



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

August 30, 2023

The Honorable Ron DeSantis
Governor of Florida
Office of the Governor
400 S. Monroe Street
Tallahassee, Florida 32399-0001

THE ADMINISTRATOR

Dear Governor DeSantis:

This letter responds to the August 29, 2023 request for a waiver under the Clean Air Act (CAA) made on your behalf to address the fuel supply emergency caused by Hurricane Idalia.

In that letter, Florida requested that the U.S. Environmental Protection Agency (EPA) grant a waiver of the summertime volatility regulations that require 9.0 psi gasoline to be sold in the state and allow gasoline with a Reid vapor pressure (RVP) up to 11.5 psi to be distributed and sold for the remainder of the volatility control season. Regulations promulgated under the CAA require the use of low volatility gasoline during the summer months to limit the formation of ozone pollution. These regulations are found at 40 C.F.R. § 1090.215 and are also available at <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>. The low volatility gasoline regulations apply to refiners, importers, distributors, resellers, and terminal owners during the volatility control period which ends September 15, 2023.

On August 29, 2023, you declared a state of emergency in 49 counties to prepare for potentially devastating impacts to multiple population centers throughout the state. Storm preparations have resulted in the closure of multiple ports in the state that receive fuel and have restricted and interrupted fuel terminal operations, preventing an adequate supply of gasoline. In addition, evacuations—including mandatory evacuations—are straining available supplies. These supply shortages can be ameliorated by waiving the requirements to sell summer gasoline.

The EPA and the Department of Energy (DOE) have been actively monitoring the supply of fuel. The EPA has concluded, with DOE's concurrence, that it is necessary to waive certain federal fuel standards under the CAA to minimize or prevent the disruption of an adequate supply of gasoline to consumers throughout Florida. 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.

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 Hurricane Idalia, 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 federal RVP requirements at 40 C.F.R. § 1090.215 that apply in Florida through September 15, 2023. Under this temporary waiver, regulated parties may produce, sell, and distribute gasoline in Florida with an RVP of no more than 11.5 psi (12.5 psi if the gasoline contains between 9% and 15% ethanol). This waiver is effective immediately and will continue through September 15, 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.

Since the federal requirement to sell 9.0 psi RVP gasoline ends on September 15, 2023, this waiver does not address downstream standards that apply after the end of the waiver period. This waiver only applies to the requirements cited above, which are applicable in Florida. 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 style with a large, prominent "M" and "R".

Michael S. Regan

cc: The Honorable Jennifer M. Granholm
Secretary of Energy