



Tony Evers

Office of the Governor | State of Wisconsin

VIA ELECTRONIC DELIVERY

August 26, 2022

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

Dear Administrator Regan:

I am writing today to request your urgent action in the wake of the recent fire at the BP Whiting refinery to minimize the impacts of this disruption in fuel supply on Wisconsin residents and industries.

The state of Wisconsin is requesting that the U.S. Environmental Protection Agency (EPA) issue a waiver regarding specific Reid vapor pressure (RVP) gasoline requirements in the Clean Air Act (CAA) for gasoline sold June 1 to September 15. The state of Wisconsin is also requesting a waiver regarding reformulated gasoline regulations in Wisconsin nonattainment areas. The CAA nonattainment areas in Wisconsin include Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.

Representatives from Midwestern states (Wisconsin, Illinois, Indiana, and Kentucky) met with BP on August 26, 2022 regarding a fire at the BP Whiting, Indiana gasoline refinery that occurred on August 24, 2022. BP Whiting provides about 25 to 30 percent of the fuel that we use in Wisconsin. The BP Whiting gasoline refinery is currently shut down due to the fire and may remain inoperable for the next seven to 10 days; however, the effects of the shutdown may linger longer than the seven to 10 days as the refinery becomes operational, and representatives at BP cannot assure adequate supply of gasoline to the state during this shut down period. Importantly, this shutdown is occurring at time of highly volatile fuel prices and high demand for gasoline when supplies are already disrupted, coupled with this occurring as we approach the Labor Day weekend, which is a historically busy automobile travel period.

The CAA provides EPA with the authority to temporarily waive a control or prohibition if the Administrator makes certain determinations. In particular, CAA§ 21 l(c)(4)(C)(ii)(I-III) authorizes EPA to determine there are "extreme and unusual" circumstances that prevent the distribution of an adequate supply of gasoline to consumers. CAA§ 21 l(c)(4)(C)(ii)(I), 42 U.S.C. § 7454(c)(4)(C)(ii)(I). In these circumstances, EPA can exercise its statutory discretion to identify a lack of an "adequate fuel supply" where there has been a particularly unexpected and extreme form of disruption. It is clear that the BP Whiting gasoline refinery closure has caused an extreme and unusual fuel circumstance, an event that could not reasonably have been foreseen and are not attributable to a lack of prudent planning on the part of suppliers of the fuel to these areas. CAA§ 21 l(c)(4)(C)(ii)(II), 42 U.S.C. § 7454(c)(4)(C)(ii)(II).

Waiving the current “summertime” blend RVP gasoline requirements will allow the immediate sale of “wintertime” blend RVP gasoline, which will help to prevent gasoline shortages and limit gasoline price increases for consumers across Wisconsin by increasing the types and, by extension, the supply of fuel which can be sold at this time given that we are approaching the September 16 switch to “wintertime” blend fuel. Similarly, waiving the reformulated gas regulations for Wisconsin nonattainment zones will allow more flexibility on the fuel which can be brought into the state and ensure these counties are also protected from gasoline price increases due to the refinery shut down.

I urge EPA to act swiftly to issue these waivers to minimize impacts to Wisconsin and our region.

Respectfully,

A handwritten signature in dark ink, appearing to read "Tony Evers", written in a cursive style.

Tony Evers
Governor

cc: Julie Rodriguez, Senior Advisor and Assistant to the President for Intergovernmental Affairs