



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection

Identification Numbers
Transaction ID No. 09012017
Please refer to this identification number in correspondence with the agency.

September 1, 2017

RE: EPA Waiver of RVP Requirements Due to Hurricane Harvey

FOR: Temporary Conditional Variance for ASTM D4814-15a Gasoline RVP Limit

STATUS: CONDITIONALLY APPROVED DENIED

Code Sections:

Wis. Admin. Code ATCP s. 94.210(c), ASTM D4814-15a

Variance Analysis:

On August 31, 2017, following damage caused by Hurricane Harvey, the EPA 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, including Wisconsin, to address fuel supply emergencies caused by Hurricane Harvey.

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 been disrupted due to storm damage, and are down or operating at a reduced capacity. 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 compliance fuel for the designated state and D.C.

The EPA determined 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 § 81.78(a)(7) that prohibit any person

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from combining any RFG blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met. On August 31, 2017 the EPA granted a waiver that includes the following actions to minimize or prevent further disruption of an adequate supply of gasoline to consumers:

Federal RVP Standards Conventional Gas:

In the designated states, including Wisconsin, 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 conventional gas areas. The waiver is effective through September 15, 2017.

- Any gasoline meeting the conditions of the variance that is already in the fuel distribution system before the variance period ends may be distributed and sold in the areas covered by the low volatility gasoline SIPs until the supply is depleted.
- 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.

Reformulated Gasoline (RFG):

In the designated states, including Wisconsin, 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 any RFG covered area. The waiver is effective through September 15, 2017.

- Also waived are the provisions of 40 C.F.R § 81.78(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.
- Gasoline that does not meet RFG requirements may not be introduced into terminal storage tank from which gasoline is dispensed into trucks for distribution to retail outlets in RFG Covered Areas 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 the areas after September 15, 2017, may be distributed and sold in RFG Covered Areas until the supply is depleted.
- Retailers and wholesaler 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.

In order to harmonize Wisconsin requirements with the EPA waiver and to minimize or prevent further disruption of an adequate supply of gasoline to Wisconsin consumers effective immediately the department approves this conditional variance from Wisconsin Administrative Code ATCP s. 94.210(c):

Conditional Variance:

A conditional variance from Wisconsin Administrative Code ATCP s. 94.210(c), which adopts ASTM D4814-15a RVP (Reid Vapor Pressure) gasoline specifications is granted. The conditions of the variance are as follows:

RVP Standards for Conventional Gas

- 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 through September 15, 2017.
- Retailers and wholesaler 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.

RVP Standards for Reformulated Gas (RFG):

- 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 any RFG covered area through September 15, 2017.
- Gasoline that does not meet ASTM D4814-15a RFG RVP 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 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 the areas after September 15, 2017, may be distributed and sold in RFG Covered Areas until the supply is depleted.
- Retailers and wholesaler 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.

For questions, please contact Judy Cardin at 608-224-4945.