



E. SCOTT PRUITT
ADMINISTRATOR

August 31, 2017

The Honorable Kay Ivey
Governor of Alabama
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

The Honorable Nathan Deal
Governor of Georgia
206 Washington Street
111 State Capitol
Atlanta, Georgia 30334

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

The Honorable Phil Bryant
Governor of Mississippi
P.O. Box 139
Jackson, Mississippi 39205

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

The Honorable Bill Haslam
Governor of Tennessee
Tennessee State Capitol
Nashville, Tennessee 37243

The Honorable Terry McAuliffe
Governor of the Commonwealth of Virginia
State Capitol
Third Floor
Richmond, Virginia 23219

The Honorable Greg Abbott
Governor of Texas
Office of the Governor
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Austin, Texas 78711-2428

The Honorable John Bel Edwards
Governor of Louisiana
Office of the Governor
P.O. Box 94004
Baton Rouge, Louisiana 70804

The Honorable Rick Scott
Governor of Florida
PL 05 The Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001

The Honorable Bruce Rauner
Governor of Illinois
State Capitol
207 Statehouse
Springfield, Illinois 62706

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

The Honorable Eric Holcomb
Governor of Indiana
State House, Room 206
Indianapolis, Indiana 46204-2797

The Honorable Sam Brownback
Governor of Kansas
Capitol
300 Southwest 10th Avenue, Suite 212S
Topeka, Kansas 66612-1590

The Honorable Matt Bevin
Governor of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

The Honorable Rick Snyder
Governor of Michigan
P.O. Box 30013
Lansing, Michigan 48909

The Honorable Mark Dayton
Governor of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King, Jr.
Boulevard
St. Paul, Minnesota 55155

The Honorable Eric Greitens
Governor of Missouri
Capitol Building, Room 216
P.O. Box 720
Jefferson City, Missouri 65102

The Honorable Pete Ricketts
Governor of Nebraska
P.O. Box 94848
Lincoln, Nebraska 68509-4848

The Honorable John Kasich
Governor of Ohio
30th Floor
77 South High Street
Columbus, Ohio 43215

The Honorable Mary Fallin
Governor of Oklahoma
Capitol Building, Room 212
2300 Lincoln Boulevard
Oklahoma City, Oklahoma 73105

The Honorable Dennis Daugaard
Governor of South Dakota
500 East Capitol Street
Pierre, South Dakota 57501

The Honorable Scott Walker
Governor of Wisconsin
115 East State Capitol
Madison, Wisconsin 53707

The Honorable Dan Malloy
Governor of Connecticut
210 Capitol Avenue
Hartford, Connecticut 06106

The Honorable Paul LePage
Governor of Maine
1 State House Station
Augusta, Maine 04333

The Honorable Charlie Baker
Governor of Massachusetts
Office of the Governor
State House, Room 360
Boston, Massachusetts 02133

The Honorable Chris Sununu
Governor of New Hampshire
Office of the Governor
107 North Main Street, Room 208
Concord, New Hampshire 03301

The Honorable Gina Raimondo
Governor of Rhode Island
State House
Providence, Rhode Island 02903

The Honorable Phil Scott
Governor of Vermont
109 State Street
Pavilion Office Building
Montpelier, Vermont 05609

The Honorable John Carney
Governor of Delaware
Legislative Hall
Dover, Delaware 19901

The Honorable Chris Christie
Governor of New Jersey
The State House
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Trenton, New Jersey 08625

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

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

The Honorable Jim Justice
Governor of West Virginia
1900 Kanawha Street
Charleston, West Virginia 25305

The Honorable Asa Hutchinson
Governor of Arkansas
State Capitol, Room 250
Little Rock, Arkansas 72201

The Honorable Kim Reynolds
Governor of Iowa
State Capitol
Des Moines, Iowa 50319-0001

The Honorable Doug Burgum
Governor of North Dakota
Dept. 101
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0001

The Honorable Susana Martinez
Governor of New Mexico
State Capitol
Fourth Floor
Santa Fe, New Mexico 87501

Re: August 31, 2017 Fuel Waiver Concerning Conventional and Reformulated Gasoline in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Wisconsin, Alabama, Arkansas, Louisiana, Mississippi, New Mexico, Texas, and the District of Columbia

Dear Governors and Mayor Bowser:

On August 30, 2017, following damage caused by Hurricane Harvey, I waived certain requirements of the Clean Air Act (CAA) relating to the sale, distribution and use of reformulated gasoline (RFG) and low volatility conventional gasoline during the summer season in a number of states to address fuel supply emergencies caused by Hurricane Harvey. I have received additional requests by some of you or on your behalf to expand the waiver to cover your states. In response to these requests, and based on our evaluation of the continuing effects of Hurricane Harvey on the nation's fuel supply system, the U.S. Environmental Protection Agency has determined, and the U.S. Department of Energy concurs, that it is necessary to take further action to minimize or prevent the disruption of an adequate supply of gasoline in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Wisconsin, Alabama, Arkansas, Louisiana, Mississippi, New Mexico, Texas, and the District of Columbia. ("designated states and D.C.")¹

As you know, regulations promulgated under the CAA require the use of low volatility gasoline during the summer months in order to limit the formation of ozone pollution. The regulations requiring the use of low volatility conventional gasoline (CG) during the summer season are found at 40 C.F.R. § 80.27 and in certain State Implementation Plans (SIPs). See 40 C.F.R. § 80.27 and <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure#table>. The regulations requiring the use of low volatility RFG are found at 40 C.F.R. § 80.78. The RFG regulations at 40 C.F.R. § 80.78(a)(7) also 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.

