



THE ADMINISTRATOR

WASHINGTON, D.C. 20460

October 05, 2026

The Honorable Greg Abbott
Governor of Texas
PO Box 12428
Austin, Texas 78711

Re: Emergency Fuel Waiver for TXLED and ULSD Diesel

Dear Governor Abbott:

This letter responds to your September 28, 2026 request for a waiver under the Clean Air Act (CAA) section 211(c)(4)(C)(ii)(I) to address extreme and unusual fuel supply circumstance caused by, among other things, global issues in the Middle East that are affecting supplies of diesel fuel within Texas.¹ This action waives both the diesel sulfur requirements for certain diesel-powered highway and nonroad vehicles and nonroad equipment, and the State SIP low emission diesel (TXLED) requirement for 20 days within Texas.

As you know, regulations promulgated under the CAA require the use of Ultra-Low Sulfur Diesel (ULSD) fuel meeting 15 parts per million (ppm) sulfur (S) specifications in diesel-powered highway and nonroad vehicles and nonroad equipment. EPA's diesel fuel sulfur standards were promulgated to enable the use of advanced emission control technologies on modern diesel engines that are otherwise damaged by exposure to higher sulfur levels in diesel fuel. Prior to EPA setting emissions standards for diesel engines premised on the use of ULSD, diesel engines were designed to operate and were certified in compliance with the then existing emissions standards when operating on low sulfur diesel fuel (<500 ppm S) in the market at the time. Under the terms of this action, refineries can produce low sulfur diesel fuel (<500 ppm S) for use in diesel-powered highway vehicles produced prior to the 2007 engine model year and in nonroad equipment with engines produced prior to the start of the Tier 4 emissions standards.² The production of low sulfur diesel fuel for use in older diesel engines in Texas designed to operate on such low sulfur diesel fuel will reduce the demand for ULSD in this region, helping to reduce

¹ September 28, 2026 letter from Governor Abbott to EPA Administrator Lee Zeldin:

https://gov.texas.gov/uploads/files/press/Lee_Zeldin_EPA_Diesel_Fuel_Waiver_FINAL.pdf

² Most 2007 model year on-highway trucks will have 2006 model year diesel engines which can use low sulfur diesel fuel under the conditions of the waiver. The model year of the engine can be confirmed from the emissions label on the side of the engine. The start of the Tier 4 nonroad diesel engine standards vary by category of engines and products. A complete list of EPA standard years for nonroad diesel engines can be found here

<https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100OA05.pdf>. The emissions label on the side of a diesel engine will also indicate the emission standards to which the product is certified. Nonroad engines with emissions labels that indicate the engines are certified to the Tier 1, Tier 2, or Tier 3 emissions can use the low sulfur diesel fuel allowed to be produced under the terms of this waiver. Nonroad engines certified to the Tier 4 emissions standards may not use the low sulfur diesel fuel allowed under this waiver and must continue to use ULSD.

the overall demand for ULSD in Texas. In doing so, the waiver addresses the extreme and unusual fuel supply circumstances arising from global issues in the Middle East that could not have been foreseen or prevented and which is reducing the supply of ULSD.

Global energy markets have been disrupted by Iranian attacks against tankers transiting the Strait of Hormuz and strikes against oil and gas infrastructure across the Middle East, as well as lowering U.S. refining capacity. Per the U.S. Energy Information Administration (EIA), the Strait of Hormuz is one of the world's most important oil chokepoints. In the first half of 2025, the Strait averaged 20.9 million barrels per day (bpd), approximately 20 percent of global petroleum liquids consumption and 25 percent of total global maritime traded oil.³ In 2025, the U.S. imported roughly 490,000 bpd of crude oil from Persian Gulf countries, representing about 8 percent of total U.S. crude imports and about 3 percent of U.S. refinery gross inputs.⁴ As of 2025, four U.S. refineries imported more than 50,000 bpd of crude oil from the Persian Gulf region.⁵ In addition to crude oil, in 2025 the U.S. imported roughly 42,600 bpd of finished petroleum products from Persian Gulf countries, representing roughly 6 percent of all imported finished petroleum products during that same period, as well as 126,000 bpd of unfinished oil.⁶

