



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

Via Electronic Mail

April 19, 2023

Mr. Michael S. Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Mr. Lawrence E. Starfield, Assistant Administrator
Office of Enforcement & Compliance Assurance (OECA)
Mail Code 2201 A, Room AR 3204
12000 Pennsylvania Avenue N.W.
Washington, DC 20460

Re: State of Florida Request for Waiver of Summertime RVP Gasoline and
Blendstock Requirements

Dear Mr. Regan and Mr. Starfield:

On behalf of the Honorable Ron DeSantis, Governor of the State of Florida, this letter shall serve as the State of Florida's and Florida Department of Environmental Protection's (Department) written request for a waiver of the federal 9.0 RVP gasoline requirements and waiver of the prohibitions on blending various blendstocks for certain counties in the State of Florida in the Broward County through May 20, 2023. This waiver is needed due to fuel distribution interruptions projected that occurred as the result of a major weather event.

On April 12, 2023, Broward County received more than 25 inches of rainfall over a period of hours. This unprecedented event (a once in 1,000 year event) flooded much of Broward County including the area in and around Port Everglades. This rainfall event has impacted fuel distribution operations at the terminals in Port Everglades for three reasons: (1) the flooding damaged components of all twelve of terminals at the port, which have been or are currently being repaired (three of the twelve terminals remain offline); (2) flooding damaged pumping equipment that has preventing blending operations which are used to

lower RVP at the terminals; and (3) the flooding prevented fuel trucks from being able to receive fuel from the terminals that had pumping infrastructure that was not damaged. The result of the flooding is that distribution of non-summertime RVP fuel has been impeded and the turnaround plans to meet regulatory deadlines for summertime fuels have been disrupted. The results of these disruptions is that some of the non-summertime RVP gasoline at Port Everglades will not be distributed from the terminals by the May 1, 2023 deadline to switch over to the summertime fuels. Without regulatory relief, the damaged terminals with non-summertime fuel may have to be shutdown, thus impeding the flow of gasoline to Florida as hurricane season approaches. If the damaged terminals cannot pump out the non-summertime fuel, these terminals will be idled until a resolution is identified. In addition to the concerns outlined above, this event has already significantly impeded fuel distribution in Southeast Florida and fuel shortages are being widely reported. At present, 58% of stations in Broward and Miami counties and 31% of stations in Palm Beach County are out of gas.

In addition, fuel distributors' responses to these supply interruptions have disrupted turnaround plans at other terminals in South Florida, which are identified below, because fuel that was planned to be used to blend down non-summertime fuel has been diverted to Broward, Miami-Dade, and Palm Beach counties. These additional terminals may encounter issues meeting the May 1, 2023 deadline due to these emergency measures taken to ensure an adequate supply of gasoline in Broward, Miami-Dade, and Palm Beach counties. The interruption of carefully planned and timed fuel deliveries is directly attributable to the extraordinary rain event on April 12, 2023. Granting of this request for additional terminals in Florida will allow distributors to continue to focus on replenishing gas stations that are out in South Florida with regular-grade fuel, which is most in demand. If a waiver is not granted, distributors would instead focus on trying to meet the May 1, 2023 regulatory deadline by turning over the premium-grade tanks, which would reduce the amount of regular-grade fuel destined for South Florida. This is compounded by stratification issues in premium-grade tanks in which lower RVP fuel is distributed first, leaving higher RVP fuel in the tank.

This request meets the waiver requirements of Clean Air Act section 211(c)(4)(C)(ii) as an extreme and unusual fuel supply circumstance exists and the expected fuel supply interruptions are the result of a natural disaster that could not reasonably have been foreseen or prevented and not the result of the lack of prudent planning. The granting of this waiver is in the public interest as an adequate supply of transportation fuels, including fuels for emergency response and disaster recovery operations is of the utmost concern to the general public – especially as the State enters into hurricane season. The ability of fuel suppliers to ship fuel in the state of Florida would be impacted as Port Everglades is the largest port for importing fuel in Florida (almost 40%). This request is being made for all terminals in South Florida, including terminals in Broward County, Brevard County, Hillsborough County, Manatee County, Miami-Dade County, Orange County, and Palm Beach County. This is the smallest geographical area needed to avoid a fuel supply interruption and is for a limited time as required by this section of the Clean Air Act as turnaround plans at terminals in each of these counties has been disrupted by the flooding

event in Broward County and the re-allocation of resources needed to make up for damaged supply lines in Port Everglades.

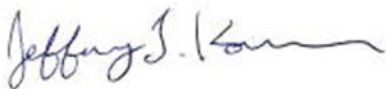
The Department respectfully requests that the U.S. Environmental Protection Agency grant this waiver through May 20, 2023. Pursuant to this waiver, gasoline that does not meet the ozone season low volatility requirements and the prohibition of reformulated blendstocks blended with conventional blendstocks may be distributed from terminals in South Florida. And, if approved, any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchasers and consumers in the State of Florida after May 1, 2023, could be distributed and sold until the supply is depleted. Likewise, retailers and wholesale purchasers and consumers in the state that purchased non-summertime RVP fuel could continue selling or dispensing gasoline that meets the conditions of this waiver until their supplies are depleted even if after the June 1, 2023 deadline for retail dispensing.

Lastly, South Florida's ozone air quality continues to be excellent. Therefore, allowing emissions of volatile organic compounds to continue at their current rate until May 20, 2023 will have a negligible impact on air quality. *See also* 79 Fed. Reg. 573, available at: <https://www.govinfo.gov/content/pkg/FR-2014-01-06/pdf/2013-31557.pdf> (finding that allowing "less-stringent RVP in these [Maintenance] Areas would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard.").

DEP understands that this request is multi-faced and affects multiple areas in Florida. DEP requests EPA grant relief in whole or in part, and if in part, DEP will continue to work with EPA on providing information relevant to the remaining aspects of this request where outstanding questions have been identified by EPA to resolve those remaining issues.

If you have any questions about this fuel waiver request, please contact me at (850) 717-9083 or by email at Jeff.Koerner@dep.state.fl.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffery F. Koerner".

Jeffery F. Koerner, Director
Division of Air Resource Management