



MATTHEW G. BEVIN
GOVERNOR

CHARLES G. SNAVELY
SECRETARY

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

DIVISION FOR AIR QUALITY
200 FAIR OAKS LANE, 1ST FLOOR
FRANKFORT, KENTUCKY 40601-1403
Web site: air.ky.gov

February 8, 2016

Ms. Heather McTeer Toney
Regional Administrator
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

RE: Section 110(a) Infrastructure SIP submittal for the 2012 PM_{2.5} NAAQS

Dear Ms. McTeer Toney:

The Kentucky Energy and Environment Cabinet (Cabinet) hereby submits to the U.S. Environmental Protection Agency (EPA) a letter certifying that Kentucky's existing State Implementation Plan (SIP) for the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS) contains Section 110 of the Clean Air Act (CAA) provisions that address the requirements for purposes of implementing the 2012 PM_{2.5} NAAQS. The Cabinet is requesting EPA's approval that the following submission satisfies all of the requirements of Section 110(a)(2) of the CAA, for purposes of implementing the 2012 PM_{2.5} NAAQS.

This certification submission is consistent with EPA's published memorandum titled, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) September 2013." The certification submission provides citations to the regulations or non-regulatory measures, as appropriate, in the EPA-approved SIP for that particular infrastructure SIP element requirement and an explanation as to how those existing provisions meet the relevant requirements.

In accordance with 40 CFR 51.102, the Cabinet provided an opportunity to submit written comments on the certification letter and relevant information beginning November 4, 2015, and ending December 10, 2015. If you have any questions or comments concerning this matter, please contact Ms. Melissa Duff, Program Planning Branch Manager, at (502) 564-3999 or melissa.duff@ky.gov.

Sincerely yours,


Charles G. Snavely
Secretary

Section 110(a) Infrastructure Requirements

On January 15, 2013, the Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM_{2.5}).¹ The EPA lowered the existing standard from 15 µg/m³ to 12 µg/m³ while retaining the 24-hour PM_{2.5} level of 35 µg/m³. When the EPA revises an existing standard, states are required by Section 110(a)(1) and (2) of the Clean Air Act (CAA) to adopt and submit an "infrastructure" State Implementation Plan (SIP) to the EPA. Infrastructure SIPs demonstrate that a state has the basic program elements to implement, maintain, and enforce new or revised standards including requirements for emissions inventories, monitoring, and modeling among other elements. States are required to submit SIPs to EPA demonstrating that these basic program elements have been addressed within 3 years of the promulgation of any new or revised NAAQS.

On November 2, 2012, EPA approved Kentucky's Section 110(a)(1) and (2) infrastructure requirements for the 1997 and 2006 PM_{2.5} NAAQS.² Since that time, there have been no significant changes made to the approved SIP, which meets the requirements of Section 110(a)(2). Following EPA's guidance document, "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) September 2013", Kentucky is submitting this letter certifying that Kentucky's existing SIP for the 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS) contains Section 110 provisions that address the requirements for purposes of implementing the 2012 PM_{2.5} NAAQS. Subsections (A) through (M) of Section 110(a)(2), set forth the elements that a state's program must contain in the SIP. The list of section 110(a)(2) NAAQS requirements and Kentucky's provisions are detailed below.

The state rules can be found on the Kentucky Legislature's website (<http://www.lrc.ky.gov>) along with the Kentucky Revised Statutes (KRS) referenced in this document. The Kentucky Revised Statutes are included as reference material and should not be adopted as part of Kentucky's SIP. This request is based upon the May 19, 2010 Federal Register published by EPA regarding California's legal authority.³ The final rule states, "We also noted that the actual statutory provisions and other legal documents relied upon to support a State's assurance of adequate legal authority need not be approved into the SIP under CAA section 110 or EPA's SIP regulations in 40 CFR part 51 (although such provisions are required to be submitted with the plan). Thus, EPA could approve, consistent with CAA and EPA requirements, and did so in this instance, a wholesale revision to the original legal authority chapter without also approving the actual statutory provisions and other legal documents cited therein."

In accordance with 40 CFR 51.102, a public hearing was scheduled to be held at the offices of the Kentucky Division for Air Quality (Division) located at 200 Fair Oaks Lane, Frankfort, Kentucky, on December 4, 2015. The public hearing notice and the Infrastructure SIP were available to the public for review on the Division's website (www.air.ky.gov). The public hearing notice was sent to members of the community, who have provided contact information to the Division's notification distribution list. There was no request for a public hearing therefore, the hearing was cancelled. The only comments received during the public comment period were from EPA. A copy of the public hearing notice and the Division's response to comments are

¹ 78 FR 3086

² 77 FR 60307

³ 75 FR 27938

included in Appendix A. This submittal meets the requirement for CAA Section 110(k)(1), completeness of plan submissions.

Element A–Section 110(a)(2)(A): Emission Limits and Other Control Measures

Each such plan shall –

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

Emission limits and other control measures: Section 110(a)(2)(A) of the CAA requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules or compliance and other related matters. Kentucky Revised Statute Chapter 224.10-100(5) provides the Energy and Environment Cabinet the authority to promulgate all rules, regulations and orders promulgated under Chapter 224, and to provide for the prevention, abatement, and control of all water, land, and air pollution. The following rules address additional control measures, means, and techniques:

- 401 KAR 50:010 *Definitions for 401 KAR Chapter 50*. This administrative regulation defines the terms used in 401 KAR Chapter 50.
- 401 KAR 50:012 *General Application*. This administrative regulation provides guidelines by which all administrative regulations of 401 KAR Chapters 50 to 65, are to be understood.
- 401 KAR 50:015 *Documents supported by Reference*. This administrative regulation provides for the incorporation by reference of documents referred to within these administrative regulations.
- 401 KAR 50:020 *Air Quality Control Regions*. This administrative regulation provides for the designation and classification of air quality control regions.
- 401 KAR 50:025 *Classification of Counties*. This administrative regulation provides for the classification of counties with respect to various pollutants.
- 401 KAR 50:040 *Air Quality Models*. This administrative regulation specifies general provisions for the use of air quality models.
- 401 KAR 50:042 *Good Engineering Practice Stack Height*. This administrative regulation defines good engineering practice stack height which shall be used in establishing emissions limitations.
- 401 KAR 50:045 *Performance Tests*. This administrative regulation establishes requirements for performance tests.
- 401 KAR 50:047 *Test Procedures for Capture Efficiency*. This administrative regulation provides capture efficiency test procedures for volatile organic compounds.
- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.
- 401 KAR 50:055 *General Compliance Requirements*. This administrative regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes

requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.

- 401 KAR 50:060 *Enforcement*. This administrative regulation provides for enforcement of the terms and conditions of permits and compliance schedules.
- 401 KAR 50:065 *Conformity of General Federal Actions*. The federal regulation incorporated by reference in this administrative regulation provides for determining the conformity of general federal actions to the SIP. 40 CFR 51.850 to 51.860 require that the applicable federal agencies implement the conformity determination in consultation with agencies of the Commonwealth of Kentucky.
- 401 KAR 50:066 *Conformity of Transportation Plans, Programs, and Projects*. This administrative regulation adopts the Federal Transportation Conformity Rules as codified in 40 C.F.R. Part 93 Subpart A and incorporates a guidance document that establishes criteria and procedures for the interagency consultation process used in demonstrating conformity of federal transportation plans to the Kentucky State Implementation Plan.
- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:005 *Purpose and General Provisions*. This administrative regulation establishes the general provisions as related to new sources with respect to the prevention of significant deterioration of air quality and construction of stationary sources impacting on nonattainment areas.
- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 51:150 *NO_x Requirements for Stationary Internal Combustion Engines*. Pursuant to the federal NO_x SIP Call, this administrative regulation provides for the regional control of NO_x emissions by establishing requirements for large stationary internal combustion engines.
- 401 KAR 51:160 *NO_x Requirements for Large Utility and Industrial Engines*. This administrative regulation establishes requirements for the control of NO_x emissions from large boilers and turbines used in power plants and other industrial applications, pursuant to the federal mandate published under the NO_x SIP Call.
- 401 KAR 51:170 *NO_x Requirements for Cement Kilns*. This administrative regulation provides for the regional control of NO_x emissions from Portland cement manufacturing plants pursuant to the federal mandate published under the NO_x SIP Call.
- 401 KAR 51:180 *NO_x Credits for Early Reduction and Emergency*. This administrative regulation provides for the distribution of NO_x allowances from a compliance

supplement pool allocated to Kentucky by the U.S. EPA for sources that reduce NO_x emissions before the compliance deadline of the federal mandate published under the NO_x SIP Call. It also provides for setting aside unused credits to assist sources that are unable to meet the compliance deadline.

