



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

March 27, 2020

THE ADMINISTRATOR

Re: May 1, 2020 Fuel Waiver Concerning Summer Gasoline

Dear Governors and Mayor Bowser:

The U.S. Environmental Protection Agency, in consultation with the U.S. Department of Energy and representatives of the various states, has been working to evaluate fuel supply problems caused by the novel Coronavirus Disease (COVID-19) outbreak. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to waive certain federal fuel standards under the Clean Air Act (CAA) to minimize or prevent the disruption of an adequate supply of gasoline throughout the United States. This waiver only applies to the federal fuel standards. Regulated parties must continue to comply with any applicable state or local requirements, or restrictions related to this matter, unless waived by the appropriate authorities.

As you know, regulations promulgated under the CAA require the use of low volatility gasoline during the summer months in order to limit the formation of ozone pollution. The regulations requiring the use of low volatility conventional gasoline during the summer season are found at 40 C.F.R. § 80.27 and in certain State Implementation Plans (SIPs). *See* 40 C.F.R. § 80.27 and <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure#table>. The regulations requiring the use of low volatility reformulated gasoline (RFG) are found at 40 C.F.R. § 80.78 and in certain SIPs. The RFG regulations at 40 C.F.R. § 80.78(a)(7) also prohibit any person from combining any reformulated blendstock for oxygenate blending (RBOB) with any other gasoline, blendstock, or oxygenate, except for the oxygenate of the type and amount specified by the refiner that produced the RBOB. RBOB is combined with its specified oxygenate to produce RFG.<sup>1</sup>

The low volatility gasoline regulations apply to refiners, importers, distributors, resellers, terminal owners and operators, and carriers beginning on May 1 and to retailers and wholesale purchaser-consumers beginning on June 1. The regulations impose a two-date system that requires parties upstream of retailers and wholesale purchaser-consumers to turn over their storage tanks to low volatility summer gasoline and stop selling higher volatility winter gasoline by May 1 so that retailers and wholesale purchaser-consumers can meet the applicable low volatility gasoline standards by the June 1 deadline.

The COVID-19 outbreak has been identified in all 50 United States and the District of Columbia. The United States and several states have declared States of Emergency. Federal, state, and local governments have taken action to meet Centers for Disease Control and Prevention guidelines requiring social distancing and implement policies to reduce transmission of

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<sup>1</sup> Alaska, Hawaii, and U.S. territories are exempted from federal volatility regulations.

COVID-19. The COVID-19 outbreak and the associated precautions have caused a dramatic decrease in the demand for gasoline which is preventing regulated parties upstream of retailers and wholesale purchaser-consumers from selling winter gasoline in their storage tanks and turning their storage tanks over to compliant summer gasoline by May 1, 2020. Without a waiver of the summer gasoline requirements, these regulated parties would be required to stop selling winter gasoline in their storage tanks on May 1, 2020, which would prevent them from loading summer gasoline into their storage tanks and result in a shortage of compliant summer gasoline. These supply shortages can be alleviated by waiving the requirements to sell summer gasoline and by waiving provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RFG blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met.

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. CAA § 211(c)(4)(C)(ii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(I). This extreme and unusual fuel circumstance is the result of an outbreak of COVID-19, an event that could not reasonably have been foreseen or prevented, and is not attributable to a lack of prudent planning on the part of suppliers of the fuel to these areas. CAA § 211(c)(4)(C)(ii)(II), 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. CAA § 211(c)(4)(C)(ii)(III) and (iii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(III) and (iii)(I).

The EPA, in consultation with DOE, has evaluated the impact of disruption of the fuel production and distribution system on fuel supply throughout the United States. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent further disruption of an adequate supply of gasoline to consumers.

#### Federal RVP Standards

I am issuing this waiver of the federal Reid vapor pressure (RVP) requirements at 40 C.F.R. § 80.27 that apply to terminal owners, terminal operators, distributors, carriers, retailers, and wholesale purchaser-consumers throughout the United States to minimize or prevent problems with the supply of gasoline.

#### Reformulated Gasoline

I am issuing this waiver of the federal RFG requirements in all RFG covered areas that apply to terminal owners, terminal operators, distributors, carriers, retailers, and wholesale purchaser-consumers. Additionally, I am waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RFG blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met.

#### Federally-Enforceable SIP Covered Areas

I am issuing this waiver of all low volatility gasoline requirements and RFG requirements in any federally-enforceable SIP that apply to terminal owners, terminal operators, distributors,

carriers, retailers and wholesale purchaser consumers to minimize or prevent problems with the supply of gasoline.

### Waiver Conditions

Since this waiver is designed to facilitate the turnover of storage tanks from winter to summer gasoline, the waiver does not permit refiners to produce gasoline after May 1, 2020 that exceeds the applicable summer gasoline volatility standards, and does not permit any party to add butane to previously certified conventional gasoline if the butane would cause the gasoline to exceed the applicable summer gasoline volatility standards.<sup>2</sup> This waiver is effective May 1, 2020 and will continue through May 20, 2020. Gasoline that does not meet the low volatility requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets after May 20, 2020. Any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers in these areas after May 20, 2020, may be distributed and sold until the supply is depleted. Likewise, retailers and wholesale purchaser-consumers in these areas may continue selling or dispensing gasoline that meets the conditions of this waiver after May 20, 2020, until their supplies are depleted.

The EPA recognizes that this is an evolving situation that is causing rapid changes to market dynamics. Should conditions warrant, this waiver may be modified, terminated or extended, as appropriate. If you have questions you may call me, or your staff may call Phillip Brooks at (202) 564-0652.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew R. Wheeler", with a long horizontal flourish extending to the right.

Andrew R. Wheeler

Enclosure

1. Addressees

cc: The Honorable Dan Brouillette, Secretary of Energy

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<sup>2</sup> Note that the RFG regulations at 40 C.F.R. § 80.82(e)(2) imposes restrictions on blending butane into previously certified RFG or RBOB and that prohibition continues to apply and is not waived. This section of the regulation states: "Butane may not be blended with any reformulated gasoline or RBOB during the period April 1 through September 30, or with any reformulated gasoline or RBOB designated as VOC-controlled, under this section."

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