

US EPA ARCHIVE DOCUMENT



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

October 26, 2011

Karl Brooks  
Regional Administrator  
USEPA, Region VII  
901 N. 5th Street  
Kansas City, KS 66101

Dear Mr. Brooks:

This letter references the February 6, 2009 letter sent from Governor Kathleen Sebelius to the Environmental Protection Agency for requirement to submit area designations for the 8-hour National Ambient Air Quality Standard for ozone (Attachment 1). The following recommendations replace the recommendations in the February 6, 2009 letter regarding designation of areas within Kansas as attainment or attainment/unclassifiable for purposes of the 2008 8-hour standard for ozone.

Attainment:	Johnson, Wyandotte, Sedgwick, Shawnee, Sumner, and Trego Counties (Johnson and Wyandotte were previously recommended as nonattainment)
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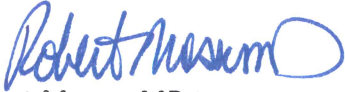
Attainment/unclassifiable:	Each individual remaining county of the state
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The recommendation for designation of Johnson, Wyandotte, Sedgwick, Shawnee, Sumner and Trego counties as attainment is based upon the Kansas Department of Health and Environment (KDHE) Bureau of Air analysis of ozone monitoring data from 2008 through 2010 (Attachment 2) in response to the September 22, 2011 Memorandum from EPA to state Air Division Directors (Attachment 3). This confirms that the ozone NAAQS is being implemented at 0.075 parts per million. Based upon the factors specified in EPA's December 4, 2008 guidance and September 22, 2011 Memorandum, no Kansas counties significantly cause or contribute to ozone violations within the previously designated Kansas City nonattainment area. Please see Attachments 4 and 5 for a list and map of all counties and their recommended designation.

This recommendation does not include the following tribal lands: the Prairie Band of the Potawatomi Indian Reservation in Jackson County, and the Kickapoo Nation Indian Reservation, the Sac and Fox Tribe Indian Reservation and the Iowa Tribe Indian Reservation in Brown County.

Feel free to contact Tom Gross, KDHE Bureau of Air Planning Section at 785-580-6757 or [Tgross@kdheks.gov](mailto:Tgross@kdheks.gov) if you have any questions regarding these recommendations or the analyses upon which the recommendations are made.

Sincerely,

A handwritten signature in blue ink, reading "Robert Moser", followed by a large circular flourish.

Robert Moser, MD  
Secretary, KDHE

Attachments

C: Rick Brunetti, Director, KDHE Bureau of Air

## **ATTACHMENTS**

- Attachment 1: Letter to EPA (2/6/09)
- Attachment 2: Ozone Data Summary Table (2008-2010)
- Attachment 3: Memo from EPA (9/22/11)
- Attachment 4: Table of Counties
- Attachment 5: 2010 Kansas Ozone Monitoring Network

cc: RA/DRA

# KANSAS

OFFICE OF THE GOVERNOR

*Kathleen Sebelius, Governor*

[www.governor.ks.gov](http://www.governor.ks.gov)

## Attachment 1

February 6, 2009

REC'D  
FEB 18 2009

APCO

Mr. William W. Rice  
Acting Regional Administrator  
USEPA, Region VII  
901 N. 5th Street  
Kansas City, KS 66101

APDB RECEIVED  
FEB 18 2009

Dear Mr. Rice:

This letter is in response to the requirement to submit area designations for the 8-hour National Ambient Air Quality Standard for ozone.

The following recommendations are being made regarding designation of areas within Kansas as nonattainment or attainment/unclassifiable for purposes of the 8-hour standard for ozone:

Nonattainment: Johnson County and Wyandotte County

Attainment/unclassifiable: The remaining counties of the state.

The recommendation regarding Johnson and Wyandotte counties is based upon the analysis of ozone monitoring data from 2006 through 2008, ozone precursor emissions, meteorological conditions, population data, vehicle miles traveled and additional criteria. The basis for this recommendation was formed through the work of the staff of KDHE and stakeholders located in the Kansas City region. The design value for the recommended Kansas City nonattainment area in relation to the 8-hour ozone standard is 0.081 pmi per million, recorded at both the Liberty site, 29-047-0005, and the Rocky Creek site, 29-047-0006, in Clay County, Missouri.

Designation of only Johnson and Wyandotte counties within the Kansas portion of the Kansas City metropolitan statistical area (MSA) is consistent with EPA guidance. All Kansas counties inside the MSA were reviewed for possible inclusion in the nonattainment designation, along with Douglas County. Based upon the factors specified in EPA's December 4, 2008 guidance, no Kansas counties outside the recommended two-county nonattainment area significantly cause or contribute to ozone violations within the recommended Kansas City nonattainment area.

