



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

SEP 30 2005

THE ADMINISTRATOR

The Honorable Ernie Fletcher  
Office of the Governor  
State Capitol  
700 Capitol Avenue  
Frankfort, Kentucky 40601

Re: Fuel Waiver Concerning Diesel Fuel in Kentucky

Dear Governor Fletcher:

On September 28, 2005, I received the Executive Director of the Kentucky Office of Energy Policy's request to waive the federal sulfur requirements for highway diesel fuel for the Commonwealth of Kentucky. As you know, on September 13, 2005, pursuant to Section 211(c)(4)(C) of the Clean Air Act (CAA), I waived the sulfur content requirements and the dye requirements for highway diesel fuel containing greater than 500 ppm sulfur found at 40 C.F.R. § 80.29 (undyed waiver diesel fuel) in Petroleum Administration for Defense Districts (PADDs) I<sup>1</sup> and III<sup>2</sup> and the State of Tennessee. The September 13, 2005 waiver is in effect through October 5, 2005.

EPA, in consultation with the Department of Energy, has continued to evaluate the prospect of highway diesel fuel supply problems as a result of both Hurricane Katrina and Hurricane Rita. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" currently exists, that prevents the distribution of an adequate supply of compliant highway diesel fuel to consumers in the Commonwealth of Kentucky. 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 is not attributable to a lack of prudent planning on the part of the suppliers of highway diesel fuel. Id. Furthermore, I have determined that it is in the public interest to grant Kentucky's waiver request.

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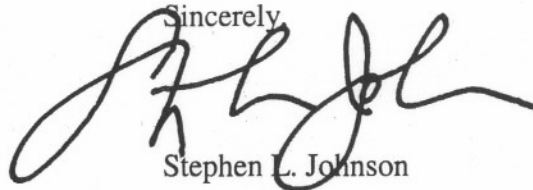
<sup>1</sup> PADD I includes the District of Columbia and the following states: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Florida.

<sup>2</sup> PADD III includes the following states: New Mexico, Texas, Louisiana, Mississippi, Alabama and Arkansas.

Therefore, to minimize or prevent problems with the supply of diesel fuel, I am issuing this waiver to add the Commonwealth of Kentucky to the states covered by my September 13, 2005 waiver for PADDs I, III and Tennessee. Therefore, all terms and conditions of the September 13, 2005 waiver apply to diesel fuel distributed in the Commonwealth of Kentucky.

If you have questions please call me, or your staff may call Adam M. Kushner at 202-564-2260.

Sincerely

A handwritten signature in black ink, appearing to read 'S. Johnson', written over the word 'Sincerely'.

Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy