



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

SEP 21 2005

THE ADMINISTRATOR

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

Re: Fuel Waiver Concerning RFG in the Houston/Galveston RAG covered area,
September 2005

Dear Governor:

The Texas Commission on Environmental Quality (TCEQ) has informed the United States Environmental Protection Agency (EPA) that gasoline supply shortages are likely in the Houston/Galveston reformulated gasoline (RFG) covered area¹ due to both the temporary shutdown of refineries and terminals and the mandatory and voluntary evacuations in Texas' coastal areas resulting from Hurricane Rita. EPA, in consultation with the Department of Energy and TCEQ, has evaluated the supply of RFG to these areas and decided to take the following actions to prevent supply disruptions of gasoline.

Use of Conventional Gasoline in the Houston/Galveston RFG covered area.

The Clean Air Act (CAA) and EPA's implementing regulations at 40 C.F.R. Part 80, subpart D, require the use of RFG in "covered areas." We recognize the environmental benefits of the RFG program. However, in order to provide greater flexibility to the gasoline market and minimize potential gasoline supply disruptions caused by Hurricane Rita, EPA is waiving the requirement to sell RFG in the Houston/Galveston RFG covered area. Thus, EPA will allow parties to distribute and sell conventional gasoline (CG) in this RFG covered area. This waiver is effective immediately and will continue through September 26, 2005. However, retail outlets and wholesale purchaser-consumers that receive CG under the terms of this waiver may continue selling or dispensing this fuel after September 26, 2005, until their supplies are depleted. Refiners and importers that provide CG to the Houston/Galveston covered area pursuant to this

¹ The counties in this RFG covered area include: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. See 40 C.F.R. § 80.70.

waiver should exclude the waiver gasoline from their annual average compliance calculations under 40 C.F.R. § 80.67.

I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of fuel that meets the Federal standards. CAA §211(c)(4)(C). This fuel circumstance is the result of Hurricane Rita, 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 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.

To the extent practicable, regulated parties must take all reasonable steps to distribute and sell on-hand inventories of RFG. Thus, regulated parties must distribute and sell RFG that is available before distributing CG under this waiver.

If you have questions please call me, or your staff may call Adam 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: Secretary Samuel W. Bodman, Department of Energy