- 401 KAR 51:190 *Banking and Trading NO_x Allowances*. This administrative regulation incorporates by reference the federal regulation that establishes a program for banking and trading of emission allowances to reduce NO_x emissions under the federal NO_x SIP Call.
- 401 KAR 51:195 *NO_x Opt-in Provisions*. The federal regulation incorporated by reference in this administrative regulation establishes provisions for individual sources to opt into the NO_x Budget Trading Program.
- 401 KAR 51:210 *CAIR NO_x Annual Trading Program*. This administrative regulation establishes requirements for the control of NO_x emissions from large boilers and turbines used in power plants, pursuant to the federal mandate published under the Clean Air Interstate Rule (CAIR), 40 C.F.R. 96.101 to 96.188.
- 401 KAR 51:220 *CAIR NO_x Ozone Season Trading Program*. This administrative regulation establishes requirements for the control of NO_x emissions from large boilers and turbines used in power plants and other industrial applications, pursuant to the federal mandate published under the Clean Air Interstate Rule (CAIR), 40 C.F.R. 96.301 to 96.388.
- 401 KAR 52:001 *Definitions for 401 KAR Chapter 52*. This administrative regulation defines the terms used in 401 KAR Chapter 52.
- 401 KAR 52:020 *Title V Permits*. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that are required to obtain a Title V permit.
- 401 KAR 52:030 *Federally-Enforceable Permits for Nonmajor Sources*. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that accept emission limitations to avoid the New Source Review requirements under Title I of the Clean Air Act or the Operating Permit Program requirements under Title V of the Clean Air Act.
- 401 KAR 52:040 *State-Origin Permits*. This administrative regulation establishes requirements for minor sources whose permits are not required to be federally enforceable.
- 401 KAR 52:050 *Permit Application Forms*. This administrative regulation incorporates by reference the application forms used to permit air contaminant sources in Kentucky.
- 401 KAR 52:060 *Acid Rain Permits*. This administrative regulation incorporates by reference the federal acid rain provisions as codified at 40 CFR Parts 72 to 78.
- 401 KAR 52:070 *Registration of Designated Sources*. This administrative regulation establishes the procedure for the registration of designated air contaminant sources in Kentucky.
- 401 KAR 52:090 *Prohibitory Rule for Hot Mix Asphalt Plants*. This administrative regulation establishes production limits for hot mix asphalt plants, which keeps their emissions below the major source threshold and avoids the necessity of having to obtain a Title V or conditional major permit.
- 401 KAR 52:100 *Public, Affected State, and US EPA Review*. This administrative regulation establishes the procedures used by the [the Energy and Environment Cabinet

(the Cabinet)] to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.

- 401 KAR 53:005 *General Provisions*. This administrative regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.
- 401 KAR 59:001 *Definitions for 401 KAR Chapter 59*. This administrative regulation defines the terms used in 401 KAR Chapter 59. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 59:005 *General provisions*. This administrative regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.
- 401 KAR 59:010 *New process operations*. This administrative provides for the control of emissions from new process operations which are not subject to another particulate standard within this chapter.
- 401 KAR 59:015 *New indirect heat exchangers*. This administrative regulation provides for the control of emissions from new indirect heat exchangers.
- 401 KAR 59:020 *New incinerators*. This administrative regulation is to provide standards of performance for new incinerators.
- 401 KAR 59:021 *New municipal solid waste incinerators*. This administrative regulation provides standards of performance for new municipal solid waste incinerators.
- 401 KAR 59:023 *New medical waste incinerators*. This administrative regulation provides for standards of performance for new medical waste incinerators.
- 401 KAR 59:046 *Selected new petroleum refining processes and equipment*. This administrative regulation provides for the control of hydrocarbon emissions from selected new petroleum refining processes and equipment.
- 401 KAR 59:050 *New storage vessels for petroleum liquids*. This administrative regulation provides for the control of emissions from new storage vessels for petroleum liquids.
- 401 KAR 59:080 *New kraft (sulfate) pulp mills*. This administrative regulation provides for the control of emissions from new kraft (sulfate) pulp mills.
- 401 KAR 59:085 *New sulfite pulp mills*. This administrative regulation provides for the control of emissions from new sulfite pulp mills.
- 401 KAR 59:090 *New ethylene producing plants*. This administrative regulation provides for the control of emissions from new ethylene producing plants.
- 401 KAR 59:095 *New oil-effluent water separators*. This administrative regulation provides for the control of emissions from new oil-effluent water separators.
- 401 KAR 59:101 *New bulk gasoline plants*. This administrative regulation provides for the control of volatile organic compound emissions from new bulk gasoline plants.
- 401 KAR 59:105 *New process gas streams*. This administrative regulation provides for the control of emissions from new process gas streams.

- 401 KAR 59:174 *Stage II controls at gasoline dispensing facilities*. This administrative regulation provides for the control of emissions from gasoline dispensing facilities.
- 401 KAR 59:212 *New graphic arts facilities using rotogravure and flexography*. This administrative regulation provides for the control of volatile organic compound emissions from new graphic arts facilities which use rotogravure and flexography.
- 401 KAR 59:214 *New factory surface coating operations of flat wood paneling*. This administrative regulation provides for the control of volatile organic compound emissions from new factory surface coating operations of flat wood paneling.
- 401 KAR 59:225 *New miscellaneous metal parts and products surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from new miscellaneous metal parts and products surface coating operations.
- 401 KAR 59:230 *New synthesized pharmaceutical product manufacturing operations*. This administrative regulation provides for the control of volatile organic compound emissions from new synthesized pharmaceutical product manufacturing operations.
- 401 KAR 59:240 *New perchloroethylene dry cleaning systems*. This administrative regulation provides for the control of volatile organic compound emissions from new perchloroethylene dry cleaning systems.
- 401 KAR 59:260 *New blast furnace casthouses*. This administrative regulation provides for the control of emissions from new blast furnace casthouses.
- 401 KAR 59:315 *Specific new sources*. This administrative regulation provides for the control of volatile organic compound emissions for specific new sources.
- 401 KAR 61:001 *Definitions for 401 KAR Chapter 61*. This administrative regulation defines the terms used in 401 KAR Chapter 61. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding deferral definitions.
- 401 KAR 61:005 *General provisions*. This administrative regulation provides for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to existing sources.
- 401 KAR 61:010 *Existing incinerators*. This administrative regulation provides standards of performance for existing incinerators.
- 401 KAR 61:011 *Existing municipal solid waste incinerators*. This administrative regulation provides standards of performance for existing municipal solid waste incinerators.
- 401 KAR 61:013 *Existing medical waste incinerators*. This administrative regulation provides for standards of performance for existing medical waste incinerators.
- 401 KAR 61:015 *Existing indirect heat exchangers*. This administrative regulation provides for the control of emissions from existing indirect heat exchangers.
- 401 KAR 61:020 *Existing process operations*. This administrative regulation provides for the control of emissions from existing process operations which are not subject to another particulate emission standard within this chapter.
- 401 KAR 61:025 *Existing kraft (sulfate) pulp mills*. This administrative regulation provides standards for the control of emissions from existing kraft (sulfate) pulp mills.
- 401 KAR 61:030 *Existing sulfuric acid plants*. This administrative regulation provides standards of performance for existing sulfuric acid plants.

