



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

SEP 30 2005

THE ADMINISTRATOR

Dennis M. Houston  
Executive Vice-President  
ExxonMobil Refining & Supply Co.  
3225 Gallows Road  
Fairfax, VA 22037  
Executive Vice President of ExxonMobil Refining

Re: Fuel Waiver for Gasoline Sulfur Cap

Dear Mr. Houston:

Today, I received ExxonMobil Corporation's (Exxon) request to issue a fuel waiver of the 300 parts per million (ppm) per-gallon cap on sulfur in gasoline under 40 C.F.R. § 80.195 for its Baytown refinery located in Houston, Texas. You explained in your request that Exxon shut down its Baytown refinery in anticipation of Hurricane Rita and is now in the process of restarting gasoline production. Moreover, you requested this waiver in order to provide approximately 400,000 barrels (bbls) of conventional gasoline to the market beginning on October 3, 2005, which is approximately three days earlier than would otherwise be possible. You have described that this gasoline production timing is the result of Exxon's inability restart its desulfurization process unit in advance of restarting its Fluid Catalytic Cracking Units (FCCU) that produced gasoline.

EPA, in consultation with the Department of Energy, continues to evaluate the prospect of gasoline supply problems being experienced as a result of Hurricanes Katrina and Rita. The current disruption in the nation's refining capacity caused by these two hurricanes has resulted in the petroleum pipelines operating with diminished volumes, which is further exacerbating the fuel supply issue. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" continues to exist, that prevents the distribution of an adequate supply of gasoline to consumers. 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 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.

We recognize the environmental benefits of the gasoline sulfur cap and the gasoline sulfur program generally. However, to minimize or prevent problems with the supply of gasoline

and to allow for critical supplies of gasoline to enter the distribution system as quickly as possible, I am today issuing this waiver of the per-gallon cap on sulfur for gasoline to Exxon's Baytown Refinery and certain downstream regulated parties. Accordingly, EPA will allow Exxon to produce and sell gasoline with a per-gallon sulfur content of up to 500 ppm until it produces 400,000 bbls of gasoline or October 6, 2005, whichever occurs first. Exxon must still meet its refinery and corporate pool averages (*see* 40 C.F.R. § 80.195) and include the gasoline produced under this waiver in those annual average calculations. Additionally, this waiver is conditioned upon Exxon surrendering sufficient sulfur credits generated pursuant to 40 C.F.R. § 80.305 or 40 C.F.R. § 80.310 to offset any exceedances of Exxon Baytown Refinery's 300 ppm sulfur per-gallon cap. Exxon shall surrender these sulfur credits within 90 days of this letter, and submit a report to EPA within 120 days of this letter. The report shall identify the volume and sulfur content of the gasoline produced pursuant to this waiver and Exxon's compliance with the credit surrender requirements. This report shall be sent to:

Adam M. Kushner, Director  
Air Enforcement Division  
Mail Code 2242A  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Furthermore, to provide an appropriate transition, I am waiving the applicable downstream sulfur cap for all downstream regulated parties in those portions of Petroleum Administration for Defense Districts (PADDs) I,<sup>1</sup> III<sup>2</sup>, the State of Tennessee and the Commonwealth of Kentucky where conventional gasoline can be used. As a consequence, these downstream regulated parties are allowed to distribute and sell conventional gasoline with a sulfur content of up to 500 ppm. *See* 40 C.F.R. § 80.210. This downstream waiver is effective immediately and expires at midnight on November 17, 2005.

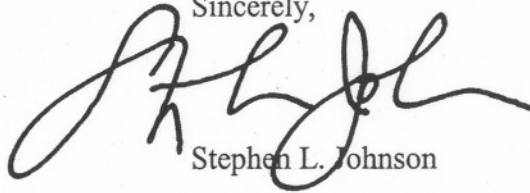
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<sup>1</sup> PADD I includes the District of Columbia and the following states: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Virginia, North Carolina,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

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

If you have any questions you may 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 in a cursive style.

Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy

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