

Andy Beshear GOVERNOR

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June 9, 2022

Mr. Michael S. Regan Administrator Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460 Mail code 1101A

Ms. Janet McCabe
Deputy Administrator
Office of Enforcement and Compliance Assurance (OECA)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Mail Code 1101A

Dear Mr. Regan and Ms. McCabe

Under 42 U.S.C.A. § 7545(c)(4)(C)(ii), I request a temporary waiver from the reformulated gasoline ("RFG") requirements in Jefferson County, a portion of Bullitt County and a portion of Oldham County ("RFG covered areas") within the Commonwealth of Kentucky. These RFG covered areas are required to use reformulated gasoline under 40 C.F.R. §§ 1090.285(c).

I request that you determine that an extreme and unusual fuel supply circumstance exists that prevents the distribution of an adequate supply of gasoline to consumers in these RFG covered areas of Kentucky (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 the ongoing global supply disruptions as noted in April 20, 2022 Reid Vapor Pressure Fuel Waiver by the EPA, further impacted by barge traffic delays on the Ohio River and RFG petroleum terminal congestion at the Louisville terminals. It does not appear to be attributable to a lack of prudent planning on the part of suppliers of fuel to the RFG covered areas (CAA § 211(c)(4)(C)(ii)(II); 42 U.S.C.§ 7545(c)(4)(C)(ii)(II)).

Kentucky relies on the Marathon Petroleum Corporation's refinery in Catlettsburg, Kentucky for shipments of RFG to the Louisville area via barge and pipeline RFG through the Robinson pipeline sourced from Marathon's Robinson refinery in southeastern, Illinois.



Petroleum resupply constraints have been caused by the ongoing global petroleum fuel supply disruptions, coupled with Greenup Lock closure that began May 1 and continuing through June 29, which has resulted in 20-plus hours of delay at Greenup Lock on the Ohio River. According to at least one petroleum supply chain participant who has reached out to the Commonwealth, these circumstances have resulted in "just-in-time" deliveries, threatening the safety stocks of petroleum supplies in the Louisville area. With the reliance on barge traffic and the Robinson pipeline for terminal deliveries and the inability of at least one supplier to receive both pipeline and barge deliveries at the same time into the terminal, the Louisville area is reportedly experiencing petroleum fuel supply congestion that negatively affects petroleum fuel supply in the RFG covered areas.

In addition, the high and increasing gas prices in Louisville pose a hardship to Kentucky citizens in the RFG area. Consequently, I request that you determine 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), (iii)(I); 42 U.S.C. § 7545(c)(4)(C)(ii)(III), (iii)(I)).

Therefore, to minimize or prevent disruptions with RFG in this area, I am requesting that you issue a waiver of the federal RFG requirements in the RFG covered areas of Kentucky effective immediately for the twenty-day maximum period of time. Under this temporary waiver, regulated parties would be able to sell and distribute conventional gasoline (CG) in these areas. Specific information supporting this request is enclosed.

Please contact me or my staff below if you need additional information to act on this request.

John Lyons Deputy Secretary, Energy and Environment Cabinet John.Lyons@ky.gov (502) 782-2592

Michael Kennedy, Director Division for Air Quality Energy and Environment Cabinet Michael. Kennedy@ky.gov (502) 782-6997

Kenya Stump, Executive Director Office of Energy Policy Kenya.Stump@ky.gov (502) 782-7083

Because of the current supply disruptions, I would appreciate an expedited review of and response to this request. Thank you for your assistance in this matter.

Sincerely,

Andy Beshear Governor

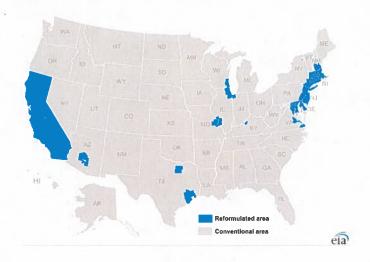
Encl.

RFG in Kentucky

June 9, 2022

Kentucky's Energy and Environment Cabinet has been contacted by API and others in the gasoline supply chain regarding a tightening of supply of RFG as a result of both international events that have resulted in supply disruptions of petroleum products generally, and transportation events that have caused delays in delivery of RFG to Louisville.

- API has already notified EPA of a 20-day waiver request for RFG in the Louisville markets.
- "API and our membership believe there is an extreme and unusual fuel supply situation in the Louisville, KY area and we request EPA issue a 20-day waiver of the RFG requirements in Jefferson, Bullitt, and Oldham counties. The situation is the result of local refinery issues exacerbated by river lock maintenance issues affecting the area and meets the criteria set forth in Clean Air Act Section 211(c)(4)(C). API is also reaching out to Kentucky officials advocating for the state to make a request to EPA for a waiver of the Louisville area RFG requirements."



