



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.¹

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

¹ 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.² 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

² 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."

The Honorable Kay Ivey
Governor of Alabama
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

The Honorable Doug Ducey
Governor of Arizona
State Capitol
1700 W. Washington
Phoenix, Arizona 85007

The Honorable Asa Hutchinson
Governor of Arkansas
State Capitol
500 Woodlane Avenue, Room 250
Little Rock, Arkansas 77201

The Honorable Gavin Newsom
Governor of California
State Capitol
1303 10th Street, #1173
Sacramento, California 95814

The Honorable Jared Polis
Governor of Colorado
200 E. Colfax, Room #136
Denver, Colorado 80203

The Honorable Ned Lamont
Governor of Connecticut
210 Capitol Avenue
Hartford, Connecticut 06106

The Honorable John Carney
Governor of Delaware
Legislative Hall
Dover, Delaware 19901

The Honorable Muriel Bowser
Mayor of the District of Columbia
1350 Pennsylvania Avenue NW
Suite 316
Washington, D.C. 20004

The Honorable Ron DeSantis
Governor of Florida
PL 05 The Capitol
400 S. Monroe Street
Tallahassee, Florida 32399

The Honorable Brian Kemp
Governor of Georgia
203 State Capitol
206 Washington Street
Atlanta, Georgia 30334

The Honorable Brad Little
Governor of Idaho
700 W. Jefferson, 2nd Floor
Boise, Idaho 83702

The Honorable JB Pritzker
Governor of Illinois
State Capitol
207 Statehouse
Springfield, Illinois 62706

The Honorable Eric Holcomb
Governor of Indiana
State House, Room #206
Indianapolis, Indiana 46204

The Honorable Kim Reynolds
Governor of Iowa
State Capitol
1007 E. Grand Avenue
Des Moines, Iowa 50319

The Honorable Laura Kelly
Governor of Kansas
Capitol
300 SW 10th Avenue, #212S
Topeka, Kansas 66612

The Honorable Andy Beshear
Governor of Kentucky
700 Capitol Avenue, #100
Frankfort, Kentucky 40601

The Honorable John Bel Edwards
Governor of Louisiana
Box 94004
Baton Rouge, Louisiana 70804

The Honorable Janet Mills
Governor of Maine
1 State House Station
Augusta, Maine 04333

The Honorable Larry Hogan
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

The Honorable Charlie Baker
Governor of Massachusetts
State House, Room #360
Boston, Massachusetts 02133

The Honorable Gretchen Whitmer
Governor of Michigan
Box 30013
Lansing, Michigan 48909

The Honorable Tim Walz
Governor of Minnesota
130 State Capitol
75 Rev. Martin Luther King, Jr. Boulevard
St. Paul, Minnesota 55155

The Honorable Tate Reeves
Governor of Mississippi
Box 139
Jackson, Mississippi 39205

The Honorable Mike Parson
Governor of Missouri
Capitol Building
Room 216, Box 720
Jefferson City, Missouri 65102

The Honorable Steve Bullock
Governor of Montana
State Capitol
P.O. Box 200801
Helena, Montana 59620

The Honorable Pete Ricketts
Governor of Nebraska
Box 94848
Lincoln, Nebraska 68509

The Honorable Steve Sisolak
Governor of Nevada
Capitol Building
101 North Carson Street
Carson City, Nevada 89701

The Honorable Chris Sununu
Governor of New Hampshire
107 N. Main Street, Room #208
Concord, New Hampshire 03301

The Honorable Phil Murphy
Governor of New Jersey
The State House
Box 001
Trenton, New Jersey 08625

The Honorable Michelle Lujan Grisham
Governor of New Mexico
State Capitol
4th Floor
490 Old Santa Fe Trail
Santa Fe, New Mexico 87501

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

The Honorable Roy Cooper
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699

The Honorable Doug Burgum
Governor of North Dakota
Department 101
600 E. Boulevard Avenue
Bismark, North Dakota 58505

The Honorable Mike DeWine
Governor of Ohio
30th Floor
77 S. High Street
Columbus, Ohio 43215

The Honorable Kevin Stitt
Governor of Oklahoma
Capitol Building
2300 Lincoln Boulevard, Room #212
Oklahoma City, Oklahoma 73105

The Honorable Kate Brown
Governor of Oregon
State Capitol
900 Court Street, NE, #254
Salem, Oregon 97301

The Honorable Tom Wolf
Governor of Pennsylvania
Room #225
508 Main Capitol Building
Harrisburg, Pennsylvania 17120

The Honorable Gina Raimondo
Governor of Rhode Island
State House
82 Smith Street
Providence, Rhode Island 02903

The Honorable Henry McMaster
Governor of South Carolina
1205 Pendleton Street
Columbia, South Carolina 29201

The Honorable Kristi Noem
Governor of South Dakota
500 E. Capitol Avenue
Pierre, South Dakota 57501

The Honorable Bill Lee
Governor of Tennessee
Tennessee State Capitol
Nashville, Tennessee 37243

The Honorable Greg Abbott
Governor of Texas
Box 12428
Austin, Texas 78711

The Honorable Gary R. Herbert
Governor of Utah
Utah State Capitol, #200
Salt Lake City, Utah 84114

The Honorable Phil Scott
Governor of Vermont
109 State Street
Pavilion Office Building
Montpelier, Vermont 05609

The Honorable Ralph Northam
Governor of Virginia
State Capitol, Box 1475, 3rd Floor
Richmond, Virginia 23219

The Honorable Jay Inslee
Governor of Washington
Box 40002
Olympia, Washington 98504

The Honorable Jim Justice
Governor of West Virginia
1900 Kanawha Street
Charleston, West Virginia 25305

The Honorable Tony Evers
Governor of Wisconsin
115 E. State Capitol
Madison, Wisconsin 53707

The Honorable Mark Gordon
Governor of Wyoming
State Capitol Building
200 W. 24th Street, Room #124
Cheyenne, Wyoming 82002