- 401 KAR 61:035 *Existing process gas streams*. This administrative regulation provides for the control of emissions from existing process gas streams.
- 401 KAR 61:036 *Emission guidelines and compliance times for municipal solid waste landfills*. This administrative regulation provides for the control of emissions from existing municipal solid waste landfills.
- 401 KAR 61:040 *Existing ethylene producing plants*. This administrative regulation provides standards of performance for existing ethylene producing plants.
- 401 KAR 61:045 *Existing oil-effluent water separators*. This administrative regulation provides for the control of emissions from existing oil-effluent water separators.
- 401 KAR 61:050 *Existing storage vessels for petroleum liquids*. The administrative regulation provides for the control of emissions from existing storage vessels for petroleum liquids.
- 401 KAR 61:055 *Existing loading facilities at bulk gasoline terminals*. This administrative regulation provides for the control of emissions from existing loading facilities at bulk gasoline terminals.
- 401 KAR 61:056 *Existing bulk gasoline plants*. This administrative regulation provides for the control of volatile organic compound emissions from existing bulk gasoline plants.
- 401 KAR 61:060 *Existing sources using organic solvents*. This administrative regulation provides for the control of emissions from existing sources using any organic solvents.
- 401 KAR 61:065 *Existing nitric acid plants*. This administrative regulation provides for the control of emissions from existing nitric acid plants.
- 401 KAR 61:070 *Existing ferroalloy production facilities*. This administrative regulation provides for the control of emissions from existing ferroalloy production facilities.
- 401 KAR 61:075 *Steel plants and foundries using existing electric arc furnaces*. This administrative regulation provides for control of emissions from steel plants or foundries using existing electric arc furnaces.
- 401 KAR 61:080 *Steel plants using existing basic oxygen process furnaces*. This administrative regulation provides for control of emissions from steel plants using existing basic oxygen process furnaces.
- 401 KAR 61:085 *Existing service stations*. This administrative regulation provides for the control of volatile organic compound emissions from existing service stations.
- 401 KAR 61:090 *Existing automobile and light-duty truck surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing automobile and light-duty truck surface coating operations.
- 401 KAR 61:095 *Existing solvent metal cleaning equipment*. This administrative regulation provides for the control of volatile organic compound emissions from existing solvent metal cleaning equipment.
- 401 KAR 61:100 *Existing insulation of magnet wire operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing insulation of magnet wire operations.
- 401 KAR 61:105 *Existing metal furniture surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing metal furniture surface coating operations.

- 401 KAR 61:110 *Existing large appliance surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing large appliance surface coating operations.
- 401 KAR 61:120 *Existing fabric, vinyl and paper surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing fabric, vinyl or paper surface coating operations.
- 401 KAR 61:122 *Existing graphic arts facilities using rotogravure and flexography*. This administrative regulation provides for the control of volatile organic compound emissions from existing graphic arts facilities which use rotogravure and flexography.
- 401 KAR 61:124 *Existing factory surface coating operations of flat wood paneling*. This administrative regulation provides for the control of volatile organic compound emissions from existing factory surface coating operations of flat wood paneling.
- 401 KAR 61:125 *Existing can surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing can surface coating operations.
- 401 KAR 61:130 *Existing coil surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing coil surface coating operations.
- 401 KAR 61:132 *Existing miscellaneous metal parts and products surface coating operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing miscellaneous metal parts and products surface coating operations.
- 401 KAR 61:135 *Selected existing petroleum refining processes and equipment*. This administrative regulation provides for the control of hydrocarbon emissions from selected existing petroleum refining processes and equipment.
- 401 KAR 61:137 *Leaks from existing petroleum refinery equipment*. This administrative regulation provides for the control of volatile organic compound emissions from leaks from existing petroleum refinery equipment.
- 401 KAR 61:140 *Existing by-product coke manufacturing plants*. This administrative regulation provides for the control of emissions from existing by-product coke manufacturing plants.
- 401 KAR 61:145 *Existing petroleum refineries*. This administrative regulation provides for the control of emissions from existing petroleum refineries.
- 401 KAR 61:150 *Existing synthesized pharmaceutical product manufacturing operations*. This administrative regulation provides for the control of volatile organic compound emissions from existing synthesized pharmaceutical product manufacturing operations.
- 401 KAR 61:155 *Existing pneumatic rubber tire manufacturing plants*. This administrative regulation provides for the control of volatile organic compound emissions from existing pneumatic rubber tire manufacturing plants.
- 401 KAR 61:160 *Existing perchloroethylene dry cleaning systems*. This administrative regulation provides for the control of volatile organic compound emissions from existing perchloroethylene dry cleaning systems.
- 401 KAR 61:165 *Existing primary aluminum reduction plants*. This administrative regulation provides for the control of emissions from existing primary aluminum reduction plants.

- 401 KAR 61:170 *Existing blast furnace casthouses*. This administrative regulation provides for the control of emissions from existing blast furnace casthouses.
- 401 KAR 61:175 *Leaks from existing synthetic organic chemical and polymer manufacturing equipment*. This administrative regulation provides for the control of volatile organic compound emissions from leaks from existing synthetic organic chemical and polymer manufacturing equipment.
- 401 KAR 63:005 *Open burning*. This administrative regulation establishes requirements for the control of open burning.
- 401 KAR 63:010 *Fugitive emissions*. This administrative regulation provides for the control of fugitive emissions.
- 40 CFR 52.940 *Interstate Pollutant Transport Provisions; What are the FIP Requirements for Decreases in Emissions of Nitrogen Oxides?*
- 40 CFR 52.941 *Interstate Pollutant Transport Provisions; What are the FIP Requirements for Decreases in Emissions of Sulfur Dioxide?*

Element B – Section 110(a)(2)(B): Ambient Air Quality Monitoring/Data System

Each such plan shall –

(B) 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.

Ambient air quality monitoring/data system: Section 110(a)(2)(B) of the CAA requires SIPs to include provisions for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and presentation of these data to EPA upon request. KRS 224.10-100(22) requires the installation, maintenance, and use of equipment, devices, or tests and methodologies to monitor the nature and amount of any substance emitted into the ambient air and to provide the information to the Cabinet. The Cabinet submitted the annual monitoring network plan, in accordance with 40 CFR 58.10, on June 30, 2015. EPA granted conditional approval of Kentucky’s annual monitoring plan in a letter dated October 28, 2015.

- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.
- 401 KAR 51:017 *Prevention of significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impact upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 53:005 *General Provisions*. This administrative regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.

- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.

Element C – Section 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources.

Each such plan shall –

(C) 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.

Program for enforcement of control measures: Section 110(a)(2)(C) of the CAA requires States to include a program that provides for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet prevention of significant deterioration (PSD) and nonattainment new source review (NSR) requirements.

- 401 KAR 50:060 *Enforcement*. This administrative regulation provides for enforcement of the terms and conditions of permits and compliance schedules.
- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impact upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 52:001 *Definitions for 401 KAR Chapter 52*. This administrative regulation defines the terms used in 401 KAR Chapter 52.
- 401 KAR 52:020 *Title V permits*. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that are required to obtain a Title V permit.
- 401 KAR 52:040 *State-Origin Permits*. This administrative regulation establishes requirements for minor sources whose permits are not required to be federally enforceable.
- 401 KAR 52:100 *Public, affected state, and U.S. EPA review*. This administrative regulation establishes the procedures used by the Cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.

401 KAR 51:001, 51:017, and 51:052 were amended to adopt federal revisions to the lists of major sources relating to PSD, NSR, and Title V applicability (including greenhouse gases), to remove the existing requirements for clean units and pollution control projects, and to add nitrogen oxides as a precursor to ozone formation. These amendments became effective in Kentucky on February 5, 2010, were submitted to EPA on February 22, 2010, and were officially approved to the SIP in 75 FR 55988, on September 15, 2010.

