FILED WITH LRC
TIME: 10am
JUL 12 2019
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REGULATIONS COMPILER

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division for Air Quality

(Amendment)

401 KAR 51:010. Attainment status designations.

RELATES TO: KRS 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 50, 51, 52, 53, 58, 75, 81.318, 42 U.S.C. 7401-7671q

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

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

Section 1. Definitions. (1) "Rest of state" means the remainder of the state has been designated and identified on a county by county basis.

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

(3) "Statewide" means the entire state has been designated on a county by county basis.

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

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

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

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

Section 4. Attainment Status Designations for Carbon Monoxide (CO). 1971 Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 5. Attainment Status Designations for Lead (Pb). 2008 Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 6. Attainment Status Designations for Nitrogen Oxides ($NO_2$).

(1) 1971 Annual Standard:

| Designated Area | Does Not Meet Primary Standards | Cannot Be Classified or Better Than Standards |
|---|---|---|

| | | |
|---|---|---|
| Statewide | | X |

(2) 2010 One (1) Hour Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

Section 7. Attainment Status Designations for Ozone ($O_3$). (1) The 1971 One (1) Hour Standard was revoked effective June 15, 2005, for all areas in the Commonwealth of Kentucky. The Cincinnati-Hamilton, Edmonson County, Huntington-Ashland, Lexington-Fayette, Louisville, Owensboro, and Paducah areas shall be considered maintenance areas for the one (1) hour national ambient air quality standards for the purposes of 40 C.F.R. Part 51, Subpart X.

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

| Designated Area | Designation Type |
|---|---|
| Boone County | Attainment[1] |
| Boyd County | Attainment[1] |
| Bullitt County | Attainment[1] |
| Campbell County | Attainment[1] |
| Christian County | Attainment[1] |
| Jefferson County | Attainment[1] |
| Kenton County | Attainment[1] |
| Oldham County | Attainment[1] |
| Rest of state | Unclassifiable/Attainment |

1 Footnote: [1] Existing sources located in areas previously designated as nonattainment shall

2 continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

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

| Designated Area | Designation Type |
|---|---|
| Boone County (part)<br>2000 Census tracts: 701, 702, 703.01, 703.04, 703.05, 703.06, 703.07, 703.08, 703.09, 704.01, 704.02, 705.01, 705.02, 706.03 | Attainment[1] |
| Campbell County (part)<br>2000 Census tracts: 501, 502, 503, 504, 505, 506, 511.01, 511.02, 512, 513, 519.01, 519.03, 519.04, 521, 522, 523.01, 523.02, 524, 525, 526, 528, 529, 530, 531 | Attainment[1] |
| Kenton County (part)<br>2000 Census tracts: 603, 607, 609, 610, 611, 612, | Attainment[1] |

| | |
|---|---|
| 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 | |
| Rest of state | Unclassifiable/Attainment |

1 Footnote: [1] Existing sources located in areas previously designated as nonattainment shall

2 continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

3 (4) 2015 Eight (8) Hour Primary and Secondary Standard

| Designated Area | Designation Type | Classification |
|---|---|---|
| Boone County (part) The entire county except for 2010 U.S. Census Tracts 706.01 and 706.04 | Nonattainment | Marginal |
| Bullitt County | Nonattainment | Marginal |
| Campbell County (part) The entire county except for 2010 U.S. Census Tracts 520.01 and 520.02 | Nonattainment | Marginal |
| Jefferson County | Nonattainment | Marginal |

| | | |
|---|---|---|
| Kenton County (part)<br>The entire county except for 2010 U.S. Census Tracts 637.01 and 637.02 | Nonattainment | Marginal |
| Oldham County | Nonattainment | Marginal |
| Rest of state | Attainment/Unclassifiable | |

1

2 Section 8. Attainment Status Designations for $PM_{2.5}$. (1) 1997 Annual Primary and

3 Secondary Standard:

| Designated Area | Designation Type | [~~Classification~~] |
|---|---|---|
| Boone County | Attainment[1] | |
| Boyd County | Attainment[1] | |
| Bullitt County | Attainment[1][~~Nonattainment~~] | [~~Moderate~~] |
| Campbell County | Attainment[1] | |
| Jefferson County | Attainment[1][~~Nonattainment~~] | [~~Moderate~~] |
| Kenton County | Attainment[1] | |
| Lawrence County (part)<br>The area described by U.S. Census 2000 block group identifier 21-127-9901-6 | Attainment[1] | |
| Rest of state | Unclassifiable/<br>Attainment | |

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.

