



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

AUG 29 2007

THE ADMINISTRATOR

The Honorable John Hoeven
Governor
State of North Dakota
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0001

Re: August 2007 Fuel Waiver Concerning North Dakota

Dear Governor Hoeven:

Thank you for your letter dated August 27, 2007, requesting a fuel waiver under the Clean Air Act from the U.S. Environmental Protection Agency. I appreciate your bringing this important matter to my attention. EPA has determined, and the U.S. Department of Energy concurs, that it is necessary to take action to minimize or prevent disruption of North Dakota's gasoline supply. By this letter, I am granting a waiver to North Dakota, as described below.

As you know, the gasoline volatility standard in North Dakota, which requires that gasoline have a maximum volatility of 9.0 pounds per square inch, applies during the period May 1st through September 15th each year. I understand from your letter that North Dakota is experiencing a shortage of gasoline that meets the gasoline volatility standard as a result of recent disruptions at refineries that supply gasoline to North Dakota and a larger-than-normal harvest. It is also my understanding that you believe gasoline stations in North Dakota may experience outages unless a waiver is granted and that alternative gasoline supplies are available from Canada.

EPA, in consultation with DOE, has been evaluating the scope of the potential gasoline supply problems in North Dakota caused in part by two recent refinery disruptions: a fire at the Cenex refinery located in Laurel, Montana, and an explosion at the Flint Hills refinery located in Pine Bend, Minnesota. EPA has confirmed that supplies of gasoline to North Dakota have been adversely affected by these refinery disruptions and that retail station outages are likely to result if a waiver is not granted.

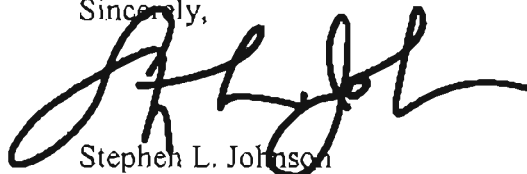
Accordingly, I have determined under Section 211 of the CAA, 42 U.S.C. § 7545(c)(4)(C)(ii), that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of gasoline to consumers in North Dakota and that this circumstance is the result of refinery equipment failures leading to refinery disruptions

described above. 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.

Therefore, to minimize or prevent problems with the supply of gasoline in North Dakota, I am issuing this waiver to allow use of gasoline that does not comply with the gasoline volatility standard under 40 C.F.R. § 80.27. This waiver is limited to gasoline imported from foreign countries (such as the gasoline located in Canada mentioned in your letter), and distribution of this gasoline is limited to areas north of the Interstate 94 corridor in North Dakota. Furthermore, regulated parties may distribute non-compliant gasoline under this waiver only after all reasonably available supplies of gasoline that meet the applicable volatility standard, including foreign supplies, have been exhausted. The waiver applies to all persons in the motor fuel distribution system to the extent that they provide gasoline to the geographic area described above within the waiver period. This waiver is effective immediately and continues until midnight on September 15, 2007.

EPA recognizes the environmental benefits of the gasoline volatility standard. However, this action serves the public interest for the citizens of North Dakota without any significant adverse environmental impact to the State. If you have questions, please contact me or have your staff call Adam M. Kushner at (202) 564-2260.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Johnson', written over the printed name.

Stephen L. Johnson

cc: The Honorable Samuel W. Bodman
Secretary of Energy