



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

September 11, 2018

OFFICE OF
THE ADMINISTRATOR

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

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

Re: September 11, 2018 Fuel Waiver Concerning North Carolina and South Carolina

Dear Governors:

I have received requests for a waiver under the Clean Air Act (CAA) made on your behalf to address fuel supply emergencies caused by the large-scale evacuations due to 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 States of North Carolina and South Carolina (“designated areas”).

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 reformulated gasoline (RFG) regulations at 40 C.F.R. § 80.78(a)(7) 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.

We understand that you have declared states of emergency and issued evacuation notices to several locations in the designated areas, and that fuel suppliers are rapidly depleting compliant summer supplies as a result of continually refueling evacuation routes and other retail locations. These supply shortages can be reduced by waiving the requirements to sell low volatility summer gasoline 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 the designated areas. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following actions to minimize or prevent further disruption of an adequate supply of gasoline to consumers in the designated areas.

I am waiving the federal Reid vapor pressure (RVP) requirements at 40 C.F.R. § 80.27 for the designated areas to minimize or prevent problems with the supply of gasoline. Under this temporary waiver, regulated parties may produce, sell or distribute winter gasoline (including gasoline blendstocks for oxygenate blending (BOBs)) with an RVP of 11.5 pounds per square inch (psi) before the addition of any ethanol in the designated areas. This waiver of the RVP requirements is effective immediately and will continue through September 15, 2018, which is the end of the high ozone season.

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 all designated areas.¹ This waiver of the comingling prohibition is effective immediately and will continue through October 1, 2018.

¹ Since I have waived the RVP requirements in 40 C.F.R. § 80.27 in the designated areas, 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).

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 R. Wheeler", with a long horizontal flourish extending to the right.

Andrew R. Wheeler
Acting Administrator

cc: The Honorable Rick Perry, Secretary of Energy