

INTRODUCTION TO FEDERAL FUEL WAIVERS

The EPA, working with the Department of Energy, responds quickly to emergency fuel supply disruptions by using our authority under the Clean Air Act to waive certain fuel standards for affected areas. These temporary waivers are issued to help ensure that an adequate supply of fuel is available.

EMERGENCY FUEL WAIVERS INFORMATION AND FREQUENTLY ASKED QUESTIONS

1. **What is a fuel waiver?**

A fuel waiver is a temporary waiver of certain controls or prohibitions on the use of a fuel or a fuel additive. In the event of a fuel supply emergency, the EPA Administrator, with the concurrence of the Department of Energy, may temporarily waive a Federal fuel or fuel additive requirement if doing so will alleviate the fuel supply emergency and is in the public interest.

Clean Air Act Section 211(c)(4)(C), which authorizes fuel waivers, specifies the criteria for granting a waiver and the conditions that must be included in the waiver.

2. **Who can issue a fuel waiver?**

The EPA Administrator, with the concurrence of the Department of Energy, is authorized to issue a fuel waiver under Clean Air Act Section 211(c)(4)(C).

3. **When can a fuel waiver be issued?**

A fuel waiver can be issued only when the criteria specified in the Clean Air Act have been met. In general, a waiver may only address a temporary emergency fuel supply shortage that exists throughout a state or region that was caused by an unusual situation that prevents the distribution of an adequate supply of the fuel or fuel additive; examples include an Act of God, natural disasters, or equipment failure. Events that may have been foreseen or prevented do not qualify. "Spot outages" or localized shortages generally do not qualify as fuel supply disruptions for which a waiver may be issued.

A fuel supply disruption that meets the criteria for a waiver must be one that results in a generalized fuel supply emergency. Fuel waivers cannot be issued to address concerns regarding the price of fuel. The specific requirements for a waiver are set forth in the answer to question 11, below.

4. **What fuel requirements may be affected by a waiver, and how does a waiver help in the event of a fuel shortage?**

The EPA has promulgated various requirements for motor vehicle and on-road equipment fuel under the Clean Air Act, which apply to both gasoline and diesel fuel. However, many of these requirements apply only during part of the year or to only certain geographic areas. If the fuel waiver criteria have been met, the EPA may grant a waiver to allow use of a fuel that normally is not allowed in a particular time period or geographic area.

For example, the volatility of gasoline is controlled each year during the high ozone season of June 1st through September 15th. In addition, the gasoline used in certain urban areas is subject to volatility standards that are more stringent than in surrounding rural areas. A waiver may allow use of higher volatility gasoline in an urban area to address a qualifying shortage. Similarly, a waiver of the summer volatility requirements could allow winter-grade gasoline to be used during the summer high-ozone season.

Gasoline volatility standards are necessary to control the emissions of volatile organic compounds (VOC), which contributes to ozone pollution. Therefore, waivers that allow use of gasoline with higher volatility may result in increased VOC emissions.

For this reason, the Clean Air Act provides strict criteria for when a fuel waiver may be granted and requires that waivers be limited as much as possible in terms of their geographic scope and duration.

5. **Can a state grant a waiver of a state implementation plan fuels program without EPA involvement?**

No. State fuels programs that are part of a state implementation plan are federally enforceable, but the requirements are not waived unless waivers are issued by both the EPA and the state.

6. **Who can request a fuel waiver?**

The EPA works closely with officials of the state affected by a potential fuel supply emergency. A formal request for a fuel waiver is made by, or on behalf of, the Governor of an affected state. A formal request for a waiver is preceded by consultation between the state and the EPA.

7. **How should the EPA be contacted to discuss a possible fuel supply issue?**

During normal business hours (Monday through Friday, 8 am to 5 pm Eastern Time) the first point of contact for obtaining information about a fuel waiver request is the EPA Air Enforcement Division, at **202-564-2260**, or the EPA Office of Transportation and Air Quality Fuels Support Line, at **202-343-9755**.

Outside of normal business hours, the point of contact is the EPA Emergency Operations Center, at **202-564-3850**, which is able to communicate with the EPA officials who provide assistance regarding fuel waiver requests.

8. **When should the EPA be contacted to discuss a possible fuel supply issue?**

The EPA should be contacted as soon as it appears that there may be a fuel supply shortage. Early notification will allow the EPA to provide guidance to an affected state regarding a possible fuel waiver request, and to begin, in coordination with the Department of Energy, an assessment of the fuel supply.

9. **What is the procedure for formally requesting a fuel waiver?**

A formal written request for a fuel waiver should be made by or on behalf of the Governor of an affected state or territory, and should be directed to the EPA Administrator. The request should describe how the fuel waiver criteria specified in the Clean Air Act have been met. In particular, the waiver request should contain all relevant information including the following:

- A. The nature of the Act of God or other event that caused the shortage;
- B. An explanation of why the shortage was not foreseeable and could not have been prevented by prudent planning on the part of the suppliers of the fuel or fuel additive;
- C. The type of fuel or fuel additive for which a shortage exists;
- D. The geographic area that is affected;

- E. The effect of the shortage on fuel supplies, such as the number of gasoline stations that are, or are expected to be, out of fuel;
- F. The expected duration of the shortage; and
- G. The specific nature of the waiver being requested, including the duration, the geographical area, and the alternative fuel that would be allowed.

10. **Where should written fuel waiver requests be submitted?**

Written fuel waiver requests should be addressed to:

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

A copy of the request should be sent to:

Assistant Administrator for Enforcement and Compliance Assurance
Mail Code 2201A, Room AR 3204
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

11. **What are the legal criteria and conditions for fuel waivers?**

The criteria and conditions for fuel waivers are specified in Clean Air Act Section 211(c)(4)(C):

- (ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive ... if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that:
 - (I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;
 - (II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and
 - (III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).
- (iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if:
 - (I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

- (II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;
- (III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator (but which shall be for the shortest practicable period), after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;
- (IV) the waiver applies to all persons in the motor fuel distribution system; and
- (V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver.

For examples of prior federal emergency fuel waivers, please see:

<https://www.epa.gov/enforcement/fuel-waivers>