The recommendation to designate the remainder of the state as attainment/unclassifiable is based upon the fact that no reference method monitoring of sufficient duration has been conducted in the counties designated attainment/unclassifiable except in Leavenworth, Linn, Sedgwick, Sumner and Trego Counties. Ozone monitoring data collected at monitoring sites located in these counties demonstrate that they meet the 8-hour ozone standard.

This recommendation does not include the following tribal lands: the Prairie Band of the Potawatomi Indian Reservation in Jackson County, and the Kickapoo Nation Indian Reservation, the Sac and Fox Tribe Indian Reservation and the Iowa Tribe Indian Reservation in Brown County.

Documentation supporting these recommendations is being submitted under separate cover and electronically by the Department of Health and Environment. The documentation justifies exclusion of Franklin, Leavenworth, Linn and Miami counties, which are located within the Kansas City MSA, from the recommended nonattainment designation. Feel free to contact John Mitchell, Director of the Division of Environment at 785-296-1535 if you have any questions regarding these recommendations or the analyses upon which the recommendations are made.

A handwritten signature in black ink, appearing to read 'Kathleen Sebelius', written in a cursive style.

Sincerely,

Kathleen Sebelius  
Governor of Kansas

Enclosures

cc: Roderick Bremby, Secretary, KDHE  
John Mitchell, Director, Division of Environment

## Attachment 2

2008 - 2010 O <sub>3</sub> DATA SUMMARY					
Site Name	County	4th Highest Daily Max 8-hr			Design Value
		2008	2009	2010	08-10
Wichita					
Park City	Sedgwick	0.060	0.069	0.068	0.065
Wichita Health Dept	Sedgwick	0.067	0.072	0.075	0.071
Peck	Sumner	0.068	0.073	0.075	0.072
KC, KS					
JFK	Wyandotte	0.063	0.062	0.058	0.061
Leavenworth	Leavenworth	0.064	0.063	0.070	0.065
Heritage Park	Johnson	0.062	0.063	0.071	0.065
Topeka					
KNI	Shawnee	0.065	0.061	0.069	0.065
Other Sites					
Cedar Bluff	Trego	0.064	0.066	0.071	0.067
Mine Creek	Linn	0.063	0.062	0.066	0.063
All units are in PPM					

Note: The primary standard of 2008 for ozone is 0.075 ppm of 3-yr average of the 4th highest daily maximum 8-hr average





## Attachment 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

September 22, 2011

OFFICE OF  
AIR AND RADIATION

### MEMORANDUM

TO: Air Division Directors, Regions 1 – 10

FROM: Gina McCarthy  
Assistant Administrator

SUBJECT: Implementation of the Ozone National Ambient Air Quality Standard

The purpose of this memorandum is to clarify for state and local air agencies the status of the ozone National Ambient Air Quality Standard (NAAQS) and to outline implementation steps moving forward. With the recent decision on the reconsideration of the ozone NAAQS, the current ozone NAAQS is 0.075 ppm. This standard will provide additional public health and welfare protection until the next regular review is completed, and EPA fully intends to implement this current standard as required under the Clean Air Act.<sup>1</sup>

As I will describe below in more detail, EPA is moving ahead with certain required actions to implement the 2008 standard, but will do so mindful of the President's and Administrator's direction that in these challenging economic times EPA should reduce uncertainty and minimize the regulatory burdens on state and local governments. EPA is also continuing to implement and develop federal rules and other programmatic actions to reduce emissions that contribute to smog and improve air quality and public health across the nation.

#### *Area Designations*

EPA is proceeding with initial area designations under the 2008 standard, starting with the recommendations states made in 2009 and updating them with the most current, certified air quality data. We expect to issue our proposed changes to the states' recommendations (the "120-day letters") later this fall. We will quickly initiate and complete a rulemaking to establish nonattainment area classification thresholds so that we can finalize the designations. While we intend to take into consideration all comments we receive on the proposed rule, we note that we used a "percent above the standard" approach for classification under the 1997 ozone standard and believe that remains a reasonable approach.

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<sup>1</sup> Note that the 2008 standard is under legal challenge. EPA has recently indicated to the Court that it does not object to the establishment of a briefing schedule in that litigation and has provided a schedule for the Court to consider.



