



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

SEP 18 2008

THE ADMINISTRATOR

The Honorable Martin O'Malley
Governor
State of Maryland
100 State Circle
Annapolis, Maryland 21401

The Honorable Tim Kaine
Governor
Commonwealth of Virginia
1111 East Broad Street
Richmond, Virginia 23219

The Honorable Adrian M. Fenty
Mayor
District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: September 2008 Fuel Waiver Concerning Reformulated Gasoline in Maryland, Virginia and the District of Columbia

Dear Governors O'Malley and Kaine, and Mayor Fenty:

As the result of the effects on the supply and distribution of fuel caused by Hurricanes Gustav and Ike, on September 12, 2008, I issued a waiver of certain federal gasoline requirements applicable to the Commonwealth of Virginia. The continuing effects of these storms on the Gulf area fuel production and distribution system, in particular the numerous refinery shutdowns caused by Hurricane Ike, have resulted in additional disruptions to the refineries and pipelines serving the State of Maryland, the Commonwealth of Virginia and the District of Columbia. I have received requests from you, or on your behalf, for a waiver under the Clean Air Act (CAA) to address this continuing fuel supply emergency. In response to those requests, EPA has determined, and the United States Department of Energy (DOE) concurs, that it is necessary to take action to minimize or prevent disruption of an adequate supply of gasoline in Maryland, Virginia and the District of Columbia. By this letter, I am granting a waiver of certain federal gasoline requirements, as described below.

EPA, in consultation with DOE, has been evaluating the impact of supplies of reformulated gasoline (RFG) to Maryland, Virginia and the District of Columbia as the result of disruptions caused by Hurricanes Gustav and Ike. Widespread power outages affecting pipelines, as well as refinery disruptions in the Gulf area following the recent hurricanes have combined to constrain supplies of RFG to Maryland, Virginia and the District of Columbia. In addition, over a dozen Gulf area refineries shut down or curtailed operations in advance of the landfall of Hurricane Ike, which caused further

disruptions or temporary shutdowns in Gulf area supply pipelines. Until power in the Gulf area is restored and the affected refineries fully come back on-line, which is currently expected to take a week to ten days, the amount of available RFG will not be sufficient to supply Maryland, Virginia and the District of Columbia. As a result of these continuing impacts of Hurricanes Gustav and Ike, EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent an inadequate supply of gasoline to Maryland, Virginia and the District of Columbia.

I have determined that an “extreme and unusual fuel supply circumstance” exists that will prevent the distribution of an adequate supply of RFG to consumers in Maryland, Virginia and the District of Columbia. 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 Hurricanes Gustav and Ike, natural disasters that could not reasonably have been foreseen or prevented, and is not attributable to a lack of prudent planning on the part of suppliers of the fuel to this area. CAA § 211(c)(4)(C)(ii)(II), 42 U.S.C. § 7545(c)(4)(C)(ii)(II). Furthermore, I have determined 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) and (iii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(III) and (iii)(I).

Therefore, to minimize or prevent disruptions with the supply of gasoline, I am today issuing this waiver of the RFG requirements in Maryland, Virginia and the District of Columbia. Under this waiver, EPA will allow regulated parties to sell conventional gasoline (CG) in Maryland, Virginia and the District of Columbia, as provided below. This waiver is effective immediately and will continue through 11:59 p.m. on October 7, 2008. Retail outlets and wholesale purchaser-consumers that receive CG under this waiver may continue selling or dispensing this fuel after October 7th, until their supplies are depleted.

EPA and DOE will continue to monitor the fuel supply situation in Maryland, Virginia and the District of Columbia. We at EPA recognize the benefits of the RFG requirement in these areas. Therefore, to the extent practicable and as supplies are available, regulated parties should supply gasoline that meets the RFG requirement prior to distributing or using CG under this waiver.

District of Columbia. This waiver is effective in all of the District of Columbia.

Maryland. This waiver is effective in the following counties: Anne Arundel, Baltimore (City and County), Calvert, Carroll, Charles, Cecil, Frederick, Harford, Howard, Kent, Montgomery, Prince George’s and Queen Anne’s (the “RFG Covered Areas in Maryland”).

Virginia. On September 12, 2008, I waived RFG requirements in the “RFG Covered Areas in Virginia,” effective through 11:59 p.m. on September 26, 2008.¹ In

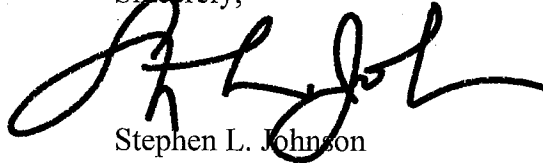
¹ The “RFG Covered Areas in Virginia” are: Alexandria; Arlington County; Fairfax; Fairfax County; Falls Church; Loudoun County; Manassas; Manassas Park; Prince William County; Stafford County; Charles

Virginia, this waiver is effective beginning September 27, 2008.

After October 7, 2008, refiners and importers may not produce or import gasoline that does not meet RFG standards for distribution to the RFG Covered Areas in Maryland, Virginia and the District of Columbia. However, any CG for use in these areas that is in the distribution system on October 7, 2008, may be distributed and sold until the supply is depleted. CG that is in the possession of parties other than retailers and wholesale purchaser-consumers must meet RFG requirements by no later than October 28, 2008. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG until their supplies are depleted.

EPA will continue to work with DOE and state and local officials to monitor the impact of Hurricanes Gustav and Ike on the fuel supply situation in Maryland, Virginia and the District of Columbia. If you have questions you may call me, or your staff may call Adam M. Kushner at (202) 564-2260.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. L. Johnson', written over the typed name.

Stephen L. Johnson

cc: The Honorable Samuel W. Bodman
Secretary of Energy

City County; Chesterfield County; Colonial Heights; Hanover County; Henrico County; Hopewell; Richmond; Chesapeake; Hampton; James City County; Newport News; Norfolk; Poquoson; Portsmouth; Suffolk; Virginia Beach; Williamsburg; and York County. See 40 C.F.R. § 80.70(j)(13).