The EIA Short Term Energy Outlook (STEO), released on March 10, 2026, noted that “High uncertainty about the conflict’s effect on oil supplies has added a large risk premium to oil prices as market participants assess actual disruptions to oil flows and weigh the potential for those disruptions to persist.” Additionally, the STEO highlights that as a result of the reduction in shipping through the Strait of Hormuz, some oil production has been shut in and that, if the reduction continues, “oil storage behind the chokepoint will quickly fill, causing oil producers to shut in even more production, lending further support to oil prices.”⁷ Additionally, the STEO released on April 7, 2026, noted that “[t]he closure of the strait has dramatically reduced the availability of oil supplies to global markets and has had cascading effects across oil supply chains.” Furthermore, despite the reopening of the Strait of Hormuz last month, EIA does not expect the majority of shut-in crude oil production to be back online until the first quarter of 2027 (1Q27).⁸

Overall, U.S. refining capacity has decreased over the past several years, caused by the permanent closures of refineries due to low demand during the COVID-19 pandemic, damage from hurricanes, accidents, as well as economic closures and reconfigurations, especially in California. As of the week ending September 18, 2026, refinery utilization was 94 percent, which is above the seasonal five-year average.⁹ Given this high utilization rate, refineries have minimal ability to produce more refined products, such as ULSD, in the event of a supply disruption.

As of September 18, 2026, national distillate inventories have fallen 12 percent below the five-year average.¹⁰ Diesel inventories are not expected to recover to historical norms until early 2027. Nationwide operable crude capacity at U.S. refineries was 490,000 barrels per day lower in December

³ https://www.eia.gov/international/analysis/special-topics/World_Oil_Transit_Chokepoints

⁴ https://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_epc0_im0_mbbldpd_a.htm;
<https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mgirius2&f=a>.

⁵ <https://www.eia.gov/petroleum/imports/companylevel/>

⁶ <https://www.eia.gov/petroleum/imports/companylevel/>

⁷ https://www.eia.gov/outlooks/steo/pdf/steo_full.pdf

⁸ https://www.eia.gov/outlooks/steo/pdf/steo_full.pdf

⁹ <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=WPULEUS3&f=W>

¹⁰ <https://www.eia.gov/petroleum/supply/weekly/>

2025 than it was in January 2019.¹¹ Lower refining capacity in recent years provides less cushion to mitigate any unexpected disruptions to refinery operations or sudden increases in customer demand.

Additionally, on January 20, 2025, President Trump declared a National Energy Emergency stating, in part, that America needs “a reliable, diversified, and affordable supply of energy . . . to sustain the basics of modern life and military preparedness.” The declaration also states that “the United States’ insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation’s economy, national security, and foreign policy.”¹²

EPA has concluded, with concurrence from the U.S. Department of Energy, that it is in the public interest to take action to address the extreme and unusual supply circumstances that prevent distribution of an adequate supply of ULSD to consumers in Texas.

CAA section 211(c)(4)(C)(ii)(I)-(III) provides EPA with the authority to temporarily waive a control or prohibition if the Administrator makes certain determinations. In particular, the statute authorizes EPA to determine there are “extreme and unusual fuel [] supply circumstances” that prevent the distribution of an adequate supply of ULSD to consumers.¹³ Here, EPA is exercising the Agency’s statutory discretion to identify a lack of an “adequate fuel supply” under these unique circumstances of a particularly unexpected and extreme form of disruption. This extreme and unusual fuel circumstance is the result of ongoing issues in the Middle East, among other events that could not reasonably have been foreseen and are not attributable to a lack of prudent planning on the part of suppliers of fuel to these areas.¹⁴

Furthermore, I have determined, pursuant to CAA section 211(c)(4)(C)(ii)(III), that it is in the public interest to grant this waiver.¹⁵ In taking this action, EPA is seeking to address the extreme and unusual fuel supply circumstances in the market by waiving the TXLED SIP requirements and diesel sulfur standards in 40 C.F.R. § 1090.305 under the following limited conditions:

1. The waiver is limited to highway and nonroad vehicles and nonroad equipment originally certified for operation on low sulfur diesel fuel (< 500 ppm S);
2. The non-ULSD fuel is not used in any diesel-powered highway and nonroad vehicles and nonroad equipment that is equipped with a diesel particulate filter or catalytic emission control technology;
3. The non-ULSD fuel is segregated from any fuel that is sold or labeled as ULSD fuel, and;
4. To prevent or minimize instances of misfueling, persons distributing and dispensing non-ULSD fuel under this waiver must provide the following warning to the diesel-powered highway and nonroad vehicles and nonroad equipment owners or operators using non-ULSD fuel:

