



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

September 1, 2023

THE ADMINISTRATOR

The Honorable Katie Hobbs
Governor of Arizona
1700 W. Washington St.
Phoenix, Arizona 85007

Dear Governor Hobbs:

This letter responds to the August 31, 2023, request for a waiver under the Clean Air Act (Act) made on your behalf by Arizona Department of Environmental Quality Director Karen Peters to address a fuel supply emergency caused by unplanned outages at several refineries that supply Cleaner Burning Gasoline (CBG) from the eastern pipeline originating in Texas. In addition, Tropical Storm Hillary impacted the operation of the west pipeline that supplies Phoenix from California. These issues have resulted in a reduced supply of CBG that has and is projected to cause outages at retail stations that sell CBG.

The August 31, 2023 letter requests that the U.S. Environmental Protection Agency (EPA) grant a waiver of certain requirements for the sale and distribution of CBG required by Arizona's federally-approved state implementation plan (SIP) that covers Maricopa County and parts of Pinal and Yavapai Counties (CBG covered area).¹ The SIP requires gasoline sold in the CBG covered area to have a maximum Reid vapor pressure (RVP) of 7.0 pounds per square inch (psi) from May 31 through September 30. *See* 69 Fed. Reg. 10,161 (Mar. 4, 2004); 40 C.F.R. § 52.120(c). Regulations promulgated under the Act and the federally approved SIP require the use of low volatility gasoline during the summer months to limit the formation of ozone pollution. *See* 40 C.F.R. § 1090.215(a)(1) and (5); *see also* <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>.

The waiver request is limited to the CBG covered area. The fuel supply shortage caused by the unplanned refinery and pipeline disruptions can be reduced by waiving the CBG (7.0 psi RVP) gasoline requirement.

The EPA and the Department of Energy (DOE) have been actively monitoring the supply of gasoline to the CBG covered area. The EPA has concluded, with DOE's concurrence, that it is necessary and appropriate to take action to minimize or prevent the disruption of an adequate supply of gasoline to consumers. I have determined that an "extreme and unusual fuel [] supply circumstance" exists that will prevent the distribution of an adequate supply of compliant gasoline to consumers. Section 211(c)(4)(C)(ii)(I) of the Act, 42 U.S.C. § 7545(c)(4)(C)(ii)(I).

¹ *See* Arizona Revised Statutes (ARS) § 49-541 (designating boundaries of the CBG covered area).

This extreme and unusual fuel supply circumstance is the result of unplanned outages at several refineries and pipeline disruption caused by Tropical Storm Hillary, events that could not reasonably have been foreseen, and it is not attributable to a lack of prudent planning on the part of suppliers of fuel to the CBG covered area. Section 211(c)(4)(C)(ii)(II) of the Act, 42 U.S.C. § 7545(c)(4)(C)(ii)(II). Furthermore, I have determined that it is in the public interest to grant this waiver and that this waiver applies to the smallest geographic area necessary to address the fuel supply circumstances. Section 211(c)(4)(C)(ii)(III) and (iii)(I) of the Act, 42 U.S.C. § 7545(c)(4)(C)(ii)(III) and (iii)(I).

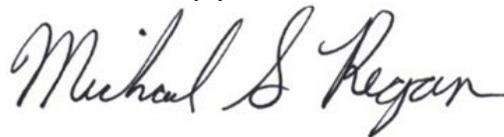
Therefore, to minimize or prevent disruptions of the supply of gasoline in the CBG covered area, I am issuing this waiver of the federal RVP requirements in the federally approved Arizona SIP and the requirements at 40 C.F.R. § 1090.215(a)(1) and (5) that apply in the CBG covered area. Under this temporary waiver, regulated parties may produce, sell, and distribute gasoline in the CBG covered area with an RVP of no more than 10 psi (11 psi if the gasoline contains between 9% and 10% ethanol). This waiver is effective September 2, 2023, and will continue for 20 days through September 21, 2023. I have concluded that this is the shortest practicable time necessary to permit the correction of the extreme and unusual circumstances preventing distribution of an adequate supply of compliant gasoline.

Gasoline that does not meet the applicable RVP requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the designated area after September 21, 2023, unless EPA renews the waiver. Any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers may be distributed and sold in the subject area until the supply is depleted. Likewise, retailers and wholesale purchaser consumers in the area covered by the waiver may continue selling or dispensing gasoline that meets the conditions of this waiver after September 21, 2023, until supplies in their storage tanks are depleted.

This waiver only applies to the requirements cited above, which are applicable in the CBG covered area. Other state or local requirements or restrictions related to this matter may need to be addressed by the appropriate authorities. Should conditions warrant, this waiver may be modified or terminated as appropriate.

If you have questions, you are welcome to contact me, or your staff may contact John Lucey, Deputy Associate Administrator for Intergovernmental Relations, at lucey.john.d@epa.gov or 202-564-1820.

Sincerely yours,

A handwritten signature in black ink that reads "Michael S. Regan". The signature is written in a cursive, flowing style.

Michael S. Regan

cc: The Honorable Jennifer M. Granholm, Secretary of Energy