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

SEP 17 2008

THE ADMINISTRATOR

The Honorable Steven L. Beshear
Governor
Commonwealth of Kentucky
700 Capitol Avenue
Frankfort, Kentucky 40601

Re: September 2008 Fuel Waiver Concerning Reformulated Gasoline in Kentucky

Dear Governor Beshear:

This is in response to your September 15, 2008, request 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 that gasoline sold in certain areas of Kentucky (the "Covered Areas")[1] meet reformulated gasoline (RFG) requirements. EPA has determined, and the Department of Energy (DOE) concurs, that it is necessary to take action to minimize or prevent disruption of Kentucky's fuel supply. By this letter, I am granting a waiver of the RFG requirements in Kentucky, as provided below.

EPA, in consultation with DOE, has been evaluating the impact of supplies of RFG as the result of disruptions caused by Hurricanes Gustav and Ike. Widespread power outages, refinery shutdowns, and pipeline disruptions in the Gulf area following the recent hurricanes, as well as power outages affecting terminals that provide RFG in the Kentucky area following Hurricane Ike, have combined to constrain the timely delivery of RFG to the Covered Areas in Kentucky. Until power in the Gulf area is restored and the affected pipelines and refineries fully come back on-line, which is currently expected to take a week to ten days and new supplies of RFG can be delivered to the Covered Areas, the amount of RFG provided to Kentucky will not be sufficient to meet current and projected demands. 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 the RFG Covered Areas in Kentucky.

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[1] The RFG "Covered Areas" in Kentucky are: Boone, Campbell, Jefferson, Kenton, and those parts of Bullitt and Oldham Counties where RFG is required. For more information on the boundaries in Bullitt and Oldham Counties where RFG is required, *see* 40 C.F.R. § 80.71(j)(4)(i) (Bullitt County) and 40 C.F.R. § 80.71(j)(4)(ii) (Oldham County).

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 Kentucky. 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 the Covered Areas in Kentucky. Under this waiver, EPA will allow regulated parties to sell conventional gasoline (CG) in the Covered Areas in Kentucky, as provided below. This waiver is effective immediately and will continue through 11:59 p.m. on September 30, 2008.

EPA and DOE will continue to monitor the fuel supply situation in Kentucky. EPA recognizes the benefits of the RFG requirement in the Covered Areas in Kentucky. 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.

After September 30, 2008, refiners and importers may not produce or import gasoline that does not meet RFG standards for distribution to the RFG Covered Areas in Kentucky. However, any CG for use in Kentucky that is in the distribution system on September 30, 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 21, 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 affected areas to monitor the impact of Hurricanes Gustav and Ike on the fuel supply situation in Kentucky. If you have 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