(2) 2012 Annual [~~$PM_{2.5}$~~] Primary Standard:

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

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

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

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

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

| Designated Area | Designation Type |
|---|---|
| Statewide | Unclassifiable/Attainment |

1 Section 9. Attainment Status Designations for Sulfur Dioxide ($SO_2$). (1) 1971 Primary and

2 Secondary Standard:

| Designated Area | Does Not Meet Primary Standards | Does Not Meet Secondary Standards | Cannot Be Classified | Better Than National Standards |
|---|---|---|---|---|
| Statewide | | | | X |

3

4 (2) 2010 Primary Standard:

| Designated Area | Designated Type |
|---|---|
| Campbell County (part)<br>That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running northwesterly along KY Highway 9 | Attainment[1] |

| | |
|---|---|
| (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John's Hill Road), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; thence running southeasterly along the Ohio River from I-275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude | |
| Henderson County (part)<br>Census Block Groups 211010207013, 211010207014, 211010207024, and 211010208004 | Attainment/Unclassifiable |
| Jefferson County (part)<br>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:<br>Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie | Attainment[1] |

| | |
|---|---|
| Highway (US60 and US31W) at UTM Easting (m) 597515, UTM Northing 4212946; Along Dixie Highway 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 Highway 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 | |
| Ohio County | Unclassifiable |
| Pulaski County | Unclassifiable |
| Rest of state(2) | Attainment/Unclassifiable |

1

| [~~Designated Area~~ | ~~Designation Type~~ |
|---|---|

| | |
|---|---|
| ~~Boyd County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Campbell County (part)~~<br>~~That portion of Campbell County that lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude on the edge of the Ohio River running southwesterly to Kentucky Hwy 1566; continuing running southwesterly along Kentucky Hwy 1566 to Kentucky Hwy 9 (AA Highway); running northwesterly along Kentucky 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~~ | ~~Attainment~~[1] |
| ~~Daviess County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Fayette County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Greenup County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Henderson County~~ | ~~Unclassifiable/Attainment~~ |

| | |
|---|---|
| ~~Jefferson County (part)~~<br><br>~~That portion of Jefferson County compassed by the polygon with the vertices using Universal Transverse 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~~ | ~~Nonattainment~~ |
| ~~Jessamine County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Livingston County~~ | ~~Unclassifiable/Attainment~~ |
| ~~McCracken County~~ | ~~Unclassifiable/Attainment~~ |
| ~~Rest of state~~ | ~~Unclassifiable~~] |

1

1 Footnote: [1] Existing sources located in areas previously designated as nonattainment shall

2 continue to comply with all applicable conditions pursuant to 401 KAR Chapters 59 and 61.

3 [2] Excluding Webster and the remainder of Henderson County.

4 Section 10. Attainment Status Designations for Total Suspended Particulates (TSP). 1971

5 Standard:

| Designated Area | Does Not Meet Primary Standards | Does Not Meet Secondary Standards | Cannot Be Classified | Better Than National Standards |
|---|---|---|---|---|
| Bell County | | | | X |
| Boyd County | | | X | |
| That portion of Bullitt County in Shepherdsville | | | | X |
| That portion of Campbell County in Newport | | | | X |
| That portion of Daviess County in Owensboro | | | X | |

| | | | | |
|---|---|---|---|---|
| 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 | | | | |
| That portion of Henderson County in Henderson | | | X | |
| Jefferson County | | | X | |

| | | | | |
|---|---|---|---|---|
| That portion of Lawrence County in Louisa | | | X | |
| McCracken County | | | | X |
| That portion of Madison County in Richmond | | | X | |
| Marshall County | | | | X |
| Muhlenberg County | | | | X |
| That portion of Perry County in Hazard | | | X | |
| That portion of Pike County in Pikeville | | | X | |
| That portion of Whitley | | | | X |

| | | | | |
|---|---|---|---|---|
| County in Corbin | | | | |
| Rest of state | | | | X |

