



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

SEP 11 2008

The Honorable Bob Riley  
Governor  
State of Alabama  
State Capitol  
600 Dexter Avenue  
Montgomery, Alabama 36130

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

The Honorable Haley Barbour  
Governor  
State of Mississippi  
P.O. Box 139  
Jackson, Mississippi 39205

The Honorable Mark Sanford  
Governor  
Office of the Governor  
P.O. Box 12267  
Columbia, SC 29211

The Honorable Rick Perry  
Governor  
State of Texas  
P.O. Box 12428  
Austin, Texas 76711

The Honorable Charlie Crist THE ADMINISTRATOR  
Governor  
State of Florida  
400 S. Monroe Street  
Tallahassee, Florida 32399-0001

The Honorable Bobby Jindal  
Governor  
State of Louisiana  
P.O. Box 94004  
Baton Rouge, Louisiana 70804

The Honorable Michael F. Easley  
Governor  
State of North Carolina  
20301 Mail Service Center  
Raleigh, North Carolina 27699

The Honorable Phil Bredesen  
Governor  
State of Tennessee  
Tennessee State Capitol  
Nashville, Tennessee 37243

Re: September 2008 Fuel Waiver Concerning the States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas

Dear Governors:

As the result of the effects on the supply and distribution of fuel caused by several tropical storms and hurricanes during August and September, I issued waivers of certain federal and state gasoline requirements in Alabama, Florida, Georgia, Louisiana, North Carolina,

Tennessee and Texas. The continuing effects of these storms on the Gulf area fuel production and distribution system, in combination with impacts resulting from the impending landfall of Hurricane Ike, have resulted in additional disruptions to the refineries and pipelines serving your states. I have also received a requests made by some of you or on your behalf for a waiver under the Clean Air Act (CAA) to address this continuing fuel supply emergency. In response to those requests, 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 Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas. By this letter, I am granting a waiver of certain federal and state gasoline requirements, as described below.

As you know, regulations promulgated under the Clean Air Act require gasoline sold in portions of Alabama, Florida, Georgia, Texas, Louisiana, North Carolina, Tennessee and Texas to have maximum Reid Vapor Pressure (RVP) of 7.8 pounds per square inch (psi) during the "high ozone" season, through September 15, 2008, and gasoline with 9.0 psi RVP in all other areas of these states and in Mississippi and South Carolina ("summertime gasoline" requirements).<sup>1</sup> See 40 C.F.R. § 80.27 and 66 Fed. Reg. 20927 (Texas low RVP). Gasoline with a 7.0 psi RVP is required in the Birmingham, Alabama and Atlanta, Georgia areas, and gasoline sold in the Atlanta area is also required to meet additional sulfur averaging requirements, under the State Implementation Plan (SIP) for those States. See 66 Fed. Reg. 47142 (Alabama) and 67 Fed. Reg. 8200 (Georgia). Federal regulations also require that reformulated gasoline (RFG) be sold in the Houston-Galveston-Brazoria area and in the Dallas areas (the "RFG covered areas"). See 40 C.F.R. §§ 80.41, 80.70(h) and (j)(12). EPA, in consultation with DOE, has been evaluating the impact of fuel supplies to all of these states as the result of disruptions to the fuel production and distribution system serving these areas. Gulf-area pipeline shutdowns, numerous refinery shutdowns and port closures occurring in advance of Hurricane Ike's landfall are constraining already tight gasoline supplies for each of these states meeting the summer time "high ozone" RVP requirements and, where applicable, RFG requirements. Based on this evaluation, EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent disruption of the supply of gasoline to these areas.

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 Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas. 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 several tropical storms and hurricanes, 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 these areas. 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)

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<sup>1</sup> The "high ozone" season in 95 counties in eastern Texas runs through October 1, 2008.

and (iii)(I).

Therefore, to minimize or prevent disruptions with the supply of gasoline, I am today issuing this waiver of the federal and state SIP summertime gasoline requirements in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas, as well as RFG requirements in Texas, as identified below. This waiver is effective beginning immediately and will continue through the remainder of the summertime "high ozone" period through September 15, 2008 in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas, and through September 30, 2008 in eastern Texas. Under this temporary waiver, regulated parties may sell or distribute conventional gasoline (CG) with an RVP of 11.5 psi in these areas. Regulated parties should continue to sell or distribute gasoline meeting the 9.0 psi RVP, 7.8 psi RVP, 7.0 psi RVP or RFG standards, where applicable, where such supplies are available. In addition, I am also waiving the requirement of 40 C.F.R. § 80.27(d) that a gasoline must have between 9% and 10% ethanol by volume in order to qualify for the "special provisions for alcohol blends" that increase the RVP standard by 1 psi. Under this waiver, gasoline with less than 9% ethanol by volume will qualify for the "special provisions for alcohol blends" requirement.

