



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 12 2001

THE ADMINISTRATOR

The Honorable Gray Davis
Governor
State of California
Sacramento, California 95814

Dear Governor Davis:

On April 12, 1999, the State of California requested a waiver from the oxygen content requirement of the federal reformulated gasoline (RFG) program. As you know, the RFG program and the oxygen content requirement were created by the 1990 Amendments to the federal Clean Air Act. Because of the legal constraints imposed by the Clean Air Act, I cannot grant California's waiver request.

Under the Clean Air Act, the Environmental Protection Agency (EPA) is authorized to waive the oxygen content requirement only if there is clear evidence that the requirement will "prevent or interfere with the attainment by the area of a national primary ambient air quality standard." Your request for a waiver is based on the assertion that a waiver of the oxygen content requirement would aid in reducing ozone and particulate matter (PM) in California and, therefore, that the oxygen requirement interferes with California's attainment of the national ambient air quality standards (NAAQS) for ozone and PM.

Given the complexity of the issues involved, we have carefully reviewed all the information and analysis submitted by California. We have also performed our own comprehensive analysis to evaluate the possible emissions effects of a waiver. Based on our review of California's submission and our own analysis, we believe that a waiver of the oxygen requirement would likely result in a decrease in emissions of oxides of nitrogen (NOx), but an increase in emissions of carbon monoxide (CO). Our analysis also shows that there is significant uncertainty about whether emissions of volatile organic compounds (VOCs) would increase or decrease if a waiver is granted. Both VOC emissions and, to a lesser extent, CO emissions contribute to ozone formation in California. A more detailed description of this analysis is provided in the enclosure.

California's own analysis shows that, even without the oxygen requirement, fuels used in California will contain a significant amount of ethanol. When ethanol blends are added to non-ethanol containing gasoline in vehicle fuel tanks, the overall volatility of the fuel in the tank can increase significantly. The increase in volatility from this "commingling effect" raises substantial uncertainty about whether a waiver of the oxygen requirement would increase or

decrease VOC emissions. Because of this uncertainty and the expected increase in CO, it is not clear whether the waiver sought by California will actually help to reduce ozone levels. Thus, the State has not met its burden of showing that the oxygen requirement interferes with its attainment of the NAAQS.

I understand that your waiver request is based in part on concerns about contamination of drinking water supplies with methyl tertiary butyl ether (MTBE), which is widely used to meet the oxygenate requirement. The Bush Administration is very concerned about MTBE contamination in drinking water and groundwater. Clean air and clean water are equally important to us, and we do not want to pursue one at the expense of the other. As noted above, however, the legal requirements of the Clean Air Act limit EPA's ability to address these concerns. As I have indicated in the past, we are committed to working with Congress to develop legislation that addresses concerns about MTBE, while maintaining the air quality and other benefits of the RFG program.

We would be glad to work with you and your staff if you have any questions about this decision or seek further guidance from the Agency on these issues.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Christine Todd Whitman", with a long horizontal flourish extending to the right.

Christine Todd Whitman

Enclosure