



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

OCT 24 2005

THE ADMINISTRATOR

Governor Jeb Bush  
Executive Office of the Governor  
The Capitol  
Tallahassee, Fl. 32399-0001

Re: Fuel Waiver Concerning Diesel Fuel in the State of Florida

Dear Governor Bush:

I am writing in response to the October 21, 2005 letter of Joseph Kahn, Chief of the Bureau of Air Monitoring and Mobile Sources for the State of Florida, requesting an extension of the waiver of the highway diesel fuel requirements in Florida. As you know, on October 4, 2005, as a result of Hurricanes Katrina and Rita, I issued a waiver of the highway diesel fuel requirements in a number of states on the East and Gulf Coasts, including the State of Florida, effective through October 25, 2005.

The United States Environmental Protection Agency (EPA), in consultation with the Department of Energy, has been evaluating the prospect of highway diesel fuel supply problems in the State of Florida as a result of Hurricane Wilma. Based on this evaluation, I have determined that an "extreme and unusual fuel supply circumstance" will continue to exist after October 25, 2005 that prevents the distribution of an adequate supply of compliant highway diesel fuel to consumers in the State of Florida. CAA § 211 (c)(4)(C). This fuel circumstance is the result of Hurricane Wilma, 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 highway diesel fuel. *Id.* Furthermore, I have determined that it is in the public interest to grant this waiver.

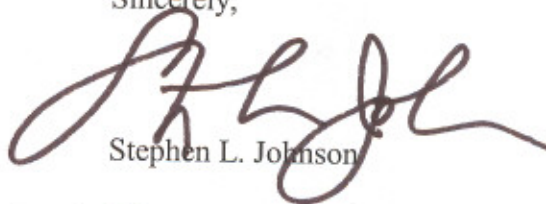
We recognize the environmental and operational importance of the highway diesel fuel requirements, particularly as the requirements relate to diesel engines. However, to minimize or prevent problems with the supply of diesel fuel, I am today issuing this waiver of the highway diesel sulfur requirements and the dye requirements for diesel fuel containing greater than 500 ppm sulfur found at 40 C.F.R. § 80.29 (waiver diesel fuel) for the State of Florida. This waiver of the highway diesel fuel requirements is effective immediately and will remain in effect through November 10, 2005.

After November 10, 2005, refiners and importers may not produce or import waiver diesel fuel for use in Florida. However, any waiver diesel fuel for use in Florida that is in the distribution system on November 10<sup>th</sup> may be distributed and sold until the supply is depleted. Waiver diesel fuel is subject to the following requirements after November 10<sup>th</sup>: Waiver diesel fuel that is in the possession of parties other than retailers and wholesale purchaser-consumers must meet the highway diesel fuel regulatory requirements no later than December 25, 2005, and retailers and wholesale purchaser-consumers may continue selling or dispensing waiver diesel fuel until their supplies are depleted.

Pursuant to this waiver regulated parties may commingle waiver diesel fuel and the highway low sulfur diesel fuel (e.g., in terminal storage tanks). However, to the extent practicable and consistent with supplying market demands for highway diesel fuel (i.e., where tankage is available), regulated parties should take steps to segregate and supply diesel fuel that meets the highway diesel fuel regulations.

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 printed name.

Stephen L. Johnson

cc: Secretary Samuel W. Bodman, Department of Energy