



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 17 2008

THE ADMINISTRATOR

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

Re: September 2008 Fuel Waiver Concerning Gasoline in the State of Texas

Dear Governor Perry:

On September 11, 2008, I waived the Reid Vapor Pressure (RVP) requirements for gasoline in eastern counties in the State of Texas where gasoline with a maximum RVP of 7.8 pounds per square inch (psi) is required during the summer "high ozone" period. The "high ozone" period in which low-RVP fuel is required in eastern Texas extends through October 1, 2008 (the "RVP Covered Areas").¹ In most other areas of the country, the "high ozone" period ended on September 15, 2008. See 40 C.F.R. § 80.27 and 66 Fed. Reg. 20927 (Texas low-RVP fuel). On September 11, 2008, I also waived the requirements for reformulated gasoline (RFG) in the Dallas and Houston-Galveston-Brazoria areas (the "RFG Covered Areas").² Pursuant to my September 11, 2008 waiver, conventional gasoline (CG) with a maximum RVP of 11.5 psi is permitted to be distributed and sold in these areas through September 30, 2008. Based on our continuing evaluation of the disruption in the supply of fuel in Texas caused by Hurricanes Gustav and Ike, the U.S. Environmental Protection Agency has determined, and the Department of Energy (DOE) concurs, that it is necessary to take additional action to minimize or prevent disruption of Texas' gasoline supply. By this letter, I am granting a waiver of the RVP and RFG requirements in Texas and removing the 11.5 psi RVP limitation, as provided below.

¹ 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.

² The Houston-Galveston-Brazoria RFG area consists of the counties of Brazoria, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller and Chambers. The Dallas RFG area consists of the counties of Collin, Dallas, Denton and Tarrant.

EPA, in consultation with DOE, has been evaluating the impact of supplies of gasoline as the result of disruptions caused by Hurricanes Gustav and Ike. Widespread power outages and refinery disruptions in the Gulf area following the recent hurricanes, have constrained the availability of CG with a maximum RVP of 11.5 psi in the RVP and RFG Covered areas of eastern Texas. Until power in the Gulf area is restored and the affected refineries fully come back on-line, which is currently expected to take a week to ten days, the amount of CG with a maximum RVP of 11.5 psi will not be sufficient to meet Texas' current and projected demands through the end of the summer "high ozone" period. As a result of these continuing impacts of Hurricanes Gustav and Ike, EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent an inadequate supply of gasoline to the RVP and RFG Covered Areas.

I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of 11.5 psi RVP gasoline to consumers in eastern 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 Hurricanes Gustav and Ike, 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 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 disruptions with the supply of gasoline, I am today issuing this waiver of the RVP and RFG requirements in the RVP and RFG Covered Areas in Texas. Under this waiver, EPA will allow regulated parties to sell CG in the RVP and RFG Covered Areas in Texas. This waiver is effective immediately and will continue through 11:59 p.m. on October 1, 2008.³

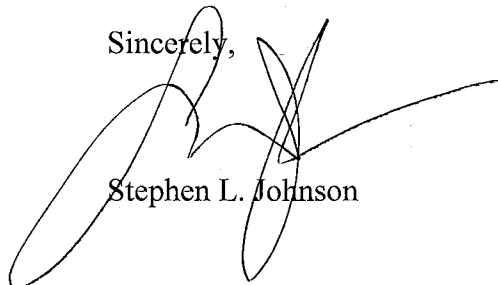
After October 1, 2008, refiners and importers may not produce or import gasoline that does not meet RFG standards for distribution to the RFG Covered Areas in Texas.⁴ However, any CG for use in the RFG Covered Areas that is in the distribution system on October 1, 2008, may be distributed and sold until the supply is depleted. CG that is in the possession of parties other than retailers and wholesale purchaser-consumers must meet RFG requirements by no later than October 21, 2008. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG until their supplies are depleted.

³ This waiver supersedes my September 11th waiver as it applies to Texas. Any CG with a maximum RVP of 11.5 psi may continue to be distributed and used in the RFG and RVP Covered Areas under this waiver.

⁴ After October 1, 2008, the federally-enforceable requirement for 7.8 psi RVP gasoline in the RVP Covered Areas ends. See 66 Fed. Reg. 20927.

EPA will continue to work with DOE and affected areas to monitor the impact of Hurricanes Gustav and Ike on the fuel supply situation in Texas. If you have questions you may call me, or your staff may call Adam M. Kushner at (202) 564-2260.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Johnson". The signature is stylized with large loops and a long horizontal stroke extending to the right.

Stephen L. Johnson

cc: The Honorable Samuel W. Bodman
Secretary of Energy