



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

SEP 16 2016

THE ADMINISTRATOR

The Honorable Terry McAuliffe
Governor of the Commonwealth of Virginia
State Capitol
Third Floor
Richmond, Virginia 23219

The Honorable Larry Hogan
Governor of Maryland
100 State Circle
Annapolis, Maryland 21401

The Honorable Phil Bryant
Governor of Mississippi
P.O. Box 139
Jackson, Mississippi 39205

The Honorable Robert J. Bentley
Governor of Alabama
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

The Honorable Nikki R. Haley
Governor of South Carolina
1205 Pendleton Street
Columbia, South Carolina 29201

The Honorable Muriel Bowser
Mayor of the District of Columbia
1350 Pennsylvania Avenue NW
Suite 316
Washington, D.C. 20004

The Honorable Nathan Deal
Governor of Georgia
203 State Capitol
Atlanta, Georgia 30334

The Honorable Pat McCrory
Governor of North Carolina
Office of the Governor
20301 Mail Service Center
Raleigh, North Carolina 27699

The Honorable Bill Haslam
Governor of Tennessee
Tennessee State Capitol
Nashville, Tennessee 37243

The Honorable Jack Markell
Governor of Delaware
Legislative Hall
Dover, Delaware 19901

The Honorable Matt Bevin
Governor of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

The Honorable Chris Christie
Governor of New Jersey
The State House
P.O. Box 001
Trenton, New Jersey 08625

Re: September 2016 Fuel Waiver Concerning Reformulated Gasoline in Alabama, Delaware, Georgia, Kentucky, Maryland, Mississippi, New Jersey, North Carolina, South Carolina, Tennessee, Virginia, and the District of Columbia

Dear Governors and Mayor Bowser:

I have received requests for a waiver under the Clean Air Act (CAA) to address a fuel supply emergency caused by a failure in a segment of the Colonial Pipeline in Alabama. As you know, regulations promulgated under the CAA require gasoline sold in certain areas of Delaware, Maryland, New Jersey, Virginia, and the District of Columbia to meet reformulated gasoline (RFG) requirements. These areas are referred to as the Affected RFG Covered Areas.¹ The RFG regulations at 40 C.F.R. § 80.78(a)(7) also prohibit any person in Alabama, Delaware, Georgia, Kentucky, Maryland, Mississippi, New Jersey, North Carolina, South Carolina, Tennessee, Virginia, and the District of Columbia from combining any reformulated blendstock for oxygenate blending (RBOB) with any other gasoline, blendstock, or oxygenate, except for the oxygenate of the type and amount specified by the refiner that produced the RBOB. RBOB is combined with its specified oxygenate to produce RFG.

The pipeline failure affects the petroleum distribution system in the Affected RFG Covered Areas and has resulted in significant supply shortages of RFG to these areas, which are projected to remain over the next several days. Additionally, the pipeline failure has also caused supply shortages of conventional gasoline (CG) in other non-RFG areas where RBOB could be supplied by other pipelines to produce RFG, if the RBOB could be commingled with CG or other gasoline blendstocks.

The U.S. Environmental Protection Agency, in consultation with the U.S. Department of Energy, has evaluated the impact of the fuel distribution system disruption on fuel supply in the Affected RFG Covered Areas. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent further disruption of an adequate supply of gasoline to consumers in 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. 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 a pipeline failure, an event 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) and (iii)(I).

Therefore, to minimize or prevent further gasoline supply disruptions, I am issuing this waiver of the federal RFG requirements in the Affected RFG Covered Areas. Under this waiver, the EPA will allow regulated parties to sell CG in the Affected RFG Covered Areas. Additionally, I am waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RFG blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met. This waiver covers the prohibitions at 40 C.F.R. § 80.78(a)(7), and applies to the District of Columbia,

¹ *Delaware Counties:* New Castle, Kent, and Sussex.

Maryland Counties: Anne Arundel, Baltimore County and City, Calvert, Carroll, Charles, Cecil, Fredrick, Hartford, Howard, Kent, Montgomery, Prince George’s, and Queen Anne’s.

New Jersey Counties: Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, and Warren.

Virginia Cities: Fairfax, Falls Church, Alexandria, Manassas, Manassas Park, Hopewell, Richmond, Colonial Heights, Hampton, Chesapeake, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg;

Virginia Counties: Stafford, Fairfax, Loudoun, Arlington, Prince William, Charles City, Chesterfield, Hanover, Henrico, James City, and York.

District of Columbia: All Areas.

the States of Alabama, Delaware, Georgia, Kentucky, Maryland, Mississippi, New Jersey, North Carolina, South Carolina, Tennessee, and the Commonwealth of Virginia.

This waiver is effective immediately and will continue through October 6, 2016. After October 6, 2016, refiners and importers may not produce or import gasoline that does not meet the RFG standards for distribution in the Affected RFG Covered Areas. However, any CG for use in the Affected RFG Covered Areas that is in the distribution system on October 6, 2016, 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 the RFG requirements by no later than November 6, 2016. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG until their supplies are depleted.

The EPA will continue to work with the DOE and affected states to monitor the impact of the pipeline failure on the fuel supply situation. 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 Phillip Brooks at (202) 564-0652.

Sincerely,



Gina McCarthy

cc: The Honorable Dr. Ernest Moniz
Secretary of Energy