



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1090

[EPA-HQ-OAR-2025-2039; FRL 13037-01-OAR]

Removal of the Federal Reformulated Gasoline Program from the Kentucky Portion of the Louisville Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final action on petition.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the approval of the petition by the Commonwealth of Kentucky (“Kentucky” or “the Commonwealth”) to opt out of the reformulated gasoline (RFG) program and remove the requirement to sell RFG in Jefferson County and parts of Bullitt and Oldham Counties (the “Kentucky portion of the Louisville Area”), which are part of the Louisville Moderate nonattainment area for the 2015 ozone National Ambient Air Quality Standard (NAAQS) and the maintenance area for the 1997 ozone NAAQS. Specifically, by letter dated February 26, 2026, to the Governor of Kentucky, the EPA has approved the Commonwealth’s petition and set an effective date for the opt-out from the RFG program as May 27, 2026. The EPA has determined that this removal of the RFG program for the Kentucky portion of the Louisville Area is consistent with the applicable provisions of the Clean Air Act (CAA) and the EPA’s regulations.

DATES: The effective date for removal of the Kentucky portion of the Louisville Area from the RFG program is May 27, 2026. Any petition for review shall be filed in the appropriate United States Court of Appeals no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: For information about this action, contact Jeremy O’Kelly, Office of State Air Partnerships, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, DC 20460; telephone number:

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SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this action under Docket ID No EPA-HQ-OAR-2025-2039. All documents in the docket are listed at <https://www.regulations.gov>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) 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 as PDF versions that can only be accessed on EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at (202) 566-1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials are available electronically at <https://www.regulations.gov>.

Preamble acronyms and abbreviations. Throughout this preamble the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA	Clean Air Act
MOVES5	MOtor Vehicle Emission Simulator
NAAQS	National ambient air quality standard
NO _x	Nitrogen oxides
PPM	Parts per million
SIP	State implementation plan
tpsd	Tons per summer day
RFG	Reformulated gasoline
VOCs	Volatile organic compounds

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I. General Information

A. Does this Action Apply to Me?

Entities potentially affected by this final action are fuel producers and distributors who do business in the Louisville Area.

Table 1 - Examples of Potentially Regulated Entities

Examples of Potentially Regulated Entities	NAICS ¹ Codes
Petroleum refineries	324110 424710
Gasoline Marketers and Distributors	424720
Gasoline Retail Stations	457110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which the EPA is aware that potentially could be affected by this final action. Other types of entities not listed on the table could also be affected by this final action. To determine whether your organization could be affected by this final action, you should carefully examine the regulations in 40 CFR 1090.285 – RFG covered areas. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

¹ North American Industry Classification System.

B. What is the EPA's authority for taking this action?

The statutory authority for this action is granted to the EPA by CAA sections 211(c), 211(k), and 301(a), as amended; 42 U.S.C. 7545(c) and (k) and 7601(a).

II. The EPA's Approval of Kentucky's RFG Opt-out Request

The EPA is announcing the approval of Kentucky's request to opt the Commonwealth out of the RFG program applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the Kentucky portion of the Louisville Area. Specifically, the EPA is announcing that the effective date for the opt-out is May 27, 2026, consistent with the EPA Administrator's February 26, 2026, letter to the Governor of Kentucky and which aligns with the transition period for the start of the high ozone season or summer season. The EPA defines "high ozone season" or "summer season" as "the period from June 1 through September 15 for retailers and wholesale purchaser consumers, and May 1 through September 15 for all other persons, or an RVP control period specified in a State implementation plan if it is longer."² As discussed in section III of this document, for areas not requiring a State Implementation Plan (SIP) revision, the opt-out cannot be effective less than 90 days from the EPA's written notification to the State approving the RFG opt-out request.

This approval is based on Kentucky's February 28, 2025, and August 4, 2025, submissions to the EPA providing the information required by 40 CFR 1090.290(d) to opt out of the RFG program. Additional information regarding background and Kentucky's petition and documentation can be found in sections III and IV of this notice, respectively. This action does not revise the list of areas subject to the Federal RFG program in 40 CFR 1090.285; the EPA will complete this revision as a ministerial rule in a separate future action.³

² 40 CFR 1090.80.

