



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 22 2005

THE ADMINISTRATOR

Governor Rick Perry
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

Re: Fuel Waiver Concerning RFG in Houston/Galveston and Dallas/Fort Worth RFG Covered Areas, September 2005

Dear Governor:

On September 21, 2005, pursuant to Section 211(c)(4)(C) of the Clean Air Act (CAA), I waived the reformulated gasoline (RFG) requirements for the Houston/Galveston RFG covered area. I issued this waiver as a result of gasoline supply shortages caused by the temporary shutdown of refineries and terminals and the mandatory and voluntary evacuations in Texas' coastal areas resulting from Hurricane Rita. The Texas Commission on Environmental Quality (TCEQ) has informed the United States Environmental Protection Agency (EPA) that Hurricane Rita is also likely to cause gasoline supply shortages in the Dallas/Fort Worth RFG covered area, and has requested that EPA expand the waiver to include this area.

EPA, in consultation with the Department of Energy and TCEQ continues to evaluate the prospect of gasoline supply problems being experienced as a result of Hurricane Rita. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of RFG to the Houston/Galveston and Dallas/Fort Worth RFG covered areas.¹ CAA §211(c)(4)(C). This fuel circumstance is the result of Hurricane Rita, a natural disaster, that could not reasonable have been foreseen or prevented and is not attributable to a lack of prudent planning on the part of the suppliers of the fuel to this area. Id. 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.

We recognize the environmental benefits of the RFG program. However, to minimize or prevent problems with the supply of gasoline, I am today issuing this expanded waiver of the RFG requirements for the Houston/Galveston and Dallas/Fort Worth RFG covered areas until midnight on September 30, 2005. Thus, EPA will allow regulated parties to distribute and sell

¹ The counties in these two RFG covered areas include: Brazoria, Chambers, Collin, Dallas, Denton, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant and Waller counties. See 40 C.F.R. § 80.70.

conventional gasoline (CG) in the Houston/Galveston and Dallas/Fort Worth RFG covered areas. After September 30, 2005, regulated parties may not introduce CG into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the Houston/Galveston and Dallas/Fort Worth RFG covered areas. However, no later than November 1, 2005, the gasoline dispensed from such terminal tanks for distribution and sale in these covered area must meet all RFG standards. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG in the Houston/Galveston and Dallas/Fort Worth RFG covered areas until their supplies are depleted.

To the extent practicable and consistent with supplying market demands for gasoline (i.e., where tankage is available), regulated parties should take steps to segregate and supply gasoline that meets the RFG regulations. In addition, refiners and importers that provide CG to the Houston/Galveston or Dallas/Fort Worth covered areas pursuant to this waiver should exclude the waiver gasoline from their annual average compliance calculations under 40 C.F.R. § 80.67.

If you have questions please call me, or your staff may call Adam M. Kushner at 202-564-2260.

Sincerely,



Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy