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

SEP 13 2005

THE ADMINISTRATOR

Governor Arnold Schwarzenegger
Office of the Governor
State Capitol
Sacramento, California 95812

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 the current summer season. CARB has informed EPA that Hurricane Katrina and subsequent events resulting from the hurricane have reduced the availability of California gasoline that meets the RVP requirements of California's federally-approved SIP. See 60 Fed. Reg. 43379 (Aug. 21, 1995).

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, which is the end date for the state RVP control season for California gasoline. This California amendment implements an RVP standard of 9.0 pounds per square inch (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 prospect of fuel supply problems as a result of Hurricane Katrina. 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" exists 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 Hurricane Katrina, 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 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 in the California SIP 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 is effective immediately and will remain in effect through 11:59 PM on October 3, 2005. I recognize that the conditions that gave rise to the need for this waiver may continue for some time. However, the provisions of CAA § 211(c)(4)(C) limit a fuel waiver to a maximum of twenty days. We will continue to monitor the situation and I will issue a second waiver if appropriate.

California gasoline produced or imported after October 3, 2005 is not covered by this waiver. However, any waiver gasoline that is in the distribution system on October 3rd may be distributed and sold until the supply is depleted.

To the extent practicable, regulated parties must take all reasonable steps to distribute and sell on-hand inventories of gasoline that meets the RVP requirements of the California SIP. Thus, regulated parties that distribute and sell gasoline must use fuel that would meet the SIP requirements and that is available, before using any fuel covered under the waiver.

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