#### Waiver of the 7.8 psi and 9.0 psi RVP Requirement

*Florida.* This waiver is effective in the following counties in which the 7.8 psi RVP requirement applies: Broward, Dade, Duvall, Hillsborough, Palm Beach and Pinellas. This waiver is effective in all other counties where 9.0 psi RVP gasoline is required in Florida through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Florida for this period.

*Louisiana.* This waiver is effective in the following sixteen parishes in which the 7.8 psi RVP requirement applies: Ascension, Beauregard, Calcasieu, E. Baton Rouge, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Point Coupee, St. Bernard, St. Charles, St. James, St. Mary, and W. Baton Rouge. This waiver is effective all other parishes where 9.0 psi RVP gasoline is required in Louisiana through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Louisiana for this period.

*Mississippi.* This waiver is effective all counties where 9.0 psi RVP gasoline is required in Mississippi through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Mississippi for this period.

*North Carolina.* This waiver is effective in the following North Carolina counties in which the 7.8 psi RVP requirement applies: Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg and Wake, and in those parts of Davie and Granville counties where the 7.8 psi RVP requirement applies. This waiver is effective in all other counties where 9.0 psi RVP gasoline is required in North Carolina through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout North Carolina for this period.

*South Carolina.* This waiver is effective all counties where 9.0 psi RVP gasoline is required in South Carolina through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout South Carolina for this period.

*Tennessee.* This waiver is effective in the following Tennessee counties in which the 7.8 psi RVP requirement applies: Davidson, Rutherford, Shelby, Sumner, Williamson, and Wilson. This waiver is effective in all other counties where 9.0 psi RVP gasoline is required in Tennessee through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Tennessee for this period.

*Texas.* This waiver is effective in all Texas counties in which the 7.8 psi RVP requirements apply.<sup>2</sup> This waiver is effective in all other counties where 9.0 psi RVP gasoline is required in Texas through September 30, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Texas for this period.

#### Waiver of the RVP Requirements in Alabama and Georgia

*Alabama.* This waiver is effective in the following Birmingham-area counties in which the 7.0 psi RVP requirement applies: Jefferson and Shelby. This waiver is effective in all other counties where 9.0 psi RVP gasoline is required in Alabama through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Alabama for this period.

*Georgia.* This waiver is effective in the following 45 Atlanta-area counties in which the 7.0 psi RVP and sulfur averaging requirements apply: 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. This waiver is effective all other counties where 9.0 psi RVP gasoline is required in Georgia through September 15, 2008. This waiver allows the distribution and sale of 11.5 psi RVP throughout Georgia for this period. This waiver does not change the requirement that gasoline sold or distributed in the Atlanta area must meet the federal low-sulfur requirements. *See* 40 C.F.R. Part 80, Subpart H. Regulated parties (including pipelines, terminals, distributors, retailers and wholesale purchaser consumers)

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<sup>2</sup> The following 95 eastern Texas counties have a 7.8 psi RVP requirement through October 1, 2008: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood. The following Texas counties have a 7.8 RVP requirement through September 15, 2008: Hardin, Jefferson and Orange.

that receive fuel under this waiver may continue to dispense or sell this fuel until their supplies are exhausted.

In addition, I am waiving the federal requirement for 7.8 psi RVP and 9.0 psi RVP gasoline in those counties in Alabama and Georgia in which the requirement applies, through September 15, 2008.

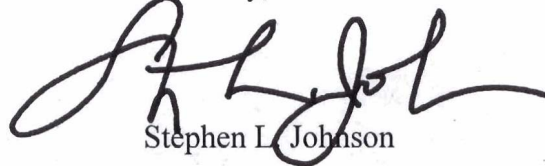
Waiver of the RFG Requirement in Texas

Regulated parties are allowed to sell and distribute CG in the following areas of Texas where RFG is required: The Houston-Galveston-Brazoria area (the counties of Brazoria, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller and Chambers) and the Dallas area (the counties of Collin, Dallas, Denton and Tarrant). This waiver allows the distribution and sale of 11.5 psi RVP in the Houston-Galveston-Brazoria and Dallas areas through September 30, 2008.

After September 30, 2008, regulated parties may not introduce gasoline that does not meet the RFG standards into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the RFG covered areas. However, no later than October 21, 2008, the gasoline dispensed from such terminal tanks for distribution and sale in the RFG covered areas must meet all RFG standards. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG gasoline in the RFG covered areas until their supplies are depleted.

EPA will continue to work with DOE and affected states to monitor the impact of Hurricane Gustav on the fuel supply situation in the Gulf region. 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