401 KAR 51:010 approved for filing.

7/9/2019
Date

Charles G. Snavely, Secretary
Energy and Environment Cabinet

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation will be held on August 26, 2019 at 10:00 a.m. (Local Time) in Conference Room 214 at 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by August 20, 2019, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing shall be cancelled, and notification of the cancellation shall be posted at http://air.ky.gov/pages/publicnoticesandhearings.aspx. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

This administrative regulation is contained in Kentucky's State Implementation Plan approved by US EPA.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON:

Paige Stephens, Environmental Scientist II
Division for Air Quality
300 Sower Boulevard, 2nd Floor
Frankfort, KY 40601
Phone: (502) 782-6286
Fax: (502) 564-4245
E-mail: Paige.Stephens@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 401 KAR 51:010
Contact Person: Paige Stephens
Phone: (502) 782-6286
Email: Paige.Stephens@ky.gov

(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 (Commonwealth) with regard to attainment of ambient air quality standards. Under section 107 of the Clean Air Act, the state has the primary responsibility of assuring air quality within the entire geographic area by submitting an implementation plan that specifies the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality region in that state.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary because it designates whether an area is attaining ambient air quality standards.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 224.10-100 authorizes the Energy and Environment Cabinet (Cabinet) to promulgate administrative regulations for the prevention, abatement, and control of air pollution. KRS 224.20-110 prohibits pollution of the air under the jurisdiction of the Commonwealth in contravention of the emission standards or the ambient air standards adopted by the cabinet. 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 with regard to attainment of the National Ambient Air Quality Standards (NAAQS).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
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 attainment status designation of the area as established 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:
The proposed amendment to this administrative regulation will update the attainment status of geographic areas in Kentucky for new and revised national primary and secondary ambient air quality standards.

(b) The necessity of the amendment to this administrative regulation:

The proposed amendment to this administrative regulation updates the state designations based on the most recent air quality data.

(c) How the amendment conforms to the content of the authorizing statutes:
The proposed amendment to this administrative regulation conforms to the content of the authorizing statutes by identifying the status of areas in Kentucky with regard to attainment of ambient air quality standards for the planning and implementation of the Kentucky SIP.

(d) How the amendment will assist in the effective administration of the statutes:
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 the state depending on the attainment status 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:
The number and type of entities affected by this administrative regulation depends on the location of the facility since this regulation designates areas of the Commonwealth with regard to attainment of the NAAQS based on ambient air quality data.

(4) Provide an analysis 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, including:

(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:
Regulated entities will not have to take any action to comply directly with this administrative regulation. However, an entity may be required to meet additional requirements established in other administrative regulations due to the attainment status designation assigned to them 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 the proposed amendment to this administrative regulation as it updates the attainment status designations to be consistent with federal regulations.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):
Compliance with standards set forth by other regulations due to the status designations in this administrative regulation will ensure entities are complying with the requirements of the Kentucky SIP to protect human health and the environment.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The Cabinet will not incur any additional costs for the implementation of the proposed amendment to this administrative regulation.

(b) On a continuing basis: The Cabinet will not incur any additional costs for the implementation of the proposed amendment to this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Cabinet's current operating budget will be used to implement and enforce the proposed amendment to 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 the proposed amendment of this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The proposed amendment to this administrative regulation will not establish, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?
No, tiering is not applicable because this regulation only indicates the attainment status designation for an area based on the most recent air quality data.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 401 KAR 51:010
Contact Person: Paige Stephens
Phone: (502) 782-6286
Email: Paige.Stephens@ky.gov

(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 attainment 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 the action taken by the administrative regulation.
KRS 224.10-100(5), 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 administrative 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 amendment to this administrative regulation will not generate revenue for 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 amendment to this administrative regulation will not generate revenue for 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 impact 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: Paige Stephens
Phone: (502) 782-6286
Email: Paige.Stephens@ky.gov

1. Federal statute or regulation constituting the federal mandate.
The federal mandate for this administrative regulation is in 40 C.F.R. 81.318 and 42 U.S.C. 7407.

2. State compliance standards.
This administrative regulation designates the status of areas in the Commonwealth associated with ambient air quality standards.

3. Minimum or uniform standards contained in the federal mandate.
42 U.S.C. 7407 requires each state with the primary responsibility for assuring air quality within the entire geographic area of the state.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
No, the administrative regulation does not impose stricter requirements or additional or different responsibilities than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.
Stricter standards, or additional or different responsibilities or requirements are not imposed.