



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

May 28, 2022

THE ADMINISTRATOR

The Honorable Greg Abbott
Governor of Texas
P.O. Box 12428
Austin, Texas 78711

Dear Governor Abbott:

This letter responds to the May 28, 2022, letter requesting a waiver under the Clean Air Act made on your behalf by Texas Commission on Environmental Quality Executive Director Toby Baker to address a fuel supply emergency caused by a crude unit failure at a Delek US Holdings, Inc. refinery located at 425 McMurrey Drive, Tyler, Texas, 75702.

The letter requests that the U.S. Environmental Protection Agency grant a waiver of the federally enforceable State Implementation Plan regulations that require low volatility gasoline to be sold in eastern Texas. The SIP requires gasoline sold in 95 eastern counties in the state of Texas to have a maximum Reid vapor pressure of 7.8 pounds per square inch during the summer “high ozone” season. These federal requirements are codified as part of the federally approved Texas SIP. *See* 66 Fed. Reg. 20,927, 20,931 (Apr. 26, 2001); 40 § C.F.R. 52.2270(c), subchapter H. Regulations promulgated under the CAA and the federally approved SIP require the use of low volatility gasoline during the summer months to limit the formation of ozone pollution. *See* 40 C.F.R. § 1090.215(a)(5), *see also* <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>.

The waiver request is limited to the following 34 counties that receive gasoline from Delek’s Tyler refinery: Fannin, Lamar, Red River, Bowie, Hunt, Hopkins, Franklin, Titus, Morris, Cass, Kaufman, Van Zandt, Rains, Wood, Upshur, Marion, Navarro, Henderson, Smith, Harrison, Gregg, Freestone, Anderson, Cherokee, Rusk, Panola, Limestone, Robertson, Leon, Houston, Nacogdoches, Angelina, San Augustine, and Sabine Counties (the “34 covered counties”). The fuel supply shortages caused by the crude unit failure at Delek’s Tyler refiner can be reduced by waiving the requirements to sell low volatility gasoline in the 34 covered counties.

The EPA and the U.S. Department of Energy have been actively monitoring the supply of gasoline to the 34 covered counties. The EPA has concluded, with DOE’s concurrence, that it is necessary and appropriate 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. § 7454(c)(4)(C)(ii)(I).

This extreme and unusual fuel circumstance is the result of a furnace tube leak and crude-unit failure at Delek's Tyler refinery, 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)(iii)(I), 42 U.S.C. § 7545(c)(4)(C)(iii)(I).

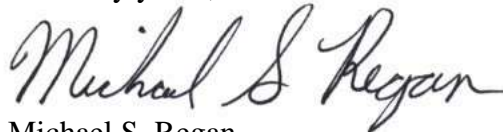
Therefore, to minimize or prevent disruptions of the supply of gasoline in Texas, I am issuing this waiver of the federal Reid vapor pressure requirements in the Texas federally approved SIP and the requirements at 40 C.F.R. § 1090.215(a)(5) that apply in 34 covered counties. Under this temporary waiver, regulated parties may produce, sell and distribute gasoline in the 34 covered counties with a Reid vapor pressure of no more than 9 psi (10.0 psi if the gasoline contains between 9% and 15% ethanol). This waiver is effective immediately and will continue through June 6, 2022. 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.

Gasoline that does not meet the applicable RVP requirements under the Texas federally approved SIP and the requirements at 40 C.F.R. § 1090.215(a)(5) may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the designated states after June 6, 2022. Any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers may be distributed and sold in the 34 covered counties until the supply is depleted. Likewise, retailers and wholesale purchaser-consumers in these areas may continue selling or dispensing gasoline that meets the conditions of this waiver after June 6, 2022, until supplies in their storage tanks are depleted.

This waiver applies only to the applicable federal requirements cited above for the 34 covered counties. 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 contact Kurt Gustafson of the EPA's Office of Transportation and Air Quality at (202) 403-4419.

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: Secretary of Energy