401 KAR 51:001, 51:017, and 51:052 were amended to adopt revisions to the NSR/PSD programs consistent with the PM_{2.5} NAAQS implementation. These amendments became effective in Kentucky on December 7, 2012, were submitted to EPA on February 1, 2013, and were officially approved to the SIP in 79 FR 65143, on November 3, 2014.

Elements D(i)(I) and (II) – Section 110(a)(2)(D)(i): Interstate Pollution Transport

Each such plan shall –

(D) contain adequate provisions –

(i) prohibiting, consistent with the provisions of this subchapter, 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 included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility.

Interstate transport: Section 110(a)(2)(D) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state. States are required to submit Section 110(a)(2)(D)(i) plans to demonstrate compliance with these provisions.

Fine particles may either be emitted directly or formed from emissions of precursors, the most important of which are sulfur dioxide (SO₂) and nitrogen oxides (NO_x). The most significant sources of PM_{2.5} and its precursors are coal-fired power plants, industrial boilers, and other combustion sources. Sources that emit fine particles and their precursors contribute to regional haze, which is defined as visibility impairment caused by the emission of air pollutants from numerous sources located across a broad geographic area. In an effort to address visibility impairment in its one Class I area, Mammoth Cave National Park, Kentucky developed the Kentucky Regional Haze SIP. This SIP prepared a long-term strategy and examined the possible application of Best Available Retrofit Technology (BART) in order to meet reasonable progress goals for Mammoth Cave. The final Regional Haze SIP was submitted to EPA on June 25, 2008. EPA published a limited approval and limited disapproval on March 30, 2012, effective April 30, 2012. Kentucky submitted the Regional Haze 5-Year Periodic Report SIP Revision on September 17, 2014. In accordance with the requirements of 40 CFR 51:308(d)(1), Kentucky's Regional Haze SIP established reasonable progress goals for Mammoth Cave. As can be seen in Kentucky's Regional Haze 5-Year Periodic Report SIP Revision, the implementation of state and federal emission reduction measures have lead to a steady decline and have exceeded the reasonable progress goals set in the Kentucky Regional Haze SIP.⁴ Table 1 below was provided

⁴ <http://air.ky.gov/Pages/SIPRevisionsandSubmittals.EmissionAllocations.aspx>

as part of Kentucky's Regional Haze 5-Year Periodic Report SIP and contains data from U.S. EPA Clean Air Market Data (CAMD) for Acid Rain Program Units. The table shows the decline of SO₂ emissions in tons from the years 2002-2012. In Kentucky, SO₂ emissions have decreased a total of 296,477 tons.

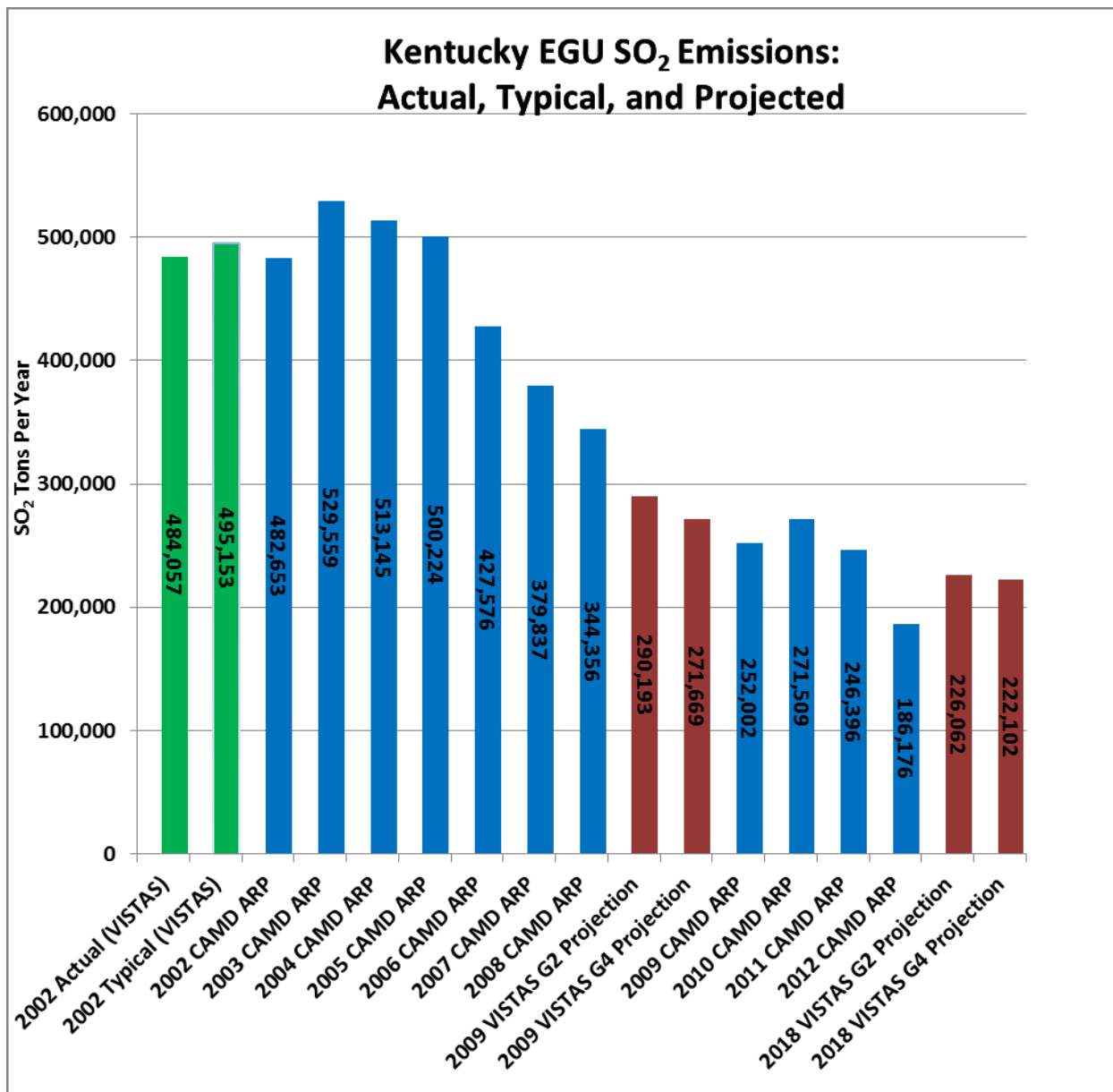
Table 1 Summary of Acid Rain Program SO₂ Emission and Heat Input Data for 2002-2012 for VISTAS States and Kentucky

Year	VISTAS States			Kentucky		
	Heat Input (TBtu)	SO ₂ Emissions (tons)	SO ₂ Rate (lb/MMBtu)	Heat Input (TBtu)	SO ₂ Emissions (tons)	SO ₂ Rate (lb/MMBtu)
2002	7,645,295	3,713,262	0.971	962,510	482,653	1.003
2003	7,549,812	3,846,147	1.019	935,091	529,559	1.133
2004	7,601,246	3,635,738	0.957	942,421	513,145	1.089
2005	7,893,946	3,725,196	0.944	988,267	500,224	1.012
2006	7,921,127	3,489,194	0.881	1,002,080	427,576	0.853
2007	8,217,954	3,175,353	0.773	1,000,266	379,837	0.759
2008	7,833,760	2,565,907	0.655	990,691	344,356	0.695
2009	6,966,766	1,619,348	0.465	904,136	252,002	0.557
2010	7,760,906	1,415,331	0.365	997,330	271,509	0.544
2011	7,336,214	1,166,586	0.318	986,999	246,396	0.499
2012	7,035,392	881,063	0.231	918,760	186,176	0.405

Source: USEPA CAMD data for Acid Rain Program units. <http://ampd.epa.gov/ampd/QueryToolie.html>
(SO₂ Rate calculated by taking state Acid Rain Program (ARP) SO₂ emissions divided by state ARP heat input.)

