



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

May 28, 2021

THE ADMINISTRATOR

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

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 South Monroe Street
Tallahassee, Florida 32399

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

The Honorable John Bel Edwards
Governor of Louisiana
Office of the Governor
P.O. Box 94004
Baton Rouge, Louisiana 70804

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

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

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

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

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

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

The Honorable Ralph Northam
Governor of the Commonwealth of Virginia
State Capitol
Third Floor
Richmond, Virginia 23219

Re: May 28, 2021, Third Fuel Waiver Concerning Conventional and Reformulated Gasoline in Alabama, Delaware, District of Columbia, Georgia, Specific Counties of Florida, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, and Virginia

Dear Governors and Mayor Bowser:

By this letter the U.S. Environmental Protection Agency is issuing a waiver under the Clean Air Act (CAA) to address the fuel supply emergency caused by a cyberattack on Colonial Pipeline's computer networks that led to the pipeline's shutdown. This pipeline shutdown and related impacts on petroleum pipeline operations affect the petroleum distribution system in your affected States and the District of Columbia ("designated states").¹

Regulations promulgated under the CAA require gasoline to meet certain lower volatility gasoline Reid Vapor Pressure (RVP) requirements in both conventional gasoline (CG) and reformulated gasoline (RFG) areas. Regulations require the use of low volatility gasoline during the summer months in order to limit the formation of ozone pollution. These regulations are found at 40 C.F.R. § 1090.215. *See also* <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>. The gasoline volatility regulations that apply to fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers began on May 1, 2021.

EPA and the U.S. Department of Energy (DOE) have been actively monitoring the supply of fuel. The unusual pipeline shutdown has affected gasoline supplies. EPA has concluded, with DOE's concurrence, that it is necessary to take action to minimize or prevent 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. 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 a cyberattack on Colonial Pipeline's computer systems, an event that could not reasonably have been foreseen 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).

Therefore, to minimize or prevent disruptions of the supply of gasoline, I am issuing this waiver of the following federal low volatility requirements in subject areas² that apply to terminal owners, terminal operators, distributors, and carriers.

¹ Alabama, Delaware, Georgia, Florida (Specific Counties), Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, and Virginia.

² Entire States: Alabama, Delaware, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia; Specific Counties: State of Florida: Escambia, Santa Rosa, Okaloosa, Walton,

Reformulated Gasoline

I am issuing this waiver of the requirements in 40 C.F.R. §§ 1090.215(a)(3) and 1090.220(c) that summer RBOB³ and summer RFG, as defined in 40 C.F.R. § 1090.80, meet the specified RFG RVP gasoline requirements in the RFG Covered Areas for terminal owners, terminal operators, distributors, and carriers. Under this waiver, summer CBOB,⁴ summer conventional gasoline (CG), winter CBOB, winter CG, winter RBOB, and winter RFG may be used in RFG Covered Areas⁵ as long as the BOB or gasoline does not have an RVP that exceeds 13.5 pounds per square inch (psi) after the addition of ethanol. Further, under this waiver, fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers may commingle RBOB and CBOB, and RFG and CG, for the duration of this waiver. This waiver is effective immediately and will continue through June 6, 2021.

Federal RVP Standards

I am issuing this waiver of the federal RVP requirements at 40 C.F.R. § 1090.215 in the designated states to minimize or prevent problems with the supply of gasoline to these areas. Under this temporary waiver, regulated parties may produce, sell, and distribute winter gasoline (including BOBs) with an RVP of no more than 13.5 psi after the addition of ethanol in CG areas within the designated states. This waiver is effective immediately and will continue through June 6, 2021.

Gasoline that does not meet the regulatory requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the designated states on June 7, 2021. 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 subject areas in the designated states 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 June 6, 2021, until their supplies are depleted.

This waiver supersedes my May 11, 2021, waivers and applies only to the applicable federal requirements cited above for the designated states. Other state or local requirements or restrictions related to this matter may need to be addressed by the appropriate authorities. 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.

Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, Wakulla, Jefferson, Madison, Taylor, Hamilton, Suwannee, Columbia, Baker, Union, Bradford, Lafayette, Alachua, Gilchrist, Dixie, Levy, Marion, Nassau, Duval, Clay, St. Johns, Putnam, Flagler, and Volusia; and the District of Columbia.

³ The regulations at 40 C.F.R. § 1090.80 define RBOB as “a BOB produced or imported for use in an RFG covered area” and gasoline before oxygenate blending (BOB) as “gasoline for which a gasoline manufacturer has accounted for oxygenate added downstream under § 1090.710”

⁴ The regulations at 40 C.F.R. § 1090.80 define CBOB as “a BOB produced or imported for use outside of an RFG covered area.”

⁵ The RFG Covered Areas included in this waiver are those counties in the Commonwealth of Pennsylvania, Commonwealth of Virginia, State of Maryland, State of Delaware, and District of Columbia and identified at <https://www.epa.gov/gasoline-standards/reformulated-gasoline>. See 40 C.F.R. § 1090.285.

If you have questions you may call me, or your staff may call Evan Belser, Acting Director, Air Enforcement Division, at (202) 768-4494.

Sincerely yours,

A handwritten signature in black ink that reads "Michael S. Regan". The signature is written in a cursive style with a large, stylized "M" and "R".

Michael S. Regan

cc: The Honorable Jennifer Granholm, Secretary of Energy