

# The Clean Air Act and High Gasoline Prices

Ben Lieberman

The high price of gasoline has emerged as a major issue in recent years. The increased cost of crude oil is the main contributor to the pain consumers feel at the pump, but federal environmental regulations under the Clean Air Act (CAA) also are taking a substantial toll. This regulatory burden likely will increase in the years ahead.

Under the 1990 Amendments to the CAA, the EPA has regulated the composition of gasoline heavily. This effort includes the reformulated gasoline (RFG) program, which applies to nearly one-third of the nation's fuel supply, as well as other requirements. These specialized fuel formulations cost more than conventional gasoline.<sup>1</sup> Conventional gasoline is regulated

as well. The EPA has broad authority to revisit these regulations and to tighten them, which it has done on several occasions.

More fuel-related rules are constantly being added to the existing burden. For example, the EPA currently is phasing in tough new standards for sulfur in gasoline and diesel fuel, and new mobile source air toxics rules also are pending.

Several rules are specific to certain states or localities, resulting in the balkanization of the nation's fuel supply.<sup>2</sup> As these so-called boutique fuel requirements were taking effect in the

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1. Federal Trade Commission, *Gasoline Price Changes: The Dynamic of Supply, Demand, and Competition*,

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(Washington, DC: Federal Trade Commission, 2005), 56–58.

2. EPA, “Study of Unique Fuel Blends (‘Boutique Fuels’), Effects on Fuel Supply and Distribution, and Potential Improvements,” Staff White Paper, EPA, Washington, DC, October 24, 2001, pp. 9–11.

1990s, the U.S. Energy Information Administration warned that “the proliferation of clean fuel requirements over the last decade has complicated petroleum logistics” and presciently predicted that “additional clean fuels programs could make the system more vulnerable to local shortages and price spikes.”<sup>3</sup>

Although high gasoline prices were a major impetus behind the massive Energy Policy Act of 2005, the act’s provisions were a mixed bag at best. It did amend the CAA by repealing one of the provisions that made the RFG program more costly than necessary, but it also added an ethanol mandate, which required that 4.0 billion gallons of this corn-derived fuel additive be blended into the nation’s fuel supply in 2006, increasing to 7.5 billion gallons in 2012. Ethanol costs considerably more than gasoline, so the mandate benefits Midwestern corn farmers and the ethanol industry at the expense of the driving public. In addition, the logistical difficulties of incorporating ethanol into the nation’s fuel supply also have added to costs. In effect, the ethanol mandate is yet one more costly federal fuel requirement piled on to an overly complex regulatory scheme and has proved to be a step in the wrong direction.

The most recent energy bill increases the ethanol mandate five-fold, from 7.5 billion gallons to 36 billion by 2022.

Other CAA rules have affected the price of gasoline in less direct ways. For example, the EPA’s aggressive implementation of the New Source Review (NSR) program, along with other regulations, has made it very difficult to build new refineries or even to upgrade existing ones. Currently, refinery capacity is proving

inadequate to the task of providing the quantity and variety of fuels now required; yet the last American refinery was built in the 1970s, and expansions of existing facilities struggle to keep pace. The Bush administration’s efforts to streamline the NSR program will help but are being delayed by legal challenges. The NSR and other CAA regulations have added tens of billions of dollars to refining costs without increasing output. That situation leaves the refining sector with considerably fewer resources to invest in expanding capacity and makes those expansions considerably more expensive.<sup>4</sup>

Air quality has improved dramatically over the past 30 years, in large part as a result of reductions in motor vehicle emissions.<sup>5</sup> But most of the credit goes to improvements in the vehicles themselves, not to recent federal micro-management of the makeup of fuels.<sup>6</sup> Indeed, costly fuel regulations like the RFG program have proved to be environmentally unjustified and even counterproductive.<sup>7</sup>

To protect the driving public from further unnecessary costs, Congress must take a more aggressive role regarding new EPA regulations affecting gasoline and must reconsider existing rulemaking authority that is doing more economic harm than environmental good.

3. U.S. Department of Energy, Energy Information Administration, *Demand and Price Outlook for Phase 2 Reformulated Gasoline, 2000* (Washington, DC: U.S. Department of Energy, 1