As depicted in Figure 1 below, Kentucky's 2009 EGU SO₂ emissions, as reported to CAMD, are below the 2009 modeled values. In fact, actual EGU SO₂ emissions as reported to CAMD are below the VISTAS 2009 projections for 2009, 2010, 2011, and 2012. In addition, actual EGU SO₂ emissions as reported to CAMD for 2012 are below the VISTAS 2018 projections. The Commonwealth is expected to continue meeting and exceeding its 2018 reasonable progress goals and will not impede areas outside of Kentucky from meeting their goals.

Figure 1



On March 7, 2013, EPA determined that the SIP as a whole met the requirement of prong 4 of Section 110(a)(2)(D)(i)(II) in Kentucky's Section 110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour ozone NAAQS.⁵ EPA stated, "EPA is taking final action to approve the infrastructure SIP submission with respect to prong 4 because Kentucky's regional haze SIP, which EPA has given a limited approval in combination with its SIP provisions to implement CAIR adequately, prevents sources in Kentucky from interfering with measures adopted by other states to protect visibility during the first planning period."

Although Kentucky is not relying on the Cross-State Air Pollution Rule (CSAPR) for maintaining compliance with the 2012 PM_{2.5} NAAQS, CSAPR is a federally-enforceable program that once fully implemented may yield residual SO₂ and NO_x emissions reduction

⁵ 78 FR 14681

benefits. CSAPR requires states to limit their state-wide emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x), in order to reduce or eliminate the states' contributions to fine particulate matter and ozone pollution in other states. To achieve compliance with the emissions limitations, CSAPR establishes federal implementation plans (FIPs) that require large electricity generating units (EGUs) in each affected state to participate in one or more new emissions trading programs that supersede the existing CAIR emissions trading programs. Compliance with CSAPR's Phase 1 emissions budgets is now required in 2015 and 2016 while compliance with Phase 2 emissions budgets is required in 2017 and beyond. Sources will be required to comply with EPA's FIP until Kentucky adopts CSAPR-specific regulations into the SIP.

On April 15, 2015, EPA designated five counties in the Eastern U.S. as nonattainment for the 2012 PM_{2.5} NAAQS: three counties in Pennsylvania (Delaware, Lebanon, and Allegheny) and two counties in Cleveland Ohio (Cuyahoga and Lorain). Table 2 below shows the surrounding states' monitors with the highest design value for years 2012-2014. The monitors for Cuyahoga and Lorain counties in Ohio were not included in the table below since those counties are part of the Cleveland nonattainment area. All monitors in Kentucky along with the multitude of monitors that lie between Kentucky and the two nonattainment areas are showing attainment for the 2012 PM_{2.5} standard.

Table 2. Highest Monitored 2012 PM_{2.5} NAAQS Design Values (µ/m³)

State	Site ID	2012	2013	2014	Annual Design Value
Illinois	*	*	*	*	*
Indiana	18-097-0081	11.7	11.5	12.3	11.8
Kentucky	21-111-0067	12.3	11.1	11.0	11.4
Missouri	29-510-0085	10.5	11.0	11.4	11.0
Ohio	39-061-0014	12.1	11.6	11.3	11.7
Tennessee	47-065-0031	10.1	9.3	9.4	9.6
Virginia	51-013-0020	9.4	8.9	8.7	9.0
West Virginia	54-009-0005	11.2	11.0	11.2	11.1

The following regulations address additional control measure, means and techniques to assure that Kentucky is not interfering with attainment or maintenance of the 2012 PM_{2.5} NAAQS in downwind states:

- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source

or any project at an existing major stationary source in an area designated as attainment or unclassifiable.

- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 52:100 *Public, Affected State, and US EPA Review*. This administrative regulation establishes the procedures used by the cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.
- 40 CFR 52.940 *Interstate Pollutant Transport Provisions; What are the FIP Requirements for Decreases in Emissions of Nitrogen Oxides?*
- 40 CFR 52.941 *Interstate Pollutant Transport Provisions; What are the FIP Requirements for Decreases in Emissions of Sulfur Dioxide?*
- Regional Haze SIP, June 25, 2008.

Element D(ii) – Section 110(a)(2)(D)(ii): Interstate Pollution and International Air Pollution

Each such plan shall –

(D) contain adequate provisions –

(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).

Element D(ii) is satisfied when an infrastructure SIP ensures compliance with the applicable requirements of CAA Sections 126(a), 126(b) and (c), and 115.

Interstate Pollution Abatement:

Sec. 126. (a) Each applicable implementation plan shall –

(1) require each major proposed new (or modified) source –

(A) subject to part C (relating to significant deterioration of air quality) or

(B) which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification), to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

(2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after the date of enactment of the Clean Air Act Amendments of 1977.

- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source

or any project at an existing major stationary source in an area designated as attainment or unclassifiable.

Element E – Section 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies

Each such plan shall –

(E) 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

(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.

110(a)(2)(E)(i)

- 401 KAR 50:038 *Air Emissions Fee*, This administrative regulation provides for the assessment of fees necessary to fund the state Title V permit program.

The following statutes address this requirement; however they are included as reference material and should not be adopted as part of Kentucky's SIP.

- KRS 224.10-020 *Departments Within the Cabinet – Offices and Divisions Within the Departments – Appointments*, describes who is authorized in the Commonwealth to approve Air permits and enforcement orders and appeals thereof.
- KRS 224.10-100 *Powers and Duties of the Cabinet*, provides for authority under State law to carry out its SIP and related issues.
- KRS 224.20-050 *Fee for Administration of Air Quality Program*, describes the adoption of fees for the cost of administering the air quality program.

110(a)(2)(E)(ii)

Section 110(a)(2)(E)(ii) pertains to Section 128, applicable to certain boards, bodies, and personnel that approve permits or enforcement orders. Section 128 states:

(1) any board or body which approves permits or enforcement orders under this Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and

(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

A state may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of (paragraphs (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.

The following statutes address this requirement; however they are included as reference material and should not be adopted as part of Kentucky's SIP.

- KRS 11A.020 *Public Servant Prohibited From Certain Conduct – Exemption – Disclosure of Personal or Private Interest*, requires adequate disclosure of any potential conflicts of interest
- KRS 11A.030 *Considerations in Determination to Abstain From Action on Official Decision – Advisory Opinion*, proscribes guidelines for determining whether to abstain from action on an official decision because of a possible conflict of interest
- KRS 11A.040 *Acts Prohibited for Public Servant or Officer – Exemption*,
- KRS 11A.050 *Financial disclosure by officers, candidates, and public servants, shall file a statement of financial disclosure with the commission.*
- 401 KAR 50:038 *Air Emissions Fee*, This administrative regulation provides for the assessment of fees necessary to fund the state Title V permit program.

110(a)(2)(E)(iii)

- 401 KAR 50:038 *Air Emissions Fee*, This administrative regulation provides for the assessment of fees necessary to fund the state Title V permit program

The following statutes address this requirement; however they are included as reference material and should not be adopted as part of Kentucky's SIP.

- KRS 224.10-100 *Powers and Duties of the Cabinet*, provides for authority under State law to carry out its SIP and related issues
- KRS 224.10-020 *Departments Within the Cabinet – Offices and Divisions Within the Departments – Appointments*, describes who is authorized in the Commonwealth to approve Air permits and enforcement orders and appeals thereof
- KRS 224.20-050 *Fee for Administration of Air Quality Program*, describes the adoption of fees for the cost of administering the air quality program.
- KRS 224.20-130, *Concurrent Jurisdiction with Local District*, this statutes establishes working synchronously with local districts to implement standards and procedures to implement the program in a manner consistent with the objective of KRS Chapter 224.

