



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

September 12, 2018

OFFICE OF  
THE ADMINISTRATOR

The Honorable Nathan Deal  
Governor of Georgia  
203 State Capitol  
Atlanta, Georgia 30334

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

Re: September 12, 2018 Fuel Waiver Concerning Conventional and Reformulated Gasoline in Georgia and Virginia

Dear Governors:

I have received requests for waivers under the Clean Air Act (CAA) made on your behalf to address fuel supply emergencies caused by the imminent landfall of Hurricane Florence. In response to these requests, the U.S. Environmental Protection Agency has determined, and the U.S. Department of Energy (DOE) concurs, that it is necessary to take action to minimize or prevent the disruption of an adequate supply of gasoline in the State of Georgia and parts of the Commonwealth of Virginia.

As you know, regulations promulgated under the CAA require the use of low volatility gasoline during certain months in order to limit the formation of ozone pollution. The regulations requiring the use of low volatility conventional gasoline (CG) during the high ozone season are found at 40 C.F.R. § 80.27. 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. 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.

A number of states impacted by Hurricane Florence have declared states of emergency and issued evacuation notices, and fuel suppliers are rapidly depleting compliant summer supplies by continually refueling evacuation routes and other retail locations in the affected areas. Fuel suppliers have also had to reduce sales of compliant gasoline to increase the level of gasoline maintained in their storage tanks in order to increase stability of the tanks in preparation for the storm. The supply shortages caused by Hurricane Florence can be reduced by waiving the requirements to sell low volatility CG and RFG and by waiving provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RBOB 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 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 Florence, 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 in Georgia and parts of Virginia. 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 in these areas.

### Federal RVP Standards

I am issuing this waiver of the federal Reid vapor pressure (RVP) requirements at 40 C.F.R. § 80.27 in Georgia and parts of Virginia to minimize or prevent problems with the supply of gasoline to these areas. Under this temporary waiver, regulated parties may produce, sell or distribute winter gasoline (including gasoline blendstocks for oxygenate blending (BOBs)) with an RVP of up to 9.0 pounds per square inch (psi) before the addition of any ethanol in Georgia and an RVP of up to 11.5 psi before the addition of any ethanol in the CG areas in Virginia and in the Southern Virginia RFG areas.<sup>1</sup> This waiver of the federal RVP standards is effective immediately and will continue through September 15, 2018, which is the end of the high ozone season.<sup>2</sup>

### Reformulated Gasoline

I am issuing this waiver of the federal RFG requirements in the Southern Virginia RFG areas. Under this waiver, the EPA will allow regulated parties to produce, sell or distribute conventional winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in the Southern Virginia RFG areas. This waiver of the federal RFG requirements is effective immediately and will continue through September 30, 2018.<sup>3</sup>

Additionally, I am waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RBOB with any other gasoline, blendstock, or oxygenate, unless certain conditions are met. This waiver covers the prohibitions at 40 C.F.R. § 80.78(a)(7), and applies to Georgia, the CG areas

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<sup>1</sup> The Southern Virginia RFG areas include the following localities and counties: Charles City County, Chesapeake, Chesterfield County, Colonial Heights, Hampton, Hanover County, Henrico County, Hopewell, James City county, Newport News, Norfolk, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, Williamsburg, and York County.

<sup>2</sup> Since I have waived the RVP requirements in 40 C.F.R. § 80.27, parties who blend butane into previously certified conventional gasoline during the waiver period do not need to conduct the sampling and testing at 40 C.F.R. § 80.82(e)(1).

<sup>3</sup> Since I have waived the requirement to sell RFG in these localities and counties, the prohibitions at 40 C.F.R. § 80.82(e)(2) also do not apply during the waiver period.

in Virginia and the Southern Virginia RFG areas. This waiver is effective immediately and will continue through September 30, 2018.

Gasoline that does not meet the federal RFG requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in RFG covered areas within Virginia where the federal RFG requirements remain in effect. After September 30, 2018, gasoline that does not meet the federal RFG requirements may also not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in Southern Virginia RFG areas. Any such gasoline that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers in Southern Virginia RFG areas may be distributed and sold in these areas after September 30, 2018, until the supply is depleted. Likewise, retailers and wholesale purchaser-consumers in the Southern RFG areas may continue selling or dispensing gasoline that meets the conditions of this waiver after September 30, 2018, until their supplies are depleted.

This waiver only applies to the applicable federal requirements cited above for the designated areas. 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, terminated or extended, as appropriate. If you have questions you may call me, or your staff may call Phillip Brooks at (202) 564-0652.

Respectfully yours,

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

Andrew R. Wheeler  
Acting Administrator

cc: The Honorable Rick Perry, Secretary of Energy  
Richard E. Dunn, Director, Environmental Protection Division, Georgia Department of Natural Resources  
David K. Paylor, Director, Virginia Department of Environmental Quality  
Jewel H. Bronaugh, Ph.D., Commissioner, Virginia Department of Agriculture and Consumer Services