



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

April 20, 2023

THE ADMINISTRATOR

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

Dear Governor DeSantis:

This letter responds to the request for a waiver under the Clean Air Act (CAA) made on your behalf to address the fuel supply emergency caused by a major weather event and recent flooding in Broward County, Florida.

The U.S. Environmental Protection Agency 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 in Broward, Miami-Dade, and Palm Beach counties in southeast Florida. This waiver only applies to the federal fuel standards. Regulated parties must continue to comply with any applicable state or local requirements, or other restrictions related to this matter, unless waived by the appropriate authorities.

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 also available at <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>. 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.

On April 13, 2023, you declared a state of emergency in Broward County due to severe flooding and rainfall from the extreme weather event. Flooding produced from this extreme weather event has interrupted fuel terminal operations and 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, 2023. 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, 2023, 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 ameliorated by temporarily waiving the requirements to sell summer gasoline.

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 the extreme weather, 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).

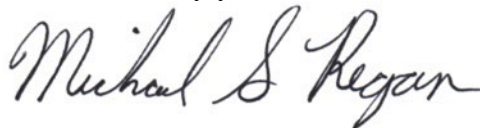
Therefore, to minimize or prevent disruptions of the supply of gasoline in Broward, Miami-Dade, and Palm Beach counties, I am issuing this waiver of the federal Reid vapor pressure requirements at 40 C.F.R. § 1090.215 that apply to refiners, importers, distributors, resellers, terminal owners and operators, and carriers in Broward County beginning on May 1 and to retailers and wholesale purchaser-consumers in Florida that procure waiver fuel from these terminals with the following conditions.

Waiver Conditions:

This waiver, which will facilitate the turnover of storage tanks from winter to summer gasoline at terminals in Broward County, does not permit refiners to produce gasoline after May 1, 2023, that exceeds the applicable summer gasoline volatility standards. It also 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. This waiver is effective May 1, 2023 and will continue through May 20, 2023. 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 1, 2023. Retailers and wholesale purchaser-consumers in Florida may continue selling or dispensing gasoline that meets the conditions of this waiver until their supplies are depleted.

If you have questions, I am available to assist during this especially difficult situation. Alternatively, your staff may contact Byron Bunker, Director of the Office of Transportation and Air Quality’s Compliance Division, at bunker.byron@epa.gov or (734) 214-4155.

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