



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KENTUCKY 40601

September 18, 2008

TO: ALL KENTUCKY PETROLEUM MARKETERS

Re: EPA Reformulated Gasoline Waiver and Kentucky Price Gouging Statute, KRS 367.372, et seq.

As a result of a perceived shortage of the availability of reformulated gasoline for wholesale purchase, the USEPA was requested and agreed to allow Kentucky marketers to offer conventional gasoline for purchase, however the EPA stated: "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."

Requested clarification of this phrase was provided by the EPA this afternoon which provides that: "if RFG is available to contract or spot customers, these parties should acquire and offer RFG for sale. If, either due to allocation or unavailability, RFG cannot be acquired by a regulated party, then the waiver authorizes that party to acquire and offer CG for sale."

Concerns have been expressed to this office about possible sale of conventional gasoline at prices normally charged for more expensive RFG gasoline. The Attorney General's Office wants to caution marketers that the price gouging statute implemented by the Governor's September 12 declaration prohibits sales of gasoline at "a price which is grossly in excess of the price prior to the emergency declaration and unrelated to any increased cost to the seller." Because conventional gasoline may sell for a lower wholesale price than reformulated gasoline, marketers may obtain higher margins than existed prior to the declaration if they do not adjust their prices to reflect the lower wholesale cost of conventional gasoline. Marketers are cautioned that during the time of emergency any gross increase in price and/or margins could violate Kentucky's price gouging law.

The Attorney General is committed to full and vigorous enforcement of this law and appreciates your immediate attention to this important matter.

Sincerely,
JACK CONWAY
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "Todd E. Leatherman".

Todd E. Leatherman, Executive Director
Office of Consumer Protection