"WARNING: USE OF DIESEL FUEL EXCEEDING THE 15 PPM SULFUR STANDARD IN ANY VEHICLE/ENGINE EQUIPPED WITH A DIESEL PARTICULATE FILTER OR CATALYTIC EMISSION CONTROL DEVICE MAY CAUSE SERIOUS DAMAGE TO THE VEHICLE/ENGINE AND ITS EMISSIONS CONTROL COMPONENTS. ANY PARTY THAT USES ANY FUEL ALLOWED UNDER THIS WAIVER ASSUMES ALL RESPONSIBILITY FOR DAMAGE TO THE

¹¹ <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MOCLEUS2&f=M>

¹² 90 FR 8433 (Jan. 29, 2025).

¹³ 42 U.S.C. § 7545(c)(4)(C)(ii)(I).

¹⁴ *Id.*; 42 U.S.C. § 7545(c)(4)(C)(ii)(II).

¹⁵ 42 U.S.C. § 7545(c)(4)(C)(ii)(III).

VEHICLE/ENGINE. THE USE OF HIGHER SULFUR DIESEL FUEL MAY NECESSITATE THE USE OF HIGH TBN ENGINE OILS AND MORE FREQUENT ENGINE OIL CHANGES TO PREVENT PREMATURE ENGINE WEAR. YOU SHOULD CONSULT YOUR ENGINE SUPPLIER TO DETERMINE THE APPROPRIATE MAINTENANCE INTERVALS WHEN OPERATING ON HIGHER SULFUR DIESEL FUEL."

Providing this warning shall be a substitute for compliance with the designation requirements in 40 C.F.R. § 1090.1100(a)(2). Diesel fuel manufacturers should report their production of fuel produced under this waiver in accordance with C.F.R. § 1090.935(a)(1)(iv) for each batch indicating for (iv)(E) that the fuel is produced in compliance with an Emergency Fuel Waiver.

In addition, I have determined pursuant to CAA Section 211(c)(4)(C)(iii)(I) that this waiver applies to the state of Texas, the smallest geographic area necessary to address the fuel supply circumstances described in this action. 42 U.S.C. § 7545(c)(4)(C)(iii)(I).

After weighing the societal benefits of a higher volume of diesel fuel being made available to the public and the limitation of the use of the fuel to engines originally designed for operation on low sulfur diesel fuel (<500 ppm S), EPA concludes that this waiver is in the public interest. Therefore, to minimize or prevent disruptions of the supply of ULSD, EPA is waiving the TXLED SIP requirements and the standards in 40 C.F.R. § 1090.305 that govern diesel sulfur and under this waiver, EPA is allowing diesel fuel to be distributed and sold with a sulfur level up to 500 ppm sulfur. This waiver is effective on October 5, 2026, and will continue for 20 days through October 24, 2026. It is EPA's intention to issue new waivers effectively extending (renewing) these waivers until such time as the extreme and unusual fuel supply circumstances described in this action are no longer present.

This waiver applies only to the applicable federal requirements cited above. Regulated parties who produce, sell, and distribute diesel fuel must continue to comply with all applicable requirements and conditions that do not relate to diesel sulfur requirements in 40 C.F.R. Part 1090. Other state or local requirements or restrictions related to this matter may need to be addressed by the appropriate authorities.

Any diesel meeting the conditions of the waiver that was introduced into domestic pipelines or which has been certified at the fuel manufacturing facility gate or import facility, prior to the expiration date of an element of this waiver, as demonstrated by either the PTDs or Certificates of Analysis (COAs), may be distributed and sold in subject area until the volume identified on the PTDs or COAs is depleted.

If you have questions, you are welcome to contact me, or your staff may contact John Eunice, Principal Deputy Associate Administrator for Congressional and Intergovernmental Relations, at 202-564-5200 or Eunice.John@epa.gov.

Sincerely,

LEE ZELDIN

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Lee M. Zeldin

cc: The Honorable Chris Wright, Secretary of Energy