



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

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MAR -1 2006

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. James L. Frye, President
Association of Marina Industries
444 North Capitol St. NW, Suite 645
Washington, DC 20001

Re: Enforcement Discretion Concerning the Sulfur Standard for Gasoline at Certain
Facilities Supplying Nonroad Engines

Dear Mr. Frye:

This is in response to the February 17, 2006 letter from Gregg Scott, counsel to the Association of Marina Industries (AMI), which requests that the United States Environmental Protection Agency (EPA) exercise enforcement discretion to allow certain marinas that sell gasoline for use in recreational marine engines additional time to come into compliance with the gasoline sulfur standard under 40 C.F.R. § 80.210(b)(3).

As you know, on January 1, 2006, the per-gallon gasoline sulfur standard for gasoline produced at refineries changed from 300 parts per million (ppm) to 80 ppm. On February 1, 2006, the sulfur gasoline standard at all downstream locations other than retail outlets (e.g., at terminals) became 95 ppm (80 ppm plus a 15 ppm adjustment to reflect testing variability), and on March 1, 2006, this more stringent standard applies at retail outlets. See 40 C.F.R. §§ 80.195 and 80.210. The time between February 1st and March 1st was a transition period intended to allow retail outlets to switch to gasoline that complies with this more stringent standard through normal gasoline deliveries.

Marinas that sell gasoline are regulated as retail outlets under 40 C.F.R. Part 80, and, as a consequence, are subject to the new gasoline sulfur standard beginning on March 1st. However, AMI informed EPA that many marinas sell the majority of their gasoline during the summer boating season, and are either shut down or have dramatically reduced gasoline sales during the winter months. AMI further explained that, as a result of the seasonal nature of gasoline sales at marinas, many marinas received their last delivery of gasoline during August or September of 2005, prior to the beginning of the transition period for the new gasoline sulfur standard. As a consequence, according to AMI, many marinas will not be able to transition to the 95 ppm sulfur standard through their normal gasoline deliveries.

EPA recognizes the environmental benefits of the gasoline sulfur program. However, in order to address the unique challenges faced by seasonal retail outlets and wholesale purchaser-consumer facilities (fueling facilities) during the initial phase of this program, EPA will exercise enforcement discretion to delay the date certain fueling facilities must first comply with the 95 ppm gasoline sulfur standard under 40 C.F.R. § 80.210(b)(3). This discretion is effective immediately, and continues at each affected facility until the facility receives no more than three gasoline deliveries after February 1, 2006. However, in no case does this discretion extend after May 31, 2006. This discretion applies only to fueling facilities that dispense gasoline for use in nonroad engines only (such as marinas that dispense gasoline for use in marine engines) that are located outside the State of California, and that normally do not receive gasoline deliveries during cold weather as a result of the seasonal nature of their business. Notwithstanding this exercise of enforcement discretion, any gasoline delivered to any affected facility must meet the sulfur standard specified under 40 C.F.R. § 80.210(b)(3), and the operator of any affected facility must use its best efforts to meet this sulfur standard as soon as is practicable after March 1, 2006. This discretion does not apply to any gasoline dispensed for use in on-road motor vehicles.

If you have any questions regarding this matter, you may call Erv Pickell, Fuels Team Leader, at (303) 236-9506.

Sincerely,



Granta Y. Nakayama
Assistant Administrator