insert the following table and footnote:

<u>Designated Area</u>	<u>Designation Type</u>
<u>Boyd County</u>	<u>Unclassifiable/Attainment</u>
<p><u>Campbell County (part)</u></p> <p><u>That portion of Campbell County which lies south and west of the Ohio River described as follows:</u></p> <p><u>Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to KY Hwy 1566; continuing running southwesterly along KY Hwy 1566 to KY Hwy 9 (AA Highway); running northwesterly along KY Hwy 9 (AA Highway) from Hwy 1566 to Interstate 275; running northeasterly along Interstate 275 to Hwy 2345 (John's Hill Rd.), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude</u></p>	<u>Attainment⁽¹⁾</u>
<u>Daviess County</u>	<u>Unclassifiable/Attainment</u>
<u>Fayette County</u>	<u>Unclassifiable/Attainment</u>

<u>Greenup County</u>	<u>Unclassifiable/Attainment</u>
<u>Henderson County</u>	<u>Unclassifiable/Attainment</u>
<u>Jefferson County (part)</u> <u>That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83: Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Hwy (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946; along Dixie Hwy from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; Near the adjacent property lines of Louisville Gas and Electric-Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Hwy at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086</u>	<u>Nonattainment</u>
<u>Jessamine County</u>	<u>Unclassifiable/Attainment</u>
<u>Livingston County</u>	<u>Unclassifiable/Attainment</u>

<u>McCracken County</u>	<u>Unclassifiable/Attainment</u>
<u>Rest of state</u>	<u>Unclassifiable</u>

Footnote: ⁽¹⁾ Existing sources located in areas previously designated as nonattainment shall continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

Pages 7 and 8

Section 9(2)

Table

Delete the table in Section 9(2) in its entirety.

Page 8

Section 10

Line 2

After "1971 Standard is as follows:", insert the following table:

<u>Designated Area</u>	<u>Does Not Meet Primary Standards</u>	<u>Does Not Meet Secondary Standards</u>	<u>Cannot Be Classified</u>	<u>Better Than National Standards</u>
<u>Bell County</u>				<u>X</u>
<u>Boyd County</u>			<u>X</u>	
<u>That portion of Bullitt County in Shepherdsville</u>				<u>X</u>
<u>That portion of Campbell County in Newport</u>				<u>X</u>
<u>That portion of Daviess County in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south, and by the Beltline (KY 212) projected to the river on the east</u>			<u>X</u>	
<u>That portion of Henderson County in Henderson</u>			<u>X</u>	
<u>Jefferson County</u>			<u>X</u>	
<u>That portion of Lawrence County in Louisa</u>			<u>X</u>	
<u>McCracken County</u>				<u>X</u>
<u>That portion of Madison County in Richmond</u>			<u>X</u>	
<u>Marshall County</u>				<u>X</u>
<u>Muhlenberg County</u>				<u>X</u>
<u>That portion of Perry County</u>			<u>X</u>	

<u>in Hazard</u>				
<u>That portion of Pike County in Pikeville</u>			<u>X</u>	
<u>That portion of Whitley County in Corbin</u>				<u>X</u>
<u>Rest of state</u>				<u>X</u>

Pages 9 and 10

Section 10

Table

Delete the table in Section 10 in its entirety.