



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

THE ADMINISTRATOR

The Honorable Tim Kaine  
Governor  
Commonwealth of Virginia  
Patrick Henry Building, 3rd Floor  
1111 East Broad Street  
Richmond, Virginia 23219

SEP 12 2008

Re: September 2008 Fuel Waiver Concerning the State of Virginia

Dear Governor Kaine:

This is in response to the September 12, 2008 request made on behalf of the Commonwealth of Virginia by David K. Paylor, Director of the Virginia Department of Environmental Quality, that the U.S. Environmental Protection Agency waive certain federal requirements for gasoline under the Clean Air Act (CAA), as the result of the disruption in the supply of fuel caused by Hurricanes Gustav and Ike. As you know, regulations promulgated under the Clean Air Act require gasoline sold in certain areas<sup>1</sup> of Virginia to meet Reformulated Gasoline (RFG) requirements (the "Covered Areas"). EPA has determined, and the Department of Energy (DOE) concurs, that it is necessary to take action to minimize or prevent disruption of Virginia's fuel supply. By this letter, I am granting a waiver of the RFG requirements in Virginia, as provided below.

EPA, in consultation with DOE, has been evaluating the impact of fuel supplies to Virginia as the result of disruptions caused by Hurricanes Gustav and Ike. Widespread power outages and refinery disruptions in the Gulf area following Hurricane Gustav have resulted in the slowdown of deliveries to the fuel pipelines serving the area, constraining supplies of RFG to the Covered Areas since that time, and supplies of RFG have not yet returned to pre-hurricane levels in Virginia. In addition, several Gulf area refineries have since shut down or curtailed operations in advance of the landfall of Hurricane Ike, which has caused disruptions in pipelines serving Virginia, one of which has temporarily shut down. As a result of the curtailment in the delivery of gasoline supplies through these pipelines to Virginia, EPA has determined that by early next week the amount of gasoline meeting RFG requirements will not be sufficient to supply RFG to the Covered Areas.

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<sup>1</sup> 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 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).

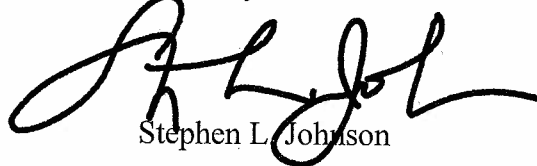
I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of RFG to consumers in the Covered Areas in Virginia. CAA § 211(c)(4)(C)(ii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(I). This extreme and unusual fuel circumstance is the 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 problems with the supply of gasoline, I am today issuing this waiver of the RFG requirements in Covered Areas in Virginia. Under this waiver, EPA will allow regulated parties to sell conventional gasoline (CG) in the Covered Areas. This waiver is effective immediately and will continue through 11:59 p.m. on September 26, 2008. Retail outlets and wholesale purchaser-consumers that receive CG under this waiver may continue selling or dispensing this fuel after September 26<sup>th</sup>, until their supplies are depleted.

EPA and DOE will continue to monitor the fuel supply situation in Virginia. We at EPA recognize the benefits of the RFG requirement in the Covered Areas in Virginia. 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.

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

Sincerely,



Stephen L. Johnson

cc: The Honorable Samuel W. Bodman  
Secretary of Energy