³ The EPA will also update the current listing of the RFG covered areas upon issuance of this notice on the EPA's website at: <https://www.epa.gov/gasoline-standards/reformulated-gasoline>.

III. Background

A. What is the RFG Program?

The 1990 CAA Amendments established specific requirements for the RFG program to reduce ozone levels in certain areas in the country experiencing ground-level ozone or smog problems by reducing vehicle emissions of compounds that form ozone, specifically volatile organic compounds (VOCs). CAA section 211(k)(5) directed the EPA to issue regulations that specify how gasoline can be “reformulated” so as to result in significant reductions in vehicle emissions of ozone-forming and toxic air pollutants relative to the 1990 baseline fuel and to require the use of such RFG in certain “covered areas.” The CAA defines certain nonattainment areas as “covered areas” which are required to use RFG and provides other areas with an ability to opt in to the RFG program. CAA section 211(k)(6) provides an opportunity for an area classified as a Marginal, Moderate, Serious, or Severe ozone nonattainment area, or an area which is in the ozone transport region established by CAA section 184(a), to opt into the RFG program upon application by the Governor of the State (or his authorized representative) and subsequent action by the EPA.

RFG opt-in areas are subject to the prohibition in CAA section 211(k)(5) on the sale or dispensing by any person of conventional (non-RFG) gasoline to ultimate consumers in the covered area. The prohibition also includes the sale or dispensing by any refiner, blender, importer, or marketer of conventional gasoline for resale in any covered areas, without segregating the conventional gasoline from RFG and clearly marking conventional gasoline as not for sale to ultimate consumers in a covered area. The EPA first published regulations for the RFG program on February 16, 1994.⁴ A current listing of the RFG covered areas and a summary of RFG requirements can be

⁴ 59 FR 7716 (Feb. 16, 1994).

found on the EPA's website at <https://www.epa.gov/gasoline-standards/reformulated-gasoline>.

B. Kentucky Portion of the Louisville Nonattainment Area

Jefferson County and portions of Bullitt and Oldham Counties in Kentucky along with Clark and Floyd Counties in Indiana were designated as a bi-state Moderate nonattainment area for the 1-hour ozone standard (the “bi-state 1-hour ozone Louisville, KY-IN Area”).⁵ In 1993, Kentucky voluntarily petitioned to opt into the RFG program under Phase I of a two-phase nationwide program.⁶ Kentucky elected to stay in the program under Phase II, which was more stringent than Phase I. After establishing the 1-hour ozone NAAQS, the EPA revised the form of the standard to 8 hours and promulgated other ozone NAAQS and designated the Kentucky portion of the Louisville Area in accordance with the air quality in the Louisville Area at the time of the designations.⁷

On October 1, 2015, the EPA revised the 8-hour ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm (the “2015 8-hour ozone NAAQS”), effective December 28, 2015.⁸ Bullitt, Jefferson, and Oldham Counties in Kentucky and Clark and Floyd Counties in Indiana were designated as Marginal nonattainment for the 2015 8-hour ozone NAAQS on June 4, 2018.⁹ Areas that were designated as Marginal ozone nonattainment areas were required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021, based on 2018-2020 monitoring data. The Kentucky portion of the Louisville Area was reclassified by operation of law from Marginal to Moderate

⁵ On Oct. 23, 2001, the bi-state 1-hour ozone Louisville, KY-IN Area was redesignated as attainment for the 1-hour ozone NAAQS. *See* 66 FR 53665. *See also* 56 FR 56694 (Nov. 6, 1991).

⁶ The EPA approved the petition with an effective date of Jan. 1, 1995. 59 FR 38453 (July 28, 1994).

⁷ The EPA promulgated a revised 8-hour ozone standard of 0.08 ppm on July 18, 1997. On July 5, 2007, the EPA designated Bullitt, Jefferson, and Oldham Counties as unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 72 FR 36601. Additionally, on Mar. 12, 2008, the EPA revised both the primary and secondary NAAQS for 8-hour ozone to a level of 0.075 ppm. *See* 73 FR 16436. Bullitt, Jefferson, and Oldham Counties were designated as attainment/unclassifiable for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088 (May 21, 2012).

⁸ 80 FR 65292 (Oct. 26, 2015).

⁹ 83 FR 25776 (Jun. 4, 2018).

nonattainment on October 7, 2022, following the EPA’s finding of failure to attain by the Marginal area attainment date.¹⁰ Since the area is currently classified as a Moderate nonattainment area, the area may opt out of RFG using the opt-out procedures in 40 CFR 1090.290(d). The EPA intends to address the associated maintenance plan separately from this action.¹¹

C. RFG Opt-Out Procedures

The RFG regulations at 40 CFR 1090.290 provide the process and criteria for a reasonable transition out of the RFG program if a State decides to opt out and meets the relevant criteria.¹² These opt-out regulations provide that the Governor of the State must submit a petition to the Administrator requesting to opt out of the RFG program. The petition must include specific information on how, if at all, the State has relied on RFG in a submitted or approved SIP or plan revision and, if RFG is relied upon, how the SIP will be revised to reflect the State’s opt-out from RFG. If the State is not withdrawing any submitted SIP that has not yet been approved and does not intend to submit a revision to any approved SIP or any submitted SIP that has not yet been approved, the State must describe why no revision is necessary.¹³ The opt-out regulations provide that the EPA will notify the State in writing of the Agency’s action on the petition and the date the opt out becomes effective (*i.e.*, the date RFG is no longer required in the affected area) if the petition is approved. The opt-out regulations also provide that the EPA will publish a *Federal Register* document announcing the approval of any opt-out petition and the effective date of such opt out. If a SIP revision is not required, the effective date of the

¹⁰ 87 FR 60897 (Oct. 7, 2022) and 40 CFR 81.318.

¹¹ Kentucky also submitted a second maintenance plan for the revoked 1997 ozone standard for the Kentucky portion of the Louisville Area to the EPA.

¹² Pursuant to authority under CAA sections 211(c) and (k) and 301(a), the EPA promulgated regulations at 40 CFR 1090.290 to provide criteria and general procedures for States to opt out of the RFG program if the State had previously voluntarily opted into the program. The regulations were initially adopted as 40 CFR 80.72 on July 8, 1996 (61 FR 35673) (the “RFG Opt-out Rule”), were revised on Oct. 20, 1997 (62 FR 54552), and were subsequently revised as 40 CFR 1090.290 on Dec. 4, 2020 (85 FR 78412).

¹³ 40 CFR 1090.290(d)(1)(iii).

EPA's approval of the opt out can be no less than 90 days from the Agency's written notification to the State approving the RFG opt-out request.¹⁴

The EPA determined in the RFG Opt-out Rule that it would not be necessary to conduct a separate rulemaking for each future opt-out request.¹⁵ The EPA established a petition process to address, on a case-by-case basis, future individual State requests to opt out of the RFG program. As the EPA stated in the preamble to the RFG Opt-out Rule, this application of regulatory criteria on a case-by-case basis to individual opt-out requests does not require notice-and-comment rulemaking, either under CAA section 307(d) or the Administrative Procedure Act.¹⁶ The EPA has also long acknowledged the role of States in air quality planning. For example, the preamble to the RFG Opt-out Rule explained that the opt-out procedures would “maintain[s] the flexibility that States have in air quality planning by honoring their right to opt out and substitute alternative control measures where the State considers appropriate.”¹⁷ Thus, in this action, the EPA is applying criteria and following procedures specified in its RFG opt-out regulations to approve the Commonwealth's petition. The EPA is using this notification to provide sufficient notice of Kentucky's opt out of RFG ahead of the start of the 2026 summer fuel season.

D. Kentucky's RFG Opt-Out Request

On February 28, 2025, the Commonwealth submitted a petition to the EPA Administrator requesting to opt out from the RFG program for the Kentucky portion of the Louisville Area, including the information required by the opt-out procedure in 40 CFR 1090.290(d)(1). The purpose of the information required in the petition is to provide the EPA the assurance that the Commonwealth has provided information required by

¹⁴ 40 CFR 1090.290(d)(2)(i).

¹⁵ 61 FR 35673 (July 8, 1996).

¹⁶ *Id.*

¹⁷ *Id.*

applicable statutory and regulatory requirements associated with the opt-out.¹⁸ Kentucky submitted supplemental information, including a noninterference demonstration, on August 4, 2025, to support the Commonwealth’s opt-out petition titled “40 CFR 1090.290 RFG Opt-Out Request for the Counties of Bullitt, Jefferson, and Oldham” (the “August 2025 Submission”).¹⁹ See section IV of this notice for additional information on the August 2025 Submission and how it supports the Commonwealth’s petition.

IV. Kentucky’s August 2025 Submission

As noted above, the Commonwealth submitted supplemental information, including a noninterference demonstration, on August 4, 2025, to support its opt-out petition. This noninterference demonstration evaluates the impact that removing RFG from the Kentucky portion of the Louisville Area would have on the Area’s ability to attain or maintain the ozone NAAQS and any other NAAQS.²⁰

A. Ozone NAAQS

Kentucky modeled the anticipated impacts on VOC and nitrogen oxides (NO_x) emissions from onroad mobile sources in the Kentucky portion of the Louisville Area from the removal of the Federal RFG requirements.²¹ Onroad mobile sources include vehicles used on roads for transportation of passengers or freight. Specifically, Kentucky’s noninterference analysis utilized the EPA’s latest mobile source emissions model, MOrtor Vehicle Emission Simulator (MOVES5), to estimate emissions for years 2025, 2026, 2030, and 2035 for onroad mobile sources. Given the timing of Kentucky’s request and submittal, it is anticipated that the earliest year that the RFG requirements

¹⁸ *Id.*

¹⁹ “40 CFR 1090.290 RFG Opt-out Request for the Kentucky Counties of Bullitt, Jefferson, and Oldham.” (Aug. 4, 2025). Prepared jointly by the Kentucky Energy and Environment Cabinet Division for Air Quality and the Louisville Metro Pollution Control District.

²⁰ As described later in this section, the EPA supplemented the noninterference demonstration with additional modeling to assess the impact of RFG removal on nonroad mobile source emissions. Nonroad mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (*e.g.*, lawn mowers and construction equipment).

²¹ See Tables 1 and 2 and pg. 10 of the August 2025 Submission.

could be removed is 2026, making that a particularly relevant year for this demonstration.²² VOC and NO_x emissions were calculated for a typical summer July day to represent the peak ozone season.

The MOVES5 projections demonstrate that without RFG, daily ozone season onroad NO_x emissions are projected to increase by 0.06 tons in 2026 and 0.01 tons in 2035. Without RFG, daily onroad mobile VOC emissions are projected to increase by 0.20 tons in 2026 and 0.14 tons in 2035 during the high ozone season. The modeling shows an overall downward trend in onroad emissions despite removing RFG from the Kentucky portion of the Louisville Area. From 2025 to 2035 without RFG, daily NO_x emissions are projected to decrease by 57.1 percent, and daily VOC emissions are projected to decrease by 36.8 percent.

In the August 2025 Submission, Kentucky provided emissions inventories for VOC and NO_x for the following general source categories: point (electric generating units and non-electric generating units and aircraft emissions), nonpoint, nonroad mobile, and onroad mobile.²³ The point, nonpoint, and nonroad projected emissions inventories were developed using the EPA's 2022v1 Emissions Modeling Platform²⁴ and account for projected growth rates in population, traffic, economic activity, and other parameters. Kentucky determined there were no changes in VOC and NO_x emissions from the point, nonpoint, and nonroad categories that would be impacted by the RFG removal in the Kentucky portion of the Louisville Area.

Kentucky's nonroad projections for VOC emissions utilized the EPA's 2022v1 Emissions Modeling Platform and did not account for emissions increases due to the increased Reid vapor pressure of conventional gasoline. The EPA estimated the anticipated impacts on VOC emissions from nonroad mobile sources in Bullitt, Jefferson,

²² See Appendix E of the August 2025 Submission for the detailed modeling protocol.

²³ See Tables 3-6 on pages 13-14 of Kentucky's August 2025 Submission.