Element F – Section 110(a)(2)(F): Stationary Source Monitoring and Reporting

Each such plan shall –

(F) 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.

110(a)(2)(F)(i)

Stationary source monitoring system: Section 110(a)(2)(F) of the CAA requires States to establish a system to monitor emissions from stationary sources and to submit periodic emissions reports.

- 401 KAR 50:020 *Air Quality Control Regions*. This administrative regulation provides for the designation and classification of air quality control regions.
- 401 KAR 50:045 *Performance Tests*. This administrative regulation establishes requirements for performance tests.
- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.
- 401 KAR 50:055 *General Compliance Requirements*. This administrative regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.
- 401 KAR 59:005 *General Provisions, New Source Standards*. This administrative regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.
- 401 KAR 61:005 *General Provisions, Existing Source Standards*. This administrative regulation provides for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to existing sources.

110(a)(2)(F)(ii)

To address periodic reporting requirements, the infrastructure SIP submission includes the air agency requirements providing for periodic reporting of emissions and emissions-related data by sources to the air agency as required by 40 CFR 51.211, 40 CFR sections 51.321 through 51.323, and the EPA's air emissions reporting rule, 40 CFR part 51 subpart A.

- 401 KAR 50:020 *Air Quality Control Regions*. This administrative regulation provides for the designation and classification of air quality control regions.

- 401 KAR 50:045 *Performance Tests*. This administrative regulation establishes requirements for performance tests.
- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.
- 401 KAR 50:055 *General Compliance Requirements*. This administrative regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.
- 401 KAR 59:005 *General Provisions, New Source Standards*. This administrative regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.
- 401 KAR 61:005 *General Provisions, Existing Source Standards*. This administrative regulation provides for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to existing sources.

110(a)(2)(F)(iii)

The infrastructure SIP submissions should reference and describe existing air agency requirements that have been approved into the SIP by the EPA, or include air agency requirements being newly submitted, that provide for the following: (1) correlation by the air agency of emissions reports by sources with applicable emission limitations or standards; and (2) the public availability of emission reports by sources.

- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.
- 401 KAR 50:055 *General Compliance Requirements*. This administrative regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.
- 401 KAR 59:005 *General Provisions, New Source Standards*. This administrative regulation is to provide for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to new sources.
- 401 KAR 61:005 *General Provisions, Existing Source Standards*. This administrative regulation provides for the establishment of monitoring requirements, performance testing requirements, and other general provisions as related to existing sources.

Element G – Section 110(a)(2)(G): Emergency Powers

Each such plan shall –

(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.

Emergency power: Section 303 provides legal authority to the EPA to stop the emission of air pollutants that present an imminent and substantial endangerment to public health or welfare or the environment. The EPA is authorized to either bring a lawsuit in federal court or, if such civil action cannot assure prompt protection of public health or welfare or the environment, to issue such orders as may be necessary to protect public health or welfare or the environment. The requirement for states to provide adequate contingency plans (40 CFR 51.150 through 51.153) to implement such authority is intended to establish emergency episode plans for responding to elevated pollutant levels in urban areas. Emergency episode plans are required in areas that record ambient pollutant concentrations in excess of threshold levels specified in 40 CFR Part 51.150.

EPA has not promulgated regulations that provide the ambient levels to classify different priority levels. In its “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)” dated September 13, 2013, the EPA recommends that states follow previous EPA guidance regarding the 2006 PM_{2.5} standard.⁶ However, the 2009 guidance addresses only the 24-hour PM_{2.5} standard, it does not address the annual PM_{2.5} standard.

On April 15, 2015, the entire state of Kentucky was designated as “unclassifiable/attainment” with the exception of Bullitt and Jefferson Counties which were designated “unclassifiable” for the 2012 annual PM_{2.5} NAAQS.⁷ The following regulations provide the means to implement emergency air pollution episode measures if ever necessary.

- 401 KAR 55:005 *Significant Harm Criteria*. This administrative regulation defines those levels of pollutant concentration which must be prevented in order to avoid significant harm to the health of persons.
- 401 KAR 55:010 *Episodic Criteria*. The administrative regulation defines those levels of pollutant concentrations which justify the proclamation of an air pollution alert, air pollution warning, and an air pollution emergency.
- 401 KAR 55:015 *Episode Declaration*. This administrative regulation provides for the curtailment or reduction of processes or operations which emit an air contaminant or an air contaminant precursor whose criteria has been reached and are located in the affected areas for which an episode level has been declared.
- 401 KAR 55:020 *Abatement strategies*. This administrative regulation sets forth in detail action that must be taken by air contaminant sources when an episode is declared.

⁶ *Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)*. (September 25, 2009)

⁷ 80 FR 18535

Element H – Section 110(a)(2)(H): SIP Revisions

Each such plan shall –

(H) 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.*

Future Sip revisions: Section 110(a)(2)(H) of the CAA requires States to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to the EPA finding that the SIP is substantially inadequate.

110(a)(2)(H)(i):

- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 53:005 *General Provisions*. This administrative regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation establishes ambient air quality standards necessary for the protection of the public health, welfare, and property.

110(a)(2)(H)(ii):

- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 53:005 *General Provisions*. This administrative regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation establishes ambient air quality standards necessary for the protection of the public health, welfare, and property.

Element I – Section 110(a)(2)(I): Plan Revisions for Nonattainment Areas

Each such plan shall –

(I) 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).

It is not required that Element I be addressed in an Infrastructure SIP submission. Element I is addressed when a nonattainment SIP or an attainment demonstration is due for an area that has been designated as not attaining the standard. Nonattainment SIPs and attainment demonstrations are subject to a different submission schedule than those for Section 110 infrastructure elements and will be reviewed and acted upon through a separate process.

Element I is not being addressed and according to the EPA, Element I does not need to be addressed in the context of an infrastructure SIP submission.

Element J – Section 110(a)(2)(J): Consultation with Government Officials, Public Notification, and PSD and Visibility Protection

Each such plan shall –

(J) 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)....

Consultation with identified officials on certain actions:

Sec. 121. In carrying out the requirements of this Act requiring applicable implementation plans to contain –

(1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or

(2) any measure referred to –

(A) in part D (pertaining to nonattainment requirements), or

(B) in part C (pertaining to prevention of significant deterioration), and in carrying out the requirements of section 113(d) (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1977 as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.

Consultation with government officials: Section 110(a)(2)(J) of the CAA requires States to provide a process for consultation with local governments and federal land managers carrying out NAAQS implementation requirements pursuant to CAA Section 121 relating to consultation.

- 401 KAR 50:055 *General Compliance Requirements*. This administrative regulation establishes requirements for compliance during shutdown and malfunctions; establishes requirements for demonstrating compliance with standards; establishes requirements for compliance when a source is relocated within the Commonwealth of Kentucky; and other general compliance requirements.
- 401 KAR 50:060 *Enforcement*. This administrative regulation provides for enforcement of the terms and conditions of permits and compliance schedules.
- 401 KAR 50:065 *Conformity of General Federal Actions*. The federal regulation incorporated by reference in this administrative regulation provides for determining the conformity of general federal actions to the SIP. 40 CFR 51.850 to 51.860 require that

the applicable federal agencies implement the conformity determination in consultation with agencies of the Commonwealth of Kentucky.

- 401 KAR 50:066 *Conformity of Transportation Plans, Programs, and Projects*. This administrative regulation adopts the Federal Transportation Conformity Rules as codified in 40 C.F.R. Part 93 Subpart A and incorporates a guidance document that establishes criteria and procedures for the interagency consultation process used in demonstrating conformity of federal transportation plans to the Kentucky State Implementation Plan.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 52:100 *Public, Affected State, and U.S. EPA Review*. This administrative regulation establishes the procedures used by the cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.

