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

THE ADMINISTRATOR

AUG 29 2008

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

Re: August 2008 Fuel Waiver Concerning Louisiana

Dear Governor Jindal:

This is in response to the August 29, 2008 request for a waiver under the Clean Air Act (CAA) made on your behalf by the Secretary of the Louisiana Department of Environmental Quality, Harold Leggett, PhD, to address a fuel supply emergency caused by the impending landfall of Hurricane Gustav. The letter requests that the U.S. Environmental Protection Agency waive the federal regulations requiring low volatility gasoline to be sold in the following sixteen Louisiana parishes: 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 (the "designated parishes"). As you know, regulations promulgated under the Clean Air Act require gasoline sold in the designated parishes to have maximum Reid Vapor Pressure (RVP) of 7.8 pounds per square inch (psi) during the "high ozone" season, through September 15, 2008. *See* 40 C.F.R. § 80.27. 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 Louisiana's gasoline supply in the designated parishes. By this letter, I am granting a waiver to Louisiana, as described below.

EPA, in consultation with DOE, has evaluated the gasoline supply problems in the designated parishes as a result of Hurricane Gustav, which is currently projected to be a Category 3 hurricane at the time it makes landfall on the Gulf Coast. On August 27, a state-wide state of emergency was declared for Louisiana, and as of today partial evacuations in several of the designated parishes have already begun. In addition, preparations are currently being made for a potentially broader mandatory evacuation order, and National Guard soldiers have been ordered to New Orleans. The supply of 7.8 psi RVP in the designated parishes is already constrained and the evacuation-related activities currently underway in Louisiana have further caused a rapid and unexpected increase in demand for gasoline. EPA's and DOE's evaluation indicates that at the current rate of consumption there is not a sufficient supply of 7.8 psi RVP gasoline available for the designated parishes to ensure that retail outlets in these areas can maintain an adequate supply

of compliant gasoline to facilitate a safe and orderly evacuation. Based on this evaluation, and due to the unique circumstances regarding hurricane evacuation procedures, preparation and response in Louisiana, EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent disruption of gasoline supply.

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 the designated parishes. 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 Hurricane Gustav, a natural disaster 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).

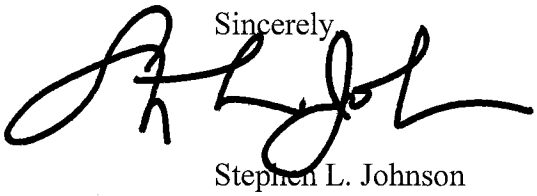
Therefore, to minimize or prevent problems with the supply of gasoline, I am today issuing this waiver of the 7.8 psi RVP requirement for the sixteen parishes in Louisiana that are subject to this standard. This waiver is effective immediately and will continue through 11:59 p.m. on September 8, 2008. Under this temporary waiver, regulated parties should distribute and sell gasoline meeting the 7.8 psi RVP standard in the designated parishes where such supplies are available; however, in the event that emergency conditions preclude the sale or distribution of gasoline meeting this standard, gasoline with an RVP of 9.0 psi may be distributed and sold. In addition, the requirement of 40 C.F.R. § 80.27(d) that a 1 psi increase is allowed only if the ethanol content is between 9% and 10% by volume, is waived.

After September 8, 2008, regulated parties may not introduce gasoline that does not meet the 7.8 psi RVP requirement of 40 C.F.R. § 80.27 into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the designated parishes. However, the gasoline dispensed from such terminal tanks for distribution and sale in the designated parishes is not required to meet the 7.8 psi RVP requirement of 40 C.F.R. § 80.27 for the remainder of the "high ozone" period, through September 15. Retailers and wholesale purchaser-consumers may continue selling or dispensing gasoline not meeting the applicable RVP standard until their supplies are depleted.

We at EPA recognize the benefits of the federal 7.8 RVP requirement in the designated parishes; therefore, to the extent practicable and consistent with supplying market demands for gasoline (e.g., where tankage is available), regulated parties should take steps to segregate and supply gasoline that meets the lower RVP requirement. 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. Should conditions warrant, this waiver may be modified, terminated or extended, as appropriate.

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