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

SEP 27 2005

THE ADMINISTRATOR

Governor Arnold Schwarzenegger
Office of the Governor
State Capitol
Sacramento, CA 95814

Re: Fuel Waiver Concerning the California Gasoline Volatility Requirements

Dear Governor:

I am writing in response to the September 9, 2005 letter of Ms. Catherine Witherspoon, Executive Officer of the California Air Resources Board (CARB), in which she requests that the United States Environmental Protection Agency (EPA) waive the California Phase 3 gasoline (California gasoline) Reid vapor pressure (RVP) requirements in California's State Implementation Plan (SIP) through the end of California's summer season – October 31, 2005. 60 Fed. Reg. 43379 (Aug. 21, 1995). As you know, on September 13, 2005, I issued a waiver of the California gasoline RVP requirements in the California SIP through October 3, 2005. Since issuance of the initial waiver, we have continued to monitor the situation. In addition, CARB has continued to request relief from the RVP requirements through October 31, 2005, due to the impacts of Hurricane Katrina which had reduced the availability of California gasoline that meets RVP requirements of the California SIP.

On September 9, 2005, the State of California amended its California gasoline regulations (sections 2262, 2262.4 and 2266.5 of Title 13, California Code of Regulations) to relax the California gasoline RVP standards through October 31, 2005. This California amendment provides for an RVP standard of 9.0 psi, through October 31, 2005, compared to the more stringent RVP standards required by the California SIP. This amendment was promulgated pursuant to a Finding of Emergency subsequent to an administrative hearing held on September 8, 2005.

EPA, in consultation with the Department of Energy, has evaluated the continued prospect of fuel supply problems as a result of both Hurricane Katrina and Hurricane Rita. Based on this evaluation, and the information set forth in the CARB "Finding of Emergency," I have determined that an "extreme and unusual fuel supply circumstance" continues to exist in California that prevents the distribution of an adequate supply of compliant California gasoline, and that this condition will likely continue to exist through the end of October. Clean Air Act

("CAA") § 211(c)(4)(C). This fuel circumstance is the result of Hurricanes Katrina and Rita, natural disasters that could not reasonably have been foreseen or prevented and are not attributable to a lack of prudent planning on the part of the suppliers of gasoline. Id. Furthermore, I have determined that it is in the public interest to grant this waiver.

Therefore, to minimize or prevent problems with the supply of gasoline, I am issuing this waiver of the California gasoline RVP requirements found at 60 Fed. Reg. 43379 (Aug. 21, 1995), provided that the gasoline has an RVP that is no higher than 9.0 psi (waiver gasoline). This waiver takes effect on October 4, 2005 and will remain in effect through October 24, 2005. As I stated in the original waiver, I recognize that the conditions that gave rise to the need for this waiver are likely to continue for some time. However, the provisions of CAA § 211(c)(4)(C) limit a waiver to a maximum of 20 days. We will continue to monitor the situation and I will issue additional waivers if appropriate.

California gasoline produced or imported after October 24, 2005 is not covered by this waiver. However, any waiver gasoline that is in the distribution system on October 24, 2005, may be distributed and sold until the supply is depleted.

Pursuant to this waiver, regulated parties may commingle California gasoline with waiver gasoline under this waiver (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 low RVP requirements of the California SIP.

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