401 KAR 51:001, 51:017, and 51:052 were amended to adopt federal revisions to the lists of major sources relating to PSD, NSR, and Title V applicability (including greenhouse gases), to remove the existing requirements for clean units and pollution control projects, and to add nitrogen oxides as a precursor to ozone formation. These amendments became effective in Kentucky on February 5, 2010, were submitted to EPA on February 22, 2010, and were officially approved to the SIP in 75 FR 55988, on September 15, 2010.

401 KAR 51:001, 51:017, and 51:052 were amended to adopt revisions to the NSR/PSD programs consistent with the PM_{2.5} NAAQS implementation. These amendments became effective in Kentucky on December 7, 2012, were submitted to EPA on February 1, 2013, and were officially approved to the SIP in 79 FR 65143, on November 3, 2014.

Public Notification:

Section 127. (a) Each State plan shall contain measures which will be effective to notify the public during any calendar [year] on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

(b) The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a).

Public notification: Section 110(a)(2)(J) of the CAA further requires States to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measure that can be taken to prevent exceedances.

- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 52:001 *Definitions for 401 KAR Chapter 52*. This administrative regulation defines the terms used in 401 KAR Chapter 52.
- 401 KAR 52:020 *Title V Permits*. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that are required to obtain a Title V permit.
- 401 KAR 52:030 *Federally-Enforceable Permits for Nonmajor Sources*. This administrative regulation establishes requirements for air contaminant sources located in Kentucky that accept emission limitations to avoid the New Source Review requirements under Title I of the Clean Air Act or the Operating Permit Program requirements under Title V of the Clean Air Act.
- 401 KAR 52:100 *Public, Affected State, and U.S. EPA Review*. This administrative regulation establishes the procedures used by the cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA

PSD and visibility protection: Section 110(a)(2)(J) of the CAA also requires States to meet applicable requirements of Part C related to PSD and visibility protection.

The final Regional Haze SIP was submitted to US EPA on June 25, 2008. EPA published a limited approval and limited disapproval on March 30, 2012, effective April 30, 2012. Kentucky submitted the Regional Haze 5-Year Periodic Report SIP Revision on September 17, 2014. On March 7, 2013, EPA determined that the SIP as a whole met the requirement of prong 4 of section 110(a)(2)(D)(i)(II) in Kentucky's 110(a)(1) and (2) Infrastructure Requirements for the 2008 8-hour ozone NAAQS.⁸ EPA stated "EPA is taking final action to approve the infrastructure SIP submission with respect to prong 4 because Kentucky's regional haze SIP, which EPA has given a limited approval in combination with its SIP provisions to implement CAIR adequately, prevents sources in Kentucky from interfering with measures adopted by other states to protect visibility during the first planning period."

⁸ 78 FR 14681

- 401 KAR 51:005 *Purpose and General Provisions*. This administrative regulation establishes the general provisions as related to new sources with respect to the prevention of significant deterioration of air quality and construction of stationary sources impacting on nonattainment areas.
- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 63:005 *Open Burning*. This administrative regulation establishes requirements for the control of open burning.
- 401 KAR 63:010 *Fugitive Emissions*. This administrative regulation provides for the control of fugitive emissions.
- Regional Haze SIP, June 25, 2008.

As stated in EPA's Guidance, "the EPA believes that there are no new visibility protection requirements under Part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations pursuant to Element J after the promulgation of a new or revised NAAQS." In accordance with EPA's interpretation of the CAA, the visibility subelement of Element J is not being addressed in this submittal.

Element K – Section 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
Each such plan shall –

(K) 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.*

Air quality modeling/data: Section 110(a)(2)(K) of the CAA requires that SIPs provide for modeling of criteria pollutants to predict air quality and that such predictions are made available to the EPA.

- 401 KAR 50:040 *Air Quality Models*. This administrative regulation specifies general provisions for the use of air quality models.
- 401 KAR 50:050 *Monitoring*. This administrative regulation establishes requirements for stack gas monitoring, ambient air monitoring, and recording and reporting requirements as related to monitoring data.

- 401 KAR 51:001 *Definitions for 401 KAR Chapter 51*. This administrative regulation defines the terms used in 401 KAR Chapter 51. The definitions contained in this administrative regulation are neither more stringent nor otherwise different than the corresponding federal definitions.
- 401 KAR 51:010 *Attainment Status Designations*. This administrative regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.
- 401 KAR 51:017 *Prevention of Significant Deterioration of Air Quality*. This administrative regulation applies to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.
- 401 KAR 51:052 *Review of New Sources in or Impacting Upon Nonattainment Areas*. This administrative regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.
- 401 KAR 53:010 *Ambient Air Quality Standards*. This administrative regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.

Element L – Section 110(a)(2)(L): Permitting Fees

Each such plan shall –

(L) 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 chapter, 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 subchapter V of this chapter.

Permitting fees: Section 110(a)(2)(L) of the CAA requires SIPs to require each major stationary source to pay permitting fees to cover the costs of reviewing, approving, implementing, and enforcing a permit.

- 401 KAR 50:038 *Air Emissions Fee*. This administrative regulation provides for the assessment of fees necessary to fund the state Title V permit program.

The following statute addresses this requirement; however, it is included as reference material and should not be adopted as part of Kentucky's SIP.

- KRS 224.20-050 *Fee for Administration of Air Quality Program*, describes the adoption of fees for the cost of administering the air quality program.

Element M – Section 110(a)(2)(M): Consultation and Participation by Affected Local Entities

Each such plan shall –

(M) provide for consultation and participation by local political subdivisions affected by the plan.

Consultation/participation by affected local entities: Section 110(a)(2)(M) of the CAA requires States to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. KRS Chapter 77, Air Pollution Control, provides for the creation of each county to develop an air pollution control district.

- 401 KAR 50:066 *Conformity of Transportation Plans, Programs, and Projects*. This administrative regulation adopts the Federal Transportation Conformity Rules as codified in 40 CFR Part 93 Subpart A and incorporates a guidance document that establishes criteria and procedures for the interagency consultation process used in demonstrating conformity of federal transportation plans to the Kentucky State Implementation Plan.
- 401 KAR 52.100 *Public, Affected State, and US EPA Review*. This administrative regulation establishes the procedures used by the cabinet to provide for the review of federally-enforceable permits by the public, affected states, and the U.S. EPA.

The Kentucky Revised Statute is included as reference material and should not be adopted as part of Kentucky's SIP.

- KRS 224.20-130, *Concurrent Jurisdiction with Local District*, this statute establishes working synchronously with local districts to implement standards and procedures to implement the program in a manner consistent with the objective of KRS Chapter 224.

Appendix A

Public Hearing Notice
&
Response to Comments

**KENTUCKY DIVISION FOR AIR QUALITY
NOTICE OF PUBLIC HEARING
TO REVISE KENTUCKY'S STATE IMPLEMENTATION PLAN**

The Kentucky Energy and Environment Cabinet will conduct a public hearing on December 10, 2015 at 10:00 a.m. (EDT) in the Conference Room of the Division for Air Quality, 200 Fair Oaks Lane, 1st Floor, Frankfort, Kentucky. This hearing is being held to receive comments on a proposed State Implementation Plan (SIP) revision to address Clean Air Act (CAA) Section 110 requirements.

This hearing is open to the public and all interested persons will be given the opportunity to present testimony. The hearing will be held, if requested, at the date, time and place given above. It is not necessary that the hearing be held or attended in order for persons to comment on the proposed submittal to EPA. To assure that all comments are accurately recorded, the Division requests that oral comments presented at the hearing also be provided in written form, if possible. To be considered part of the hearing record, written comments must be received by the close of the hearing. Written comments should be sent to the contact person. If no request for a public hearing is received, the hearing will be cancelled, and notice of the cancellation will be posted at the website listed below. Request for a public hearing must be received no later than December 3, 2015 while all comments must be submitted no later than December 10, 2015.

