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Via electronic mail

February 25, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Zeldin:

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), I write to express our views on how EPA should address Reid vapor pressure (RVP) requirements for E10 in the so-called “opt-out” states and for E15 elsewhere during the upcoming summer driving season.

RVP Opt-Out States

In 2022, eight governors petitioned EPA to remove the 1-pound RVP waiver Congress authorized for summer gasoline containing 10 percent ethanol (E10).¹ At the time, AFPM and many others expressed concern that these “opt-outs” would force an unnecessary and costly boutique fuel into the Midwest market at the expense of consumers.² EPA nonetheless granted the waiver and set a compliance deadline of April 28, 2025.

In November 2024, AFPM requested that EPA extend the deadline by one year to allow the fuel distribution system additional time to prepare for the transition to lower-RVP gasoline and to reduce the risk of supply disruptions.³ The opt-out states and ethanol interests opposed the request, and EPA effectively denied the petition in February 2025.⁴ Although EPA provided states with ample opportunity to seek a delay, only Ohio and a portion of South Dakota chose to do so.⁵

¹ The original eight petitioning states were: Illinois, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin. Ohio and Missouri filed their own opt-out petitions later. North Dakota and Kansas subsequently withdrew their petitions. 89 Fed. Reg. 14760, 14761 (Feb. 29, 2024).

² While public messaging surrounding these actions suggested expanded access to E15, the practical effect was a change in the gasoline specification for E10, which accounts for the overwhelming majority of gasoline sold in these states.

³ AFPM Petition to Delay the Effective Date to Implement a Request from States for Removal of Gasoline Volatility Waiver (Nov. 7, 2024).

⁴ <https://www.epa.gov/newsreleases/ahead-summer-driving-season-epa-allows-expanded-e15-access-midwest-states-year-round>.

⁵ Extension of Effective Date for Removal of Gasoline Volatility Waiver for Ohio and Nine Counties in South Dakota 90 Fed. Reg. 13093 (Mar. 20, 2025).



As a result, and despite our concerns, AFPM's refining and midstream members made significant financial investments to produce and ensure the availability of lower-RVP summer fuel by the compliance deadline. Nevertheless, on April 28, 2025, just three days before the summer season, EPA abruptly reversed course and granted emergency waivers to the opt-out states, temporarily re-establishing the 1-pound waiver for E10⁶ — something the states had opposed just weeks before. This last-minute waiver instantly eliminated the market for lower-RVP summer gasoline, which had already been introduced to the market for six weeks, thereby preventing refiners and distributors from recouping millions of dollars in fuel production and delivery costs.

Fuel suppliers should not be put in the same situation again this year. The opt-out states must decide now whether they want lower-RVP summer gasoline. If they do, the market is prepared to produce and deliver it. If the opt-out states are concerned about added costs for consumers and want to reverse course, they should follow Ohio's lead and seek immediate reinstatement of the 1-pound waiver.⁷ This decision needs to be made before the transition period begins, and certainly before April 1, so fuel suppliers can avoid making further unnecessary investments.⁸

We urge EPA not to allow its emergency waiver authority to be used by the opt-out states to shield themselves from the foreseeable consequences of their policy decisions. Energy Information Administration (EIA) data show that total motor gasoline stocks in PADD 2, the opt-out states area, are at their highest level in five years.⁹ Therefore, absent an unforeseen event, there will be no basis for claiming any fuel supply concerns to justify an emergency waiver again this year.¹⁰

E15 Waivers

We similarly urge EPA to use its emergency waiver authority judiciously with respect to E15. The Clean Air Act authorizes waivers when “[un]foreseen” events lead to “extreme and unusual fuel ... circumstances.” Waivers must be “temporary” and apply to the “smallest geographic area necessary to address the extreme and unusual fuel ... supply circumstances.”¹¹

EPA has used its emergency authority to allow E15 nationwide, rolling one-pound waivers throughout the summer driving season for each of the last four years. These waivers have largely nullified Clean Air Act section 211(h)(4), which unambiguously limits the 1-pound RVP waiver to E10.¹²

⁶ <https://www.epa.gov/system/files/documents/2025-04/e15-rvp-fuel-waiver-2025-0428.pdf>.

⁷ See Letter from Governor DeWine to Administrator Zeldin requesting reinstatement of the one-pound RVP waiver (Oct. 31, 2025), available at <https://www.epa.gov/system/files/documents/2026-01/e15-oh-ltr-to-epa-2025-10-25.pdf>.

⁸ Refineries and the broader fuel distribution system require considerable time—weeks at least—to change product characteristics.

⁹ See EIA, Weekly Petroleum Status Report (Feb. 25, 2026), available at <https://www.eia.gov/petroleum/supply/weekly/pdf/wpsrall.pdf>.

¹⁰ According to EPA, gasoline supply begins to be a concern when “gasoline inventories drop below the 5-year minimum for any particular PADD.” 89 Fed. Reg. 14770 fn 64 (Feb. 29, 2024).

¹¹ 42 U.S.C. § 7545(c)(4)(C)(ii).

¹² See *Am. Fuel & Petrochemical Mfrs. v. EPA*, 3 F.4th 373 (2021)



EIA data indicate that domestic gasoline supplies are robust. Currently, gasoline stocks exceed the five-year average nationwide and are at or near the top of the five-year average in four of the five individual PADDs.¹³ U.S. refineries are producing more gasoline (9.2 mmbd) than the country consumes (8.5 mmbd), allowing inventories to build.¹⁴

We ask that EPA consider this data when evaluating whether to grant waivers again this summer.

Sincerely,

Chet Thompson
President and CEO
American Fuel & Petrochemical Manufacturers

cc: Aaron Szabo, EPA Assistant Administrator, Office of Air and Radiation

¹³ See EIA, Weekly Petroleum Status Report (Feb. 25, 2026), available at <https://www.eia.gov/petroleum/supply/weekly/pdf/wpsrall.pdf>. All PADDs, including PADD 5, are within the five-year range.

¹⁴ *Id.*