



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

May 11, 2021

THE ADMINISTRATOR

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

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

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

The Honorable Muriel Bowser
Mayor of the District of Columbia
1350 Pennsylvania Avenue NW
Suite 316
Washington, D.C. 20004

Re: May 2021 Fuel Waiver Concerning the Colonial Pipeline Shutdown

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.

Regulations promulgated under the CAA require gasoline to meet certain lower volatility gasoline Reid Vapor Pressure (RVP) requirements in certain reformulated gasoline (RFG) areas (the "RFG Covered Areas"¹). Regulations also 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/reformulated-gasoline>. The volatility gasoline regulations that apply to fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers began on May 1, 2021.

¹ The RFG Covered Areas included in this waiver are those counties in the Commonwealth of Pennsylvania, Commonwealth of Virginia, District of Columbia, and State of Maryland, and identified at <https://www.epa.gov/gasoline-standards/reformulated-gasoline>. *See* 40 C.F.R. § 1090.285. No counties in the State of Delaware are covered by this waiver.

The EPA and U.S. Department of Energy (DOE) have been actively monitoring the supply of fuel. The unusual pipeline shutdown has affected gasoline supplies. The 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 requirements of the federal RFG requirements in RFG Covered Areas² that apply to terminal owners, terminal operators, distributors, and carriers.

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 CBOB⁴ and summer conventional gasoline (CG), as defined in 40 C.F.R. § 1090.80, meeting the 9.0 psi RVP standard specified at 40 C.F.R. § 1090.215(a)(1) with the application of the ethanol 1.0 psi waiver pursuant to 40 C.F.R. § 1090.215(b) may be used in the RFG Covered Areas.

This waiver is effective immediately and will continue through May 18, 2021. After May 18, 2021, fuel manufacturers may not produce or import gasoline that does not meet the RFG standards for distribution in the RFG Covered Areas. However, any summer CBOB and summer CG permitted for use in the RFG Covered Areas described in this waiver that is in the distribution system on May 18, 2021, may be distributed and sold until the supply is depleted.

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

² The regulations at 40 C.F.R. § 1090.220(e) impose restrictions on blending butane or pentane into previously certified RFG or RBOB and that prohibition continues to apply and is not waived. This section provides that: "[c]ertified butane and certified pentane must not be blended with summer RFG or summer RBOB under § 1090.1320."

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."

Sincerely yours,

MICHAEL
REGAN

Digitally signed by
MICHAEL REGAN
Date: 2021.05.11
07:50:17 -04'00'

Michael S. Regan

cc: The Honorable Jennifer Granholm, Secretary of Energy