²⁴ The EPA's 2022v1 Emissions Modeling Platform: <https://gaftp.epa.gov/Air/emismod/2022/v1/>.

and Oldham Counties from removal of the RFG requirements using MOVES5. Only VOC emissions changes are discussed since NO_x emissions from the nonroad sector did not change significantly as a result of the removal of RFG. The EPA’s estimated VOC emissions changes from nonroad sources are summarized in Table 2 in tons per summer day (tpsd).

Table 2 - 2026-2035 Estimated Nonroad VOC Emissions Changes for the Kentucky Portion of the Louisville Area from the Removal of RFG (tpsd)

County	2026	2030	2035
Jefferson	0.26	0.26	0.27
Bullitt	0.02	0.02	0.03
Oldham	0.02	0.03	0.03
Entire Area	0.30	0.31	0.33

The EPA notes that, even with the changes in VOC and NO_x emissions from onroad and nonroad sources due to removal of RFG, total emissions from all sectors in the nonattainment area will decrease over time. Tables 3 and 4 show VOC and NO_x emissions, respectively, in 2025 with RFG, and in 2026 and 2035 with and without RFG for the entire Kentucky portion of the Louisville Area, including onroad and nonroad estimates calculated using MOVES5.²⁵

Table 3 - VOC Emissions with and without RFG for the Kentucky Portion of the Louisville Area (tpsd)

	2025	2026	2035
With RFG	75.14	73.96	71.31
Without RFG	N/A	74.46	71.78

Table 4 – NO_x Emissions with and without RFG for the Kentucky Portion of the Louisville Area (tpsd)

	2025	2026	2035
With RFG	49.63	47.47	35.67
Without RFG	N/A	47.53	35.68

²⁵ The values in Tables 3 and 4 include values from Kentucky’s submission for onroad, point, and nonpoint sources (See Tables 3-6 on pages 13-14 of Kentucky’s August 2025 Submission) and the EPA’s estimates of nonroad emissions from Table 2 above.

Kentucky's noninterference demonstration included an analysis of the ozone sensitivity in the area. Kentucky cited studies that found the Kentucky portion of the Louisville Area to be NO_x-limited, meaning that reductions of NO_x emissions are more effective at reducing ozone concentrations.²⁶ Therefore, increases in VOC emissions are not expected to have a significant impact on ozone concentrations in the area.²⁷

B. Other NAAQS

Kentucky described how the removal of RFG will not have a significant impact on continued attainment of the other NAAQS, including for sulfur dioxide, particulate matter, lead, nitrogen dioxide, and carbon monoxide.²⁸ The Kentucky portion of the Louisville Area is currently designated attainment/unclassifiable for these NAAQS. As mentioned previously, the RFG program was developed to address emissions of the ozone precursors, VOC and NO_x. As a result, the Commonwealth provided the required documentation to show that removing the RFG requirements in Bullitt, Jefferson, and Oldham Counties will not interfere with Kentucky's ability to continue attaining these NAAQS.

V. Conclusion

By letter dated February 26, 2026, to the Governor of Kentucky, the EPA has approved the Commonwealth's petition and set an effective date for the opt out from the RFG program as May 27, 2026.²⁹ This opt out effective date applies to retailers, wholesale purchasers, consumers, refiners, importers, and distributors.

As provided by the RFG regulations in 40 CFR 1090.290(e), the EPA will publish a final rule at a later date to remove the three counties in the Kentucky portion of the Louisville Area from the list of RFG covered areas in 40 CFR 1090.285(d) after the

²⁶ See pages 7-8 of Kentucky's August 2025 Submission.

²⁷ Kentucky discusses additional expected reductions due to changes at the Mill Creek Generating Station. See the August 2025 Submission at pages 8-10.

²⁸ See page 18 of Kentucky's Aug. 2025 Submission.

²⁹ 40 CFR 1090.290(d)(2)(i).

effective date of the opt out. The EPA expects that completing this ministerial exercise to revise the list of covered areas in the Code of Federal Regulations after the effective date of the opt out allows the opt out to become effective within the timeframe described in 40 CFR 1090.290(d) and allows the EPA to keep the lists of RFG covered areas in 40 CFR 1090.285 up to date.

Aaron Szabo,
Assistant Administrator, Office of Air and Radiation.

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