E. SCOTT PRUITT
ADMINISTRATOR
September 13, 2017

The Honorable Greg Abbott
Governor
State of Texas
P.O. Box 12428
Austin, Texas 78711-2428

Re: Texas Fuel Waiver Request

Dear Governor Abbott:

On September 7, 2017, following damage caused by Hurricane Harvey and large-scale evacuations in response to Hurricane Irma, I waived certain requirements of the Clean Air Act (CAA) relating to the sale, distribution and use of reformulated gasoline (RFG) and low volatility conventional gasoline in areas located in Petroleum Administration for Defense Districts 1-3. This multi-state waiver continues through September 26, 2017. On August 26, 2017, I granted a request from the State of Texas to waive the requirements through September 15, 2017 for Texas Low Emission Diesel (TxLED) that applies to 110-counties in Texas. On September 12, 2017, I received a request from the Texas Commission on Environmental Quality (TCEQ), made on your behalf, to extend these temporary waivers through October 1, 2017 for Texas. In addition, the request states that supplies of the additives to produce TxLED compliant diesel are extremely limited due to delays in transporting additive stock into Texas and to terminals due to infrastructure damage and transportation limitations imposed by companies' disaster planning procedures.

In response to this request, and based on our evaluation of the continuing effects of Hurricanes Harvey and Irma on the supply of gasoline and required diesel additives under the TxLED program, the U.S. Environmental Protection Agency has determined, and the U.S. Department of Energy concurs, that it is necessary to take further action to minimize or prevent the disruption of an adequate supply of fuel in the State of Texas.

As a result of Hurricane Harvey, about 15 refineries in the Gulf-area were shut down or operating at a reduced rate, pipelines originating in the Gulf-area that serve Texas, and the south, southeast, mid-Atlantic, and mid-west states were disrupted due to storm damage, and ports that supply crude oil to Gulf-area refineries were closed. Although parties in the fuel production and supply chain are making progress towards resuming normal operations – currently, four refineries still remain completely shut-down, five are still in the process of re-starting, and six are operating at reduced rates – there continues to be limited production and availability of low volatility

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gasoline that is still required in the Eastern Texas SIP RVP Counties for the remainder of the high ozone season. Additionally, the suppliers of required additives under the TxLED program have been unable to adequately supply the additives to terminals and refineries due to emergency operations. These supply shortages can be reduced by waiving the RFG and low volatility gasoline and the TxLED requirements.

I have determined that an "extreme and unusual fuel [ ] supply circumstance" exists that will prevent the distribution of an adequate supply of fuel 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 Hurricanes Harvey and Irma, 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 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).

RFG Waiver

I am issuing this waiver of the federal RFG requirements in Texas. Under this waiver, the EPA will allow regulated parties to produce, sell or distribute conventional winter gasoline (including gasoline blendstocks for oxygenate blending (BOBs)) in any RFG covered area within Texas. Additionally, I am waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any RFG BOB with any other gasoline, blendstock, or oxygenate, unless certain conditions are met.

Gasoline that does not meet the RFG requirements may not be introduced into terminal storage tanks from which gasoline is dispensed into trucks for distribution to retail outlets in the RFG Covered Areas after October 1, 2017. Any gasoline meeting the conditions of this waiver that is stored in terminal storage tanks for distribution to retail outlets and wholesale purchaser-consumers in these areas on October 1, 2017, may be distributed and sold in the RFG Covered Areas until the supply is depleted. Likewise, retailers and wholesale purchaser-consumers in these areas may continue selling or dispensing gasoline that meets the conditions of this waiver after October 1, 2017, until their supplies are depleted.

Texas Low Volatility Fuel Waiver

TCEQ requested that the EPA extend its waiver of the RVP standards which cover the 95 counties in eastern Texas that are subject to the Texas low-volatility gasoline program in the federally-enforceable State Implementation Plan (SIP) (Eastern Texas SIP RVP Counties).[1] This

[1] The following 95 eastern Texas counties have a 7.8 psi RVP requirement through October 1, 2017: 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

program requires gasoline to be sold in the Eastern Texas SIP RVP Counties to have a maximum RVP of 7.8 pounds per square inch (psi) during the summer "high ozone" season, which starts June 1 and ends on October 1, 2017. These federal requirements are codified as part of the federally-approved Texas SIP. 66 Fed. Reg. 20,927 (April 26, 2001). I am issuing this waiver of the 7.8 RVP SIP requirements that apply to Eastern Texas SIP RVP Counties to minimize or prevent problems with the supply of gasoline to these areas.

Therefore, in order to minimize or prevent further the gasoline supply disruptions, I am waiving the 7.8 psi RVP standard that applies in the Eastern Texas SIP RVP Counties until the end of the summer "high ozone" season on October 1, 2017. This waiver is effective immediately and will continue through October 1, 2017. Under this temporary waiver, regulated parties may produce, sell or distribute winter gasoline in the Eastern Texas SIP RVP Counties. Since the waiver will be in effect until the end of the time period that requires the use of low volatility gasoline in the Eastern Texas SIP RVP Counties, this waiver does not address downstream standards that apply to these areas after October 1, 2017.

Texas Low Emission Diesel Waiver

TCEQ requested that the EPA extend its wavier of Texas' federally-approved SIP that requires TxLED to be sold in a 110-county area[2] of Texas (the "TxLED Counties"). TxLED is a Texas-specific diesel fuel that is required only in these counties in Texas, and nowhere else in the country. *See* 70 Fed. Reg. 17321 (April 6, 2005).

I am issuing a waiver of the TxLED requirements in all TxLED Counties to minimize or prevent problems with the supply of TxLED. The EPA will allow regulated parties to use federally-compliant 15 parts per million Ultra Low Sulfur Diesel (ULSD) in the counties identified above. This waiver is effective immediately and will continue through October 1, 2017.[3] Retail outlets and wholesale purchaser-consumers that receive fuel that meets the conditions of this waiver may continue selling or dispensing this fuel after October 1, 2017, until their supplies are depleted. This waiver only authorizes the distribution and sale of ULSD in the TxLED Counties.

Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood.

[2] The "TxLED Counties" are as follows: The Houston-Galveston-Brazoria area (the counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller); the Beaumont-Port Arthur area (the counties of Hardin, Jefferson and Orange); the Dallas-Fort Worth area (the counties of Collin, Dallas, Denton, Tarrant, Ellis, Johnson, Kaufman, Parker and Rockwall); and the counties of 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, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Karnes, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Polk, Rains, Red River, Refugio, Robertson, 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.

[3] In addition, on August 29, 2017, I issued a waiver allowing the use of dyed NRLM diesel fuel in highway vehicles until September 15, 2017. The August 29, 2017 waiver still remains in effect, and fuel meeting its requirements may continue to be used until September 15, 2017.

This waiver applies only to the applicable federal requirements cited above. Other state or local requirements or restrictions related to this matter may need to be addressed by the appropriate authorities. 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.

Respectfully yours,

E. Scott Pruitt

cc: The Honorable Rick Perry, Secretary of Energy
Richard Hyde, P.E., Executive Director, Texas Commission on Environmental Quality