



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

SEP 23 2008

THE ADMINISTRATOR

The Honorable Sonny Perdue
Governor
State of Georgia
203 State Capitol
Atlanta, Georgia 30334

Re: September 2008 Fuel Waiver Concerning State Gasoline
Sulfur Requirements in the Atlanta, Georgia Area

Dear Governor Perdue:

This is in response to your September 22, 2008 letter to Administrator Johnson requesting that the U.S. Environmental Protection Agency waive the gasoline sulfur averaging and certain importer testing, reporting and recordkeeping requirements of Georgia's federally-approved state implementation plan (SIP) that covers the 45-county Atlanta-area market.¹ See 67 Fed. Reg. 8200. The State of Georgia has exercised its enforcement discretion to allow the importation, distribution and sale of gasoline that does not meet the sulfur averaging requirements and of certain importer testing, reporting and recordkeeping requirements of Georgia's federally-enforceable SIP, and has requested that EPA waive these SIP requirements through October 12, 2008. In response to this request, 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 Georgia. By this letter, I am granting a waiver of Georgia's federally-enforceable gasoline sulfur averaging requirements, as described below.

EPA, in consultation with DOE, has been evaluating the impact of supplies of gasoline to Georgia as the result of disruptions and damage caused by Hurricanes Gustav and Ike to Gulf-area refineries and pipelines. Over a dozen refineries were affected by these tropical storms, which shut down or curtailed operations, and the area's refining capacity has yet to fully recover. While power has been restored to much of the area and a number of the affected refineries have re-started or are in the process of re-starting, several more are still not operating due to damage sustained during Hurricane Ike. As a result, the amount of finished fuel products entering the pipelines is not yet back to pre-

¹ The 45-county Atlanta-area market is comprised of the following counties: Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Paulding, Pickens, Pike, Polk, Putnam, Rockdale, Spalding, Troup, Upson and Walton.

hurricane levels. The overall diminution in supplies of gasoline in the areas served by these refineries is producing more acute shortages in the 45-county Atlanta area as the result of limitations in the amount of fuel meeting Georgia's more stringent gasoline sulfur averaging requirements. Consequently, there is not an adequate supply of fuel meeting the requirements of Georgia's SIP for the 45-county Atlanta area. 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 Georgia.

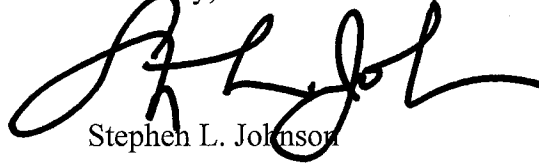
I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of gasoline to consumers in Georgia. CAA § 211(c)(4)(C)(ii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(I). This extreme and unusual fuel circumstance is the result of Hurricanes 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 federally-enforceable gasoline sulfur averaging requirements in Georgia's SIP. *See* 40 C.F.R. § 52.570(c) (Georgia SIP); Ga. Comp. R. & Regs. r. 391-3-1.02(2)(bbb)(3)(iii) (Georgia Gas Marketing Rule). This waiver does not change the requirement that gasoline imported, sold or distributed in the 45-county Atlanta area market meet the federal gasoline sulfur averaging and cap requirements. *See* 40 C.F.R. Part 80, Subpart H. In addition, I am waiving the testing, reporting and recordkeeping requirements for persons who import fuel meeting the federal gasoline sulfur requirements, but who are not currently required to test, report or keep records as gasoline importers under Georgia's Gasoline Marketing Rule. *See* Ga. Comp. R. & Regs. r. 391-3-1.02(2)(bbb)(4) & (5). EPA recognizes the benefits of Atlanta's gasoline sulfur requirements. However, under these circumstances I believe that the import, sale and distribution of gasoline meeting the federal sulfur standards is in the public interest.

This waiver is effective immediately and will continue through 11:59 p.m. on October 12, 2008. After October 12th, regulated parties (including pipelines, terminals, distributors, retailers and wholesale purchaser consumers) may not introduce gasoline that does not meet the sulfur averaging requirements of Georgia's SIP to the 45-county Atlanta area market, and must otherwise comply with all applicable reporting, testing and recordkeeping requirements. However, retailers and wholesale purchaser-consumers that receive fuel under this waiver prior to October 13th may continue to dispense or sell this fuel after that date, until their supplies are exhausted.

EPA and DOE will continue to monitor the fuel supply situation in Georgia. 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', with a long horizontal flourish extending to the right.

Stephen L. Johnson

cc: The Honorable Samuel W. Bodman
Secretary of Energy