



Regulatory Announcement

Extension of Alaska's Temporary Exemption from Diesel Fuel Low-Sulfur Requirements

The U.S. Environmental Protection Agency (EPA) is extending until January 1, 2004, a temporary exemption from the low-sulfur highway diesel fuel requirements to areas in Alaska accessible to the Federal Aid Highway System. This extension will continue to provide needed flexibility for the regulated industry and prevent cost increases while EPA coordinates a decision on Alaska's request for a permanent exemption with the nationwide rule on diesel fuel quality.

Background

The Clean Air Act Amendments of 1990 established standards for highway diesel fuel that, in part, made it illegal as of October 1, 1993, to manufacture, sell, supply or offer for sale diesel fuel for highway use that has a sulfur content greater than 0.05 percent by weight. Similarly, it is illegal for any person to use fuel that has a sulfur content greater than 0.05 percent by weight in any highway vehicle. EPA also requires diesel fuel not intended for use in highway vehicles be dyed in order to segregate it from highway fuel.

The Clean Air Act allows Alaska and Hawaii to petition EPA for an exemption from the diesel fuel requirements. EPA may grant a petition if EPA determines that it would be unreasonable to require persons in these states to comply with the diesel fuel requirements due to unique geographical, meteorological and economic factors, or other significant local factors.

In response to requests from Alaska, EPA has granted temporary exemptions through July 1, 1999, to areas of Alaska served by the Federal Aid Highway System. Alaska has petitioned EPA for a permanent exemption for those areas. EPA published a proposal to grant a permanent exemption, but in response, substantive new information was submitted. Specifically, the Engine Manufacturers Association (EMA) asserted that the use of high-sulfur diesel fuel in advanced technology engines designed to meet the 2004 emission standards will result in excessive engine wear, poor durability, substantially increased maintenance costs, substandard performance, and in some cases, engine failure. This advanced engine technology will be marketed in 2002 by some engine manufacturers.



rule for diesel fuel quality could potentially cause significantly increased costs for regulated parties in Alaska. EPA plans to make a final decision on Alaska's petition for a permanent exemption in that nationwide rule, which is not expected to be finalized until sometime in 2000.

The Internal Revenue Service (IRS) statute has a diesel fuel dye requirement for tax purposes that is similar to the EPA diesel fuel dye requirement for emission purposes. The IRS statute provides for an automatic exemption to areas of Alaska that have been granted an EPA exemption from the diesel fuel sulfur requirement. Much of the impact to Alaska of letting its temporary exemption expire on July 1, 1999 (that is, without adequate lead time) is related to the dye requirement.

In a related matter, EPA recently issued an Advanced Notice of Proposed Rulemaking inviting comment on whether EPA should set new nationwide requirements for diesel fuel in the context of considering more stringent emissions standards for diesel engines and trucks. EPA expects this rulemaking to address the appropriate level of diesel sulfur in Alaska. Failure to coordinate Alaska's petition for permanent exemption with the nationwide

Temporary Exemption Extended

The Agency is extending the existing temporary exemption from EPA's sulfur and dye requirements for highway diesel fuel until January 1, 2004. This extension will continue to provide needed flexibility for the regulated industry and prevent cost increases while EPA makes a decision on Alaska's request for a permanent exemp-

tion. It will also allow Alaska adequate lead-time if EPA ultimately decides to deny Alaska an additional exemption.

EPA is not making a final decision at this time on Alaska's request for a permanent exemption. The Agency needs additional time to consider the request in order to coordinate the decision with an upcoming nationwide rule on diesel fuel quality, lead-time considerations, and fuel dyeing requirements of another federal agency.

EPA does not expect this decision to have a significant impact on Alaska's ability to attain the National Ambient Air Quality Standards for carbon monoxide or particulate matter, due to the limited contribution of emissions from diesel highway vehicles in those areas and the sulfur level currently found in highway vehicle diesel fuel used in Alaska.

Effect on Industry

During the extension, any person in Alaska will continue to be allowed to produce, distribute, sell and use diesel fuel in Alaska for highway vehicles that does not meet the low-sulfur standard. Also, diesel fuel not intended for use in highway vehicles will not need to be dyed.

For More Information

Additional documents on this final rule are available electronically from the EPA Internet server at:

<http://www.epa.gov/oms>

For further information, please contact Richard Babst at:

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