



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

SEP 27 2005

THE ADMINISTRATOR

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

Re: Fuel Waiver Concerning Houston/Galveston and Dallas/Fort Worth RFG Covered Areas

Dear Governor:

On September 22, 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 and Dallas/Fort Worth RFG covered areas.<sup>1</sup> I issued this waiver, which expires on September 30, 2005, 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 the gasoline supply shortages in the Houston/Galveston and Dallas/Fort Worth RFG covered areas that were caused by Hurricane Rita are likely to continue after September 30, 2005, and has requested that EPA issue an additional waiver of the RFG standards.

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. 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

---

<sup>1</sup> 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.

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.

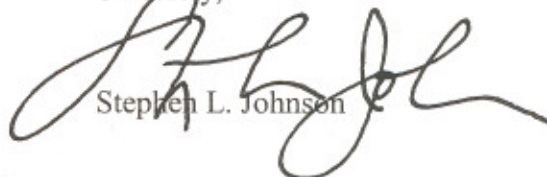
We recognize the environmental benefits of the RFG program. However, in order to minimize or prevent problems with the supply of gasoline, I am today issuing this waiver of the RFG requirements for the Houston/Galveston and Dallas/Fort Worth RFG covered areas until midnight on October 20, 2005. Thus, EPA will allow regulated parties to distribute and sell conventional gasoline (CG) in the Houston/Galveston and Dallas/Fort Worth RFG covered areas.

After October 20<sup>th</sup>, 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 19<sup>th</sup>, the gasoline dispensed from such terminal tanks for distribution and sale in the Houston/Galveston and Dallas/Fort Worth RFG covered areas 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.

Pursuant to this waiver regulated parties may commingle CG with RFG (e.g., in terminal storage tanks). However, 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 RFG regulations. In addition refiners and importers that provide CG to the Houston/Galveston and Dallas/Fort Worth RFG 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 you may 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