Based on our initial review of ozone air quality data from 2008-2010, 52 areas monitor air quality that exceeds the 0.075 ppm standard. This preliminary review shows considerably fewer areas not meeting the 2008 standard than the number identified in 2009 when states made their recommendations. Using the "percent above the standard" classification approach, 43 of the 52 areas would fall into the Marginal category. As you know, many of the mandatory measures under the Clean Air Act are not required for Marginal areas since they are expected to achieve attainment within 3 years. In addition, EPA's modeling indicates that approximately half of the 52 areas would attain the 0.075 ppm standard by 2015 (the expected attainment deadline for Marginal areas) as a result of the emission-reducing rules already in place.

Because we have states' 2009 recommendations and quality assured ozone data for 2008-2010, there is nothing that state or local agencies need to do until we issue the 120-day letters later this year, though of course, states are welcome to contact us to discuss specific issues at any time. We expect to finalize initial area designations for the 2008 ozone NAAQS by mid-2012. However, we note that EPA currently faces litigation with respect to the timing of the designations and expects that the resolution of the litigation may well affect the precise timing of the schedule for designations.

#### *Planning Requirements and Other Required Submissions*

We will begin an expedited rulemaking to outline the implementation requirements for the 2008 standard in the very near future. The rule will be as straightforward and simple as we can make it. As you know, the Clean Air Act provides several years for states to develop their State Implementation Plans (SIPs) and to implement any mandatory measures. However, several deadlines for some state submissions have already passed, including the infrastructure SIPs and interstate transport SIPs. There are few requirements for Marginal areas beyond those SIPs.

EPA does not intend to penalize states for the passage of time, but we may also face litigation on these issues. In negotiating schedules for expeditious completion of required elements, we will seek to minimize any administrative burden on states associated with these requirements. To the extent that states are already engaged or would like to get started with clean air programs to address the standard, we will provide assistance with guidance and model language on rules or other programs, such as energy efficiency.

#### *Federal Actions to Reduce Emissions*

EPA will continue to move forward with implementation and development of federal rules that reduce emissions of pollutants that contribute to smog and threaten public health. These actions include recently promulgated rules that lower NO<sub>x</sub> and VOC emissions such as the Cross-State Air Pollution Rule (CSAPR), the Portland Cement Rule, and Light and Heavy Duty Vehicle standards. They also include rules under development such as the Maximum Achievable Control Technology (MACT) standards for Boilers, the Mercury and Air Toxics Standards (MATS) for power plants, the New Source Performance Standards (NSPS) for Commercial Incinerators/Solid Waste Incinerators (CISWI) and the Oil/Gas sector, and the Tier 3 vehicle and fuel standards. These federal actions will ensure steady forward progress to clean up the nation's air and protect the health of American families, while minimizing and in many cases eliminating the need for states to use their scarce resources on local actions.

*The Next Ozone Review*

The next regular review of the health and welfare science is well underway. EPA will propose any appropriate revisions in the fall of 2013 and finalize any revisions to the standard in 2014. Attached to this memorandum is a schedule that lays out the upcoming steps in that review.

I hope this memorandum has answered some of the most immediate questions. Please distribute this memo to state and local air agencies in your Region. We will be providing opportunities for further discussion and questions with state and local officials in the coming weeks.

Attachment

## Ozone NAAQS Review Schedule

	Major milestones	Schedule
Integrated Science Assessment (ISA)	1st Draft ISA	Mar 2011
	CASAC and public review 1st Draft ISA	May 19-20, 2011
	2nd Draft ISA	Sept 2011
	CASAC and public review of 2nd Draft ISA	Dec 15-16, 2011
	Final ISA	Feb/Mar 2012
Risk/Exposure Assessments (REAs)	Scope and Methods Plans	Apr 2011
	CASAC consultation and public review of Scope and Methods Plans	May 19-20, 2011
	1st Draft REAs	Feb/Mar 2012
	CASAC and public review 1st Draft REAs	May 2012
	2nd Draft REAs	Nov 2012
	CASAC and public review 2nd Draft REAs	Jan/Feb 2013
	Final REAs	Apr 2013
Policy Assessment (PA) and Rulemaking	1st Draft PA	Apr 2012
	CASAC and public review 1st Draft PA	May 2012
	2nd Draft PA	Dec 2012
	CASAC and public review 2nd Draft PA	Jan/Feb 2013
	Final PA	May 2013
	<b>Proposed Rule</b>	<b>Oct 2013</b>
	<b>Final Rule</b>	<b>July 2014</b>

