



STATEMENT OF CONSIDERATION RELATING TO

401 KAR 51:052. Review of new sources in or impacting upon nonattainment areas.

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

Not Amended After Comments

(1) A public hearing on the above administrative regulation was held on July 24, 2012, at 10:00 a.m. in Conference Room 201B of the Division for Air Quality, 200 Fair Oaks Lane, Frankfort, Kentucky 40601.

(2) The following people attended this public hearing or submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>	<u>Testimony</u>
Tom FitzGerald Director	Kentucky Resources Council	Written
R. Scott Davis Chief, Air Planning Branch	U.S. Environmental Protection Agency (U.S. EPA)	Written
Chad Harpole Director, Public Affairs	Kentucky Chamber of Commerce	Written

(3) The following people from the promulgating administrative body attended this public hearing:

Name and Title

Sean Alteri, Assistant Director
Lora Gowins, Environmental Control Supervisor
Jim Eubank, Environmental Technologist II
Benjamin Matar, Environmental Engineer Assistant I
*Laura Lund, Environmental Technologist III

*Agency Representative

Summary of Comments and Responses

(1) **General Comment**

- (a) **Comment** – Support of proposed amendments.
Chad Harpole, Kentucky Chamber of Commerce

“The Chamber generally supports the proposed amendments which will make the Kentucky regulations consistent with the federal requirements.”

- (b) **Response** – The Cabinet acknowledges this comment.

(2) **General Comment**

- (a) **Comment** – Litigation could impact SIP submittal approvability.
R. Scott Davis, U.S. EPA

“The EPA recommends KDAQ continue with rulemaking but note that future Court action may necessitate subsequent rule revisions and SIP submittals on your part.”

- (b) **Response** – The Cabinet acknowledges this comment.

(3) **General Comment**

- (a) **Comment** – Litigation could impact SIP submittal approvability.
R. Scott Davis, U.S. EPA

“The EPA’s authority to implement the PM_{2.5} SILs and SMC for Prevention of Significant Deterioration (PSD) purposes as promulgated on October 20, 2010, has been challenged by the Sierra Club... The outcome of this litigation could impact the EPA’s ability to approve these provisions into the Commonwealth’s SIP.”

- (b) **Response** – The Cabinet acknowledges this comment.

Summary of Statement of Consideration and Action Taken

General Summary

On July 24, 2012, the Cabinet conducted a public hearing to receive comments on the proposed administrative regulations listed below. This Statement of Consideration (SOC), filed with the Legislative Research Commission in accordance with the requirements of KRS Chapter 13A, relates to:
401 KAR 51:052. Review of new sources in or impacting upon nonattainment areas.

A separate Statement of Consideration has been filed with the LRC relating to:
401 KAR 51:001. Definitions for 401 KAR Chapter 51.
401 KAR 51:017. Prevention of significant deterioration of air quality.

The proposed administrative regulation was published in the July 1, 2012, issue of the *Administrative Register of Kentucky*.

This SOC presents a summary of all comments submitted regarding this administrative regulation and the Cabinet's responses.

Prominent advertisement of the public hearing was published at least thirty days prior to the hearing in accordance with KRS Chapter 13A. The Public Hearing Notice and copies of the proposed administrative regulations were distributed to individuals on the Cabinet's mailing list. Copies of the proposed administrative regulations were distributed to all division personnel, to members of the Environmental Quality Commission, and to other interested persons. Copies were also kept on file for public inspection in the Division's Regional Offices, select County Clerk Offices, and the Louisville Metro Air Pollution Control District for at least thirty (30) days prior to the hearing.

Summary of Comments and Action Taken

The Cabinet received three (3) general comments that related to the entire administrative regulation package (401 KAR 51:001, 51:017, and 51:052). The Cabinet acknowledges the receipt of these three comments, but changes to this administrative regulation were not warranted.