



September 29, 2022

Mr. Michael S. Regan
Administrator
United States Environmental Protection Agency
Mail Code 6405A, Room 5521D
1200 Pennsylvania Ave. NW
Washington, D.C. 20460
(202) 343-9038

Re: Petition to Delay the Elimination of the 1psi RVP Waiver for E10

Dear Administrator Regan:

Flint Hills Resources ("FHR") is a leading producer of transportation fuel with operations primarily in the Midwest and Texas. Our Minnesota refinery is responsible for producing a significant portion of the fuel used throughout the upper Midwest. FHR is petitioning the United States Environmental Protection Agency "EPA" to delay the elimination of the 1.0 psi Reid vapor pressure "RVP" waiver provided to gasoline blended with 10% ethanol "E10" because it would likely result in an insufficient supply of gasoline in the upper Midwest region. This change, intended to establish a new summertime gasoline specification and support year-round E15 sales, was requested by eight Midwest governors on April 28, 2022. As one of the largest fuel providers in the Midwest, we have serious concerns about our ability to produce this new gasoline specification by May 1, 2023, which would likely reduce the supply of available gasoline in these markets.

We believe the elimination of the 1-pound waiver in the proposed timeframe provided could lead to **critical fuel supply shortages** in the eight states that have requested this change, and potentially disrupt fuel supplies in other states as well.

As you are aware, EPA limits conventional gasoline vapor pressure to a max 9.0 psi RVP at wholesale from May 1-September 15 in most states. Sec. 211(h)(4) of the Clean Air Act allows gasoline blended with 10% ethanol to exceed this limit by 1.0 psi RVP (i.e., 10.0 psi max RVP for E10). The 1.0 psi RVP waiver for gasoline is commonly referred to as the "1 pound waiver." The United States Court of Appeals for the District of Columbia Circuit ruled that E15 does not qualify for the 1-pound waiver (without an emergency fuel waiver). Because of the ruling, E15 has a different RVP specification and cannot be sold in the summer season using the same base gasoline as E10. It is our understanding the decision to eliminate the 1-pound waiver is intended to create a new lower RVP fuel specification that could allow for the year-round sale of E15 in the eight Midwestern states whose governors requested this change from the EPA.

Please accept this letter as a petition under Section 211(h)(5)(C)(ii)(I) of the Clean Air Act to delay elimination of the 1psi RVP waiver until at least May, 2024 because an earlier implementation date as requested by the governors from IA, IL, MN, NE, OH, SD, ND and WI to eliminate the 1-pound waiver will likely cause the insufficient supply of gasoline in the affected states and other states in the region.

We were not consulted by governors in any of the states requesting this change and were not given the opportunity to discuss our ability to produce this new gasoline specification by next May. We have serious concerns about this accelerated change, and we want to call your attention to the following considerations:

1. Flint Hills Resources offers E15 to our customers under the 1-pound waiver and has no objection to making E15 available year-round to consumers who choose the product over E10 or any other alternative.
2. Eliminating the 1-pound waiver and establishing a customized fuel specification for a handful of Midwest states is no small matter. It would be disruptive to fuel markets and increase fuel prices. This customized fuel specification would make these states more dependent on a small number of Midwest refineries and separate the region from the rest of the country making it more susceptible to supply disruptions. It would also require refineries to remove lighter (more evaporative) and less expensive hydrocarbons from gasoline (e.g., butane), which shrinks gasoline volumes (supplies) and makes base gasoline more expensive.
3. The ability of refineries to produce this new gasoline specification will vary by facility. Each individual refinery's configuration, crude slate and refined product distribution system are factors in determining how and when this new gasoline specification can be produced and delivered to consumers. At FHR Pine Bend, for example, the necessary removal of lighter hydrocarbons can only be achieved by redistributing these products elsewhere in the value chain or by making less of these and all other products by cutting input rates. Investments in new tanks and refined product distribution systems may also be required to accommodate this special fuel specification in addition to the conventional gasoline used by the rest of the country.
4. Flint Hills Resources intends to produce the gasoline specification required through the elimination of this waiver. However, there is little time to make the necessary changes to our refinery and our refined product distribution system before this new gasoline specification would seemingly go into effect next May. Refineries will need to begin producing the new low RVP fuel as early as March to allow the distribution system to be converted and on spec if required by May 1, 2023. We cannot begin to make these changes until the EPA formally eliminates the 1-pound waiver through the rulemaking process. As the rulemaking process moves forward, it is critical that the EPA allow a reasonable timeline for implementation that is reflective of our realities as producers and transporters of this new fuel specification.

In closing, Flint Hills Resources stresses the significance of the decision to eliminate the 1- pound waiver in these states and what it means for consumers. The change these states have requested would allow E15 to be sold during the summer without an emergency waiver or change in federal law, but it would make all gasoline more expensive and reduce regional supplies. The risk of isolating the region's fuel supply from the rest of the country also cannot be overstated. These states would be more exposed to the risk of significant supply disruptions and fuel outages when refineries and pipelines in the region undergo maintenance or experience unplanned events.

Historically, the Midwest region has benefited from having stable fuel supplies and gas prices that are

typically below the national average. This is due in part to well operated pipelines and refineries that supply the state and cross-region competition that puts downward pressure on prices. Requiring a fuel specification that makes base gasoline more expensive and isolates fuel supplies from the rest of the country will very likely reverse this trend to the detriment of the people who depend on these fuels.

At a minimum, we would request a delay in eliminating the waiver until at least the summer of 2024 so we can make the modifications necessary to supply this new fuel specification or, preferably, there is a change in federal law to allow for year-round E15 in conventional gasoline for the entire country.

Thank you for your consideration of this petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Chip Hilarides", with a stylized flourish at the end.

Chip Hilarides
Vice President of Fuel Quality and Compliance
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