## Attachment 4

### 2011 Kansas 8-Hour Ozone Designations (Based on 2008-2010 Monitoring Data)

County	Designation
Allen	Attainment/Unclassifiable
Anderson	Attainment/Unclassifiable
Atchison	Attainment/Unclassifiable
Barber	Attainment/Unclassifiable
Barton	Attainment/Unclassifiable
Bourbon	Attainment/Unclassifiable
Brown	Attainment/Unclassifiable
Butler	Attainment/Unclassifiable
Chase	Attainment/Unclassifiable
Chautauqua	Attainment/Unclassifiable
Cherokee	Attainment/Unclassifiable
Cheyenne	Attainment/Unclassifiable
Clark	Attainment/Unclassifiable
Clay	Attainment/Unclassifiable
Cloud	Attainment/Unclassifiable
Coffey	Attainment/Unclassifiable
Comanche	Attainment/Unclassifiable
Cowley	Attainment/Unclassifiable
Crawford	Attainment/Unclassifiable
Decatur	Attainment/Unclassifiable
Dickinson	Attainment/Unclassifiable
Doniphan	Attainment/Unclassifiable
Douglas	Attainment/Unclassifiable
Edwards	Attainment/Unclassifiable
Elk	Attainment/Unclassifiable
Ellis	Attainment/Unclassifiable
Ellsworth	Attainment/Unclassifiable
Finney	Attainment/Unclassifiable
Ford	Attainment/Unclassifiable
Franklin	Attainment/Unclassifiable
Geary	Attainment/Unclassifiable
Gove	Attainment/Unclassifiable
Graham	Attainment/Unclassifiable
Grant	Attainment/Unclassifiable
Gray	Attainment/Unclassifiable
Greeley	Attainment/Unclassifiable
Greenwood	Attainment/Unclassifiable
Hamilton	Attainment/Unclassifiable
Harper	Attainment/Unclassifiable
Harvey	Attainment/Unclassifiable
Haskell	Attainment/Unclassifiable

<b>County</b>	<b>Designation</b>
Hodgeman	Attainment/Unclassifiable
Jackson	Attainment/Unclassifiable
Jefferson	Attainment/Unclassifiable
Jewell	Attainment/Unclassifiable
Johnson	Attainment
Kearny	Attainment/Unclassifiable
Kingman	Attainment/Unclassifiable
Kiowa	Attainment/Unclassifiable
Labette	Attainment/Unclassifiable
Lane	Attainment/Unclassifiable
Leavenworth	Attainment/Unclassifiable
Lincoln	Attainment/Unclassifiable
Linn	Attainment/Unclassifiable
Logan	Attainment/Unclassifiable
Lyon	Attainment/Unclassifiable
Marion	Attainment/Unclassifiable
Marshall	Attainment/Unclassifiable
McPherson	Attainment/Unclassifiable
Meade	Attainment/Unclassifiable
Miami	Attainment/Unclassifiable
Mitchell	Attainment/Unclassifiable
Montgomery	Attainment/Unclassifiable
Morris	Attainment/Unclassifiable
Morton	Attainment/Unclassifiable
Nemaha	Attainment/Unclassifiable
Neosho	Attainment/Unclassifiable
Ness	Attainment/Unclassifiable
Norton	Attainment/Unclassifiable
Osage	Attainment/Unclassifiable
Osborne	Attainment/Unclassifiable
Ottawa	Attainment/Unclassifiable
Pawnee	Attainment/Unclassifiable
Phillips	Attainment/Unclassifiable
Pottawatomie	Attainment/Unclassifiable
Pratt	Attainment/Unclassifiable
Rawlins	Attainment/Unclassifiable
Reno	Attainment/Unclassifiable
Republic	Attainment/Unclassifiable
Rice	Attainment/Unclassifiable
Riley	Attainment/Unclassifiable
Rooks	Attainment/Unclassifiable
Rush	Attainment/Unclassifiable
Russell	Attainment/Unclassifiable
Saline	Attainment/Unclassifiable

<b>County</b>	<b>Designation</b>
Scott	Attainment/Unclassifiable
Sedgwick	Attainment
Seward	Attainment/Unclassifiable
Shawnee	Attainment
Sheridan	Attainment/Unclassifiable
Sherman	Attainment/Unclassifiable
Smith	Attainment/Unclassifiable
Stafford	Attainment/Unclassifiable
Stanton	Attainment/Unclassifiable
Stevens	Attainment/Unclassifiable
Sumner	Attainment
Thomas	Attainment/Unclassifiable
Trego	Attainment
Wabaunsee	Attainment/Unclassifiable
Wallace	Attainment/Unclassifiable
Washington	Attainment/Unclassifiable
Wichita	Attainment/Unclassifiable
Wilson	Attainment/Unclassifiable
Woodson	Attainment/Unclassifiable
Wyandotte	Attainment

## Attachment 5

### Kansas Ozone Monitoring Network 2010