April 29, 2022, EPA issued Emergency Fuel Waiver for E15 Sales. EPA's emergency fuel waiver will go into effect on May 1 when terminal operators would otherwise no longer be able to sell E15 in the effected regions of the country and will last for the statutory maximum of 20 days. https://www.epa.gov/newsreleases/epa-issues-emergency-fuel-waiver-e15-sales

On May 19, 2022, EPA extended the Emergency Fuel Waiver for E15 Sales. The waiver begins on May 21, 2022 and lasts through June 10, 2022.

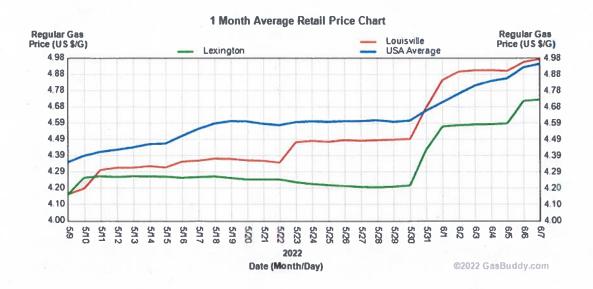
On May 27, 2022, the Federal Motor Carrier Safety Administration (FMCSA) issued a declaration extending and amending the modified Emergency Declaration No. 2020-002. The extension and amendment of the modified Emergency Declaration continues the exemption granted from certain requirements in 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations (FMCSRs) for the 50 States and the District of Columbia. The Emergency Declaration includes the transportation of fuel including gasoline, diesel, jet fuel, ethyl alcohol, and heating fuel including propane, natural gas, and heating oil.

Below illustrates weekly RFG prices by region. Kentucky is located in PADD2 region. For the week of 5/30/22, PADD 2 has trended higher than the national average.

Weekly Retail Gasoline and Diesel Prices

(Dollars per Gallon, Including Taxes)

Download Series History Definitions, Sources & Notes								
Show Data By: O Product Area	Graph Clear	05/02/22	05/09/22	05/16/22	05/23/22	05/30/22	06/06/22	View History
U.S.	* •	4.512	4.695	4.862	4.994	5.027	5.256	1994-2022
East Coast (PADD1)	+- [4.195	4.424	4.590	4.707	4.706	4.900	1994-2022
New England (PADD 1A)	- [4.171	4.372	4.599	4.695	4.710	4.941	1994-2022
Central Atlantic (PADD 18)	\$	4.229	4.487	4.647	4.769	4.761	4.897	1994-2022
Lower Atlantic (PADD 1C)		4.098	4.274	4.295	4.448	4.435	4.801	1994-2022
Midwest (PADD 2)	~ □	4.299	4.497	4.741	4.905	5.049	5.345	1994-2022
Gulf Coast (PADD 3)	← □	3.882	3.991	4.151	4.284	4.215	4.610	1994-2022
West Coast (PADD 5)	 0	5.377	5.503	5.642	5.781	5.863	6.052	1994-2022
West Coast less California	• □	4.554	4.663	4.800	5.096	5,136	5.356	1998-2022
States								
California	+ [5.526	5.654	5.793	5.904	5,993	6,178	1995-2022
Massachusetts	-	4.190	4.397	4.647	4.711	4.724	4.977	2003-2022
New York	-	4.228	4.503	4.774	4.843	4.867	4.807	2000-2022
Texas	** -	3.882	3.991	4.151	4.284	4.215	4.610	2000-2022
Cities								
Boston	4 [4.213	4.413	4.661	4.749	4.769	5.005	2003-2022
Chicago	-	4.467	4.672	4.929	5.133	5.264	5.579	2000-2022
Houston	 -	3.795	3.992	4.139	4.226	4.212	4.571	2000-2022
Los Angeles	- -	5.545	5.634	5.765	5.857	5.942	6.134	2000-2022
New York City	• -	4.199	4.462	4.684	4.799	4.810	4.879	2000-2022
San Francisco	• □	5.557	5,770	5.921	6.042	6.155	6.335	2000-2022



As is noted above, API cited issues with barge traffic transporting product to the Louisville terminal. According to American Commercial Barge Lines, from 5/1 through 6/29, the main chamber at Greenup Lock was planned to be closed for repairs. Auxiliary chamber will be available but delays have been expected to transit and fleet shifting in the area during this closure. According to the American Commercial Barge Lines website accessed on 6/7/2022, the barge traffic is "Currently seeing 20+ hrs delay" at Greenup.

Greenup Lock is on the path from Marathon's Catlettsburg Refinery to the Louisville area. The Louisville area is supplied both via the Robinson Pipeline from Marathon's Robinson refinery in Illinois and via barge from Marathon Catlettsburg.

Compounding the global supply and geopolitical situation, and according to reports from petroleum stakeholders, a terminal congestion issue is further evolving. The pipeline to the terminal is fully subscribed and at least on supplier has reported to us that offloading from the pipeline can't be done simultaneously with barge offloading to the terminals. According to reports, non-contracted customers and exchange agreement customers of Marathon are experiencing more of a "just-in-time" supply situation and some are not able to re-supply their safety stocks which could present a fuel security issue at the terminals.