



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

SEP 22 2005

THE ADMINISTRATOR

Gov. Mark Warner
Office of the Governor
State Capitol
Richmond, VA 23219

Re: Third Emergency Fuel Waiver Concerning RFG in Richmond, Virginia
RFG Requirements

Dear Governor:

On September 9, 2005, pursuant to Section 211(c)(4)(C) of the Clean Air Act (CAA), I issued a second waiver of the reformulated gasoline (RFG) requirements in the Richmond, Virginia covered area. The Richmond covered area consists of the following Virginia counties: Charles City, Chesterfield, Hanover and Henrico; and the following Virginia cities: Hopewell, Colonial Heights and Richmond. 40 C.F.R. Pt. 80, subpt. D. The September 9, 2005 waiver, which expires at midnight on September 23, 2005, was issued because of RFG shortages in Richmond that resulted from Hurricane Katrina. The Virginia Department of Mines, Minerals and Energy now expects the RFG shortages in the Richmond area resulting from Hurricanes Katrina and Rita to continue after September 23, 2005, and has requested that EPA issue an additional waiver of the RFG gasoline standards.

EPA, in consultation with the Department of Energy, continues to evaluate the prospect of gasoline supply problems being experienced in the Richmond area as a result of Hurricanes Katrina and Rita. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" will continue to exist after September 23, 2005, that prevents the distribution of an adequate supply of RFG to consumers in the Richmond covered area. CAA § 211(c)(4)(C). This fuel circumstance is the result of Hurricanes Katrina and Rita, 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 the suppliers of RFG to this affected area. Id. 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.

We recognize the environmental benefits of the RFG program. However, to minimize or prevent problems with the supply of gasoline, I am today issuing this third waiver of the RFG requirements for the Richmond covered area until midnight on September 30, 2005. Thus, EPA will allow regulated parties to distribute and sell conventional gasoline (CG) in the Richmond

covered area. After September 30, 2005, regulated parties may not introduce CG into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the Richmond covered area. However, no later than November 1, 2005, the gasoline dispensed from such terminal tanks for distribution and sale in the Richmond covered area must meet all RFG standards. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG in the Richmond covered area until their supplies are depleted.

To the extent practicable and consistent with supplying market demands for gasoline (i.e., where tankage is available), regulated parties should take steps to segregate and supply gasoline that meets the RFG regulations. In addition, refiners and importers that provide CG to the Richmond covered area pursuant to this waiver should exclude the waiver gasoline from their annual average compliance calculations under 40 C.F.R. § 80.67.

If you have questions please call me, or your staff may call Adam M. Kushner at 202-564-2260.

Sincerely,



Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy