Regulatory Guidance 20-18

Issued April 16, 2020

Attention: Retail stations selling gasoline and gasoline ethanol blends, bulk fuel plants, refineries, terminals and fuel consumers

Re: Temporary Gasoline Volatility Requirement

Waiver Date: April 16, 2020

Authority.

On March 13, 2020, Governor Tim Walz signed Executive Order 20-01, declaring a peacetime emergency related to COVID-19.


On March 28, 2020, Governor Tim Walz signed House File 4531, authorizing Commissioner of Commerce Steve Kelley (“Commissioner”) to delay, stay, or waive the following licensing, investigatory and other deadlines related to the duties and responsibilities of the Commissioner and regulated entities required to effectively continue the business of the Minnesota Department of Commerce and to assist regulated entities during the current peacetime emergency.

In light of the challenges related to the COVID-19 virus, the Commissioner of Commerce has issued an Order granting waivers and temporary extensions of certain deadlines.

Guidance.

On March 27, 2020 the U.S. Environmental Protection Agency (EPA) issued a Fuel Waiver Concerning Summer Gasoline (EPA waiver) throughout the United States. The EPA waiver provides additional flexibility for the marketplace to transition from higher volatility winter gasoline to lower volatility summer gasoline during a time of reduced demand due to COVID-19.

The EPA waiver takes effect on May 1, 2020, and allows higher volatility winter gasoline to be delivered to terminals until May 20, 2020. After May 20, 2020, higher volatility gasoline in storage at terminals, retailers, and wholesale purchaser-consumers can continue to be distributed and sold until the product is depleted.

Minn. Stat. §239.761, Subd. 3(a), Subd. 4(b)(2), and Subd. 6(c) adopts ASTM standard D4814-11b that sets seasonal volatility requirements for gasoline and oxygenated gasoline. The ASTM standard referenced in Minnesota law contains timelines for transitioning to summertime fuel. Minn. Stat. §239.761 and the timelines in the EPA waiver for fuel volatility requirements will now be misaligned on May 1. Without
state action, fuel suppliers would need to stop selling winter gasoline in storage on May 1, creating fuel storage and supply concerns that could lead to possible gasoline shortages.

To align state and federal requirements, avoid possible fuel storage and supply concerns and to provide clarity for the fuel supply chain, the Department is taking action to extend the deadlines in Minnesota law to align the state’s fuel volatility timelines with the EPA waiver.

To ensure an equitable Minnesota, the Commissioner of Commerce has issued the following waiver:

- Until May 20, 2020, gasoline and oxygenated gasolines of ASTM D4814-11b volatility classes E-5 thru A-3 are acceptable for delivery to terminals. Gasoline and oxygenated gasoline that meets the conditions of this waiver and that is stored at terminals, retailers, or wholesale purchaser-consumers, may continue to be sold and distributed after May 20, 2020, until the supply is depleted.

- This waiver is being implemented throughout the state in conjunction with the U.S. EPA nationwide summertime fuel waiver issued on March 27, 2020, available here: https://www.epa.gov/sites/production/files/2020-03/documents/nationwidefuelwaiverconcerningsummergasoline.pdf

Questions.

If you have questions, please contact Commerce Weights & Measures Director Greg VanderPlaats at greg.vanderplaats@state.mn.us. Commerce staff are responding as soon as possible to written inquiries from all regulated industries.

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