Ten refineries remain shut-down, restarts of approximately a half dozen previously shut-down refineries will take several days (or possibly weeks, depending on damage), and several other refineries are operating at reduced capacity. In addition, port closures are limiting the supply of crude oil to a number of Gulf-area refineries, all of which has continued to limit the production and availability of fuel to areas both within and outside of the Gulf-area. In addition, pipelines originating in the Gulf-area that serve the south, southeast, mid-Atlantic, and mid-west states, have

¹ These areas are located in Petroleum Administration for Defense Districts 1-3.

been disrupted due to storm damage, are down or operating at a reduced capacity. The designated states and D.C. receive a significant percentage of their gasoline supplies from the Gulf-area refineries and through the pipelines originating in the Gulf-area. Consequently, the refinery shut-downs, production curtailments, limited shipments of fuel by barge in the Gulf area, and pipeline limitations caused by Hurricane Harvey are creating a shortage of compliant fuel for the designated states and D.C. 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 RFG blendstock for oxygenate blending 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 Harvey, 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 states and D.C. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent further disruption of an adequate supply of gasoline to consumers in these areas.

Federal RVP Standards

I am issuing this waiver of the federal Reid vapor pressure (RVP) requirements at 40 C.F.R. § 80.27 in the designated states to minimize or prevent problems with the supply of gasoline to these areas. 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 CG areas within the designated states. This waiver is effective immediately and will continue through September 15, 2017. Since the waiver will be in effect until the end of the high ozone season, this waiver does not address downstream standards under the federal RVP requirements at 40 C.F.R. § 80.27 that apply after September 15, 2017.

Federally-Enforceable SIP Covered Areas

Some of the designated states have federally-enforceable SIPs that require the use of low-volatility gasoline. I am issuing this waiver of all low volatility gasoline requirements in any SIP that applies in the designated states to minimize or prevent problems with the supply of gasoline to these areas. Except for the low RVP requirements set forth in the Texas SIP that apply in El

Paso, Texas, this waiver is effective immediately and will continue through September 15, 2017. The waiver of the low RVP requirements in the El Paso SIP are effective immediately and will continue through September 16, 2017.²

Gasoline that does not meet the low RVP standards required by any SIP in the designated states may not be introduced into the fuel distribution system for distribution by refiners or importers into the areas covered by the SIPs after the end of the waiver period. Any gasoline meeting the conditions of this waiver that is already in the fuel distribution system before the waiver period ends, may be distributed and sold in the areas covered by the low volatility gasoline SIPs until the supply is depleted.³

Reformulated Gasoline

I am issuing this waiver of the federal RFG requirements in the designated states and D.C. Under this waiver, the EPA will allow regulated parties to produce, sell or distribute conventional winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in any RFG covered area within the designated states and D.C. Additionally, I am waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RFG blendstock for oxygenate blending 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 states and D.C.⁴

This waiver is effective immediately and will continue through September 15, 2017. Gasoline that does not meet the RFG requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in RFG Covered Areas in the designated states and D.C. after September 15, 2017. Any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers in these areas after September 15, 2017, may be distributed and sold in RFG Covered Areas in the designated states and D.C. 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 September 15, 2017, until their supplies are depleted.

This waiver supersedes my August 30, 2017 waiver, and only applies to the applicable federal requirements cited above for the designated states and D.C. Other state or local

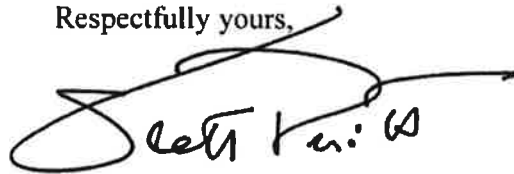
² The El Paso SIP requires the use of low RVP gasoline through September 16, 2017.

³ There are 95 eastern Texas counties that have a 7.8 psi RVP requirement through October 1, 2017. EPA will continue to evaluate the conditions in Texas to evaluate whether an additional waiver may be required past September 15, 2017.

⁴ Since I have waived the RVP requirements in 40 C.F.R. § 80.27 and in low RVP SIPs in the designated states, 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). Since I have waived the requirement to sell RFG in the designated states and D.C. during the waiver period, the prohibitions at 40 C.F.R. § 80.82(e)(2) also do not apply during this time period.

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 "E. Scott Pruitt", with a large, sweeping flourish extending to the right.

E. Scott Pruitt

cc: The Honorable Rick Perry, Secretary of Energy
Richard Hyde, P.E., Executive Director, Texas Commission on Environmental Quality
Dr. Chuck Carr Brown, Secretary, Louisiana Department of Environmental Quality
Richard E. Dunn, Director, Georgia Environmental Protection Division
Jeffery F. Koerner, Director, Florida Division of Air Resource Management
Molly Joseph Ward, Virginia Secretary of Natural Resources
Michael J. Teague, Oklahoma Secretary of Energy and Environment
Becky W. Keogh, Director, Arkansas Department of Environmental Quality