The full text of the proposed SIP revision is available for public inspection and copying during regular business hours (8:00 a.m. to 4:30 p.m.) at the Division for Air Quality, 200 Fair Oaks, 1st Floor, Frankfort, Kentucky. Any individual requiring copies may submit a request to the Division for Air Quality in writing, by telephone, or by fax. Requests for copies should be directed to the contact person. In addition, an electronic version of the proposed SIP revision document and relevant attachments can be downloaded from the Division for Air Quality's website at:

<http://air.ky.gov/Pages/PublicNoticesandHearings.aspx>.

The hearing facility is accessible to people with disabilities. An interpreter or other auxiliary aid or service will be provided upon request. Please direct these requests to the contact person.

CONTACT PERSON: Leslie Poff, Environmental Control Supervisor, Division for Air Quality, 200 Fair Oaks Lane, Frankfort, Kentucky 40601. Phone (502) 564-3999; Fax (502) 564-4666; E-mail lesliem.poff@ky.gov.

The Energy and Environment Cabinet does not discriminate on the basis of race, color, national origin, sex, age, religion, or disability and provides, upon request, reasonable accommodation including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all services, programs, and activities.

Response to Comments

From November 4, 2015, until December 10, 2015, the Kentucky Energy and Environment Cabinet provided an opportunity for comments on the proposed State Implementation Plan (SIP) revision to address Clean Air Act (CAA) Section 110 requirements for the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS). The public notice announcing the public comment period included an opportunity to request a public hearing. No request for a public hearing was received; therefore, the scheduled public hearing was cancelled.

During the public comment period, the only comments received were from the U.S. Environmental Protection Agency. The comments and responses are listed below.

Response to Comments for the proposed SIP revision to address CAA Section 110 requirements for the 2012 PM_{2.5} NAAQS.

1. Comment: 110(a)(2)(D)(i) prong 1 and 2: The EPA suggests clarifying whether the Commonwealth significantly contributes to nonattainment or interferes with maintenance areas for the 2012 PM_{2.5} national ambient air quality standards (NAAQS) by providing a technical demonstration to support the Commonwealth's conclusions. Additionally, the EPA cautions air agencies on the reliance of the Cross State Air Pollution Rule (CSAPR) to address their interstate transport obligations for the 2012 PM_{2.5} standard. The analyses used to develop the CSAPR were based on parameters and emission inventory data specific to addressing downwind nonattainment and maintenance issues for the annual 1997 PM_{2.5} and 2006 24-hour PM_{2.5} NAAQS. Please note that any release of future interstate transport guidance may require the state to supplement their 2012 annual PM_{2.5} interstate transport SIP.
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment. The Cabinet has included additional information within the section addressing 110(a)(2)(D)(i) that demonstrates that Kentucky does not significantly contribute to nonattainment or interferes with maintenance areas for the 2012 PM_{2.5} NAAQS. (Please see pages 11-15).

2. Comment: 110(a)(2)(C) and 110(a)(2)(D)(i) prong 3: The EPA suggests including reference to the regulation of greenhouse gases under the Commonwealth's prevention of significant deterioration (PSD) permitting program at 401 KAR 51:001 and 52:001 as part of the documentation that the Commonwealth has a complete PSD permitting program in place covering the requirements for all regulated new source review pollutants to meet 110(a)(2)(C).
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment and has included a reference to greenhouse gases under 110(a)(2)(C) and 110(a)(2)(D)(i). (Please see pages 11 and 23).

3. Comment: 110(a)(2)(D)(i) prong 4: The EPA suggests that in the absence of a fully approved Regional Haze SIP, a state may meet the requirements of prong 4 by showing that its SIP contains adequate provisions to prevent emissions from within the state from interfering with other states' measures to protect visibility. The EPA is available to discuss this further.

(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment. The Cabinet is currently working to submit provisions that will remove Regional Haze reliance on CAIR and therefore would make the Regional Haze SIP fully approvable. Additional information has been included within the section addressing 110(a)(2)(D)(i) that demonstrates that Kentucky does not significantly contribute to nonattainment or interferes with maintenance areas for the 2012 PM_{2.5} NAAQS. (Please see pages 11-15).

4. Comment: Overarching Comment for all Elements: The EPA suggests listing SIP approved regulations and/or state statutes with a narrative (executive summary) for all elements demonstrating how the cited SIP provisions, statutes, state law, or state regulations meet the respective requirements of section 110(a)(2) of the Clean Air Act (CAA).
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment and has added narratives to all regulations and state statutes.

5. Comment: 110(a)(2)(C): The EPA suggests including a reference to the specific regulation where the minor source program is located in the SIP as it is unclear which regulation(s) govern this program.
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment and has included 401 KAR 52:040 State Origin Permit which covers the minor source program within Kentucky. (Please see page 11).

6. Comment: 110(a)(2)(E) and (F): The EPA suggests including a narrative explaining how the referenced regulations meet the requirements of each portion of the element (E(i), E(ii) and, E(iii); F(i), F(ii), and F(iii)).
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment and has placed the applicable regulations under the appropriate sub-element to clarify how the referenced regulations meet the requirements of elements 110(a)(2)(E) and (F). (Please see pages 16-18 for element E and pages 18-20 for element F).

7. Comment: 110(a)(2)(F)(i): Please certify that the provisions cited or the SIP excludes any provision that would prevent the use of any credible evidence of noncompliance.
(Scott Davis, U.S. EPA)

Response: The Cabinet acknowledges this comment. In a letter dated June 29, 2007 from Stephen L. Johnson to Mr. Robert Ukeiley, EPA denied a petition on behalf of Preston Forsythe to find Kentucky's SIP inadequate because it did not fully include the credible evidence revisions. EPA affirmed that Kentucky's SIP included numerous provisions relating to compliance and enforcement in a variety of contexts and the fact that the SIP was not revised to incorporate the credible evidence revisions does not make the SIP substantially inadequate. The

letter further states, “The Kentucky SIP also includes language indicating that Kentucky can use “any information to enforce its SIP. See, e.g., 40 Kentucky Administrative Regulations (KAR) 50:055 (concerning compliance); and 401 KAR 50:060 (concerning enforcement). These two provisions were incorporated into the Kentucky SIP on May 4, 1989 (54 Fed. Reg. 19169) and July 12, 1982 (47 Fed. Reg. 30059), respectively. Further, Kentucky’s regulations include the incorporation by reference of 40 C.F.R. §§ 60.11 and 61.12 in 401 KAR 60:005, Section 2(1); and 401 KAR 57:002, Section 2(1), respectively. These provisions are not in the Kentucky SIP because regulations pertaining to new source performance standards and hazardous air pollutants are not included as part of the SIP for any state.”

8. Comment: 110(a)(2)(H)(ii): Please identify which Kentucky provisions address 110(a)(2)(H)(ii).
(*Scott Davis, U.S. EPA*)

Response: The Cabinet acknowledges this comment and has identified 401 KAR 51:010, 53:005, and 53:010 that address 110(a)(2)(H)(ii). (Please see pages 21-22).

9. Comment: 110(a)(2)(I): The EPA suggests that the Commonwealth clarify that Kentucky’s intention is not to make a submission for this element.
(*Scott Davis, U.S. EPA*)

Response: The Cabinet acknowledges this comment and has clarified that the Commonwealth does not intend to make a submission for this element. (Please see page 22).

10. Comment: 110(a)(2)(J) visibility: The EPA suggests revising this language in according with the EPA’s Guidance to state that the visibility sub-element of Element J is not being addressed, and reiterate in the submission that according to the EPA’s interpretation of the CAA this element does not need to be addressed.
(*Scott Davis, U.S. EPA*)

Response: The Cabinet acknowledges this comment and has clarified that the Commonwealth does not intend to make a submission for this element. (Please see page 25).

11. Comment: 110(a)(2)(L): Please include any state statutes applicable to the requirements governing this element.
(*Scott Davis, U.S. EPA*)

Response: The applicable state statute was provided in the proposed submittal. Please see KRS 224.20-50 Fee for Administration of Air Quality Program located in section 110(a)(2)(L). (Please see pages 26 and 27).