

as follows: **DATES.** This rule is effective July 30, 2024, without further action, unless adverse comment is received by July 1, 2024. If adverse comment is received, NARA will publish a timely withdrawal of the rule in the **Federal Register**.

**§ 1225.20 [Corrected]**

■ 3. On page 35008, in the first column, in part 1225, in amendment 2, the instruction “Amend § 1225.20 to read as follows:” is corrected to read “Revise § 1225.20 to read as follows:”

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2024–11915 Filed 5–31–24; 8:45 am]

**BILLING CODE 7515–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R04–OAR–2023–0253; FRL–11850–02–R4]

**Air Plan Approval; KY; Updates to Attainment Status Designations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet (Cabinet), Kentucky Division for Air Quality (KDAQ), submitted a revision to the Kentucky State Implementation Plan (SIP) on November 29, 2022. The SIP revision updates, as of June 9, 2022, the geographical boundary description and attainment status designation for the Henderson-Webster SO<sub>2</sub> nonattainment area for the 2010 primary SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). The update is being made to conform Kentucky’s attainment status tables with the Federal attainment status designations made for this area. The SIP revision also includes minor language changes in the attainment status designations provisions. EPA is approving Kentucky’s SIP revision pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective July 3, 2024.

**ADDRESSES:** EPA has established a docket for this action under *Docket Identification No.* EPA–R04–OAR–2023–0253. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business

Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Ortiz can be reached via phone number (404) 562–8085 or via electronic mail at *ortizborrero.josue@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 29, 2022, the Cabinet submitted a SIP revision containing changes to 401 Kentucky Administrative Regulation (KAR) 51:010, *Attainment status designations*, State effective June 9, 2022, to be consistent with the SO<sub>2</sub> designation status codified by EPA at title 40 CFR part 81, subpart C as designated pursuant to section 107 of the CAA. Regulation 401 KAR 51:010 compiles the designation status for the entire Commonwealth for the following NAAQS: ozone (O<sub>3</sub>), fine particulate matter (PM<sub>2.5</sub>), lead (Pb), carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), SO<sub>2</sub>, and Total Suspended Particles (TSP) in a tabular format that identifies the area and the legal geographical boundary description consistent with the designation status codified at 40 CFR part 81. Specifically, Kentucky’s SIP submission adds the attainment status and the legal geographical boundary description for the Henderson-Webster nonattainment area for the 2010 SO<sub>2</sub> NAAQS as determined by EPA in SO<sub>2</sub> designations effective on April 14, 2021.<sup>1</sup> The nonattainment area

<sup>1</sup> See 86 FR 16055. This round of designations for the 2010 1-hour SO<sub>2</sub> NAAQS was signed on December 21, 2020 (86 FR 16055 (March 26, 2021)) and April 8, 2021 (86 FR 19576 (April 14, 2021)). These designations were signed by former EPA

is comprised of Henderson County (partial) and Webster County (partial) and was designated nonattainment based on the 2017–2019, 3-year design value at the Sebree ambient air quality monitor (AQS ID: 21–101–1011).<sup>2</sup> This update is being made to ensure Kentucky’s attainment designation tables are consistent with those codified at 40 CFR 81.318 for the Commonwealth. Kentucky’s amendment to 401 KAR 51:010 also includes replacing the text “designates the status” with the phrase “establishes the designation status” in reference to the purpose of the rule. In section 2, paragraph (1), the phrase “shall be as listed” replaces “is listed” in reference to the NAAQS listed in sections 4 through 10 of 401 KAR 51:010. Subparagraph 3 is revised by replacing “defines” with “delineates” in the sentence “A road, junction, or intersection of two (2) or more roads as used in Section 7 of this administrative regulation that defines a nonattainment boundary for an area that is a portion of a county designated as nonattainment for ozone for any classification except marginal, shall include as nonattainment an area extending 750 feet from the center of the road, junction, or intersection.” Also, Kentucky removed the reference to section 7 in that sentence because section 7 specifies that it applies to ozone nonattainment areas.

Through a notice of proposed rulemaking (NPRM), published on April 11, 2024 (89 FR 25555), EPA proposed to approve the November 29, 2022, revision which amends the attainment status designations for the Henderson-Webster SO<sub>2</sub> nonattainment area for the 2010 primary SO<sub>2</sub> NAAQS. EPA’s rationale for approving the changes is described in the April 11, 2024, NPRM. Comments on the April 11, 2024, NPRM were due on or before May 13, 2024. EPA received two comments on the April 11, 2024, NPRM that are not

Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the **Federal Register**. EPA and State documents and public comments related to these final designations are in the docket at *regulations.gov* with Docket ID No. EPA–HQ–OAR–2020–0037 and at EPA’s website for SO<sub>2</sub> designations at <https://www.epa.gov/sulfur-dioxide-designations>.

<sup>2</sup> See EPA, Technical Support Document: Chapter 3 Intended Round 4 Area Designations for the 2010 1-Hour SO<sub>2</sub> Primary National Ambient Air Quality Standard for Kentucky, available at [https://www.epa.gov/sites/default/files/2020-08/documents/03-ky-rd4\\_intended\\_so2\\_designations\\_tsd.pdf](https://www.epa.gov/sites/default/files/2020-08/documents/03-ky-rd4_intended_so2_designations_tsd.pdf).

relevant to this action. The comments are available in the docket for this action.

## II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Kentucky regulation 401 KAR 51:010, *Attainment status designations*, State effective June 9, 2022, which was revised to be consistent with Federal attainment status designation for the areas within the Commonwealth. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup>

## III. Final Action

EPA is finalizing approval of Kentucky's November 29, 2022, SIP revision, which updates regulation 401 KAR 51:010 to amend the attainment status designation for the Henderson-Webster SO<sub>2</sub> nonattainment area for the 2010 primary SO<sub>2</sub> NAAQS in accordance with the designations codified in 40 CFR 81.318. This revision also includes minor language changes in 401 KAR 51:010. EPA is approving these changes because they are consistent with the CAA and its implementing regulations.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond

those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean

that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The Cabinet did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 2, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 28, 2024.

**Jeananne Gettle,**

*Acting Regional Administrator, Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

<sup>3</sup> See 62 FR 27968 (May 22, 1997).

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Authority: 42 U.S.C. 7401 *et seq.*  
**Subpart S—Kentucky**

National Ambient Air Quality Standards” by revising the entry for “401 KAR 51:010” to read as follows:

■ 1. The authority citation for part 52 continues to read as follows:

■ 2. In § 52.920(c), amend Table 1 under the center heading “Chapter 51 Attainment and Maintenance of the

**§ 52.920 Identification of plan.**  
\* \* \* \* \*  
(c) \* \* \*

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED KENTUCKY LAWS AND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 51 Attainment and Maintenance of the National Ambient Air Quality Standards</b>				
*	*	*	*	*
401 KAR 51:010 .....	Attainment status designations.	6/9/2022	6/3/2024, .....	[Insert first page of <b>Federal Register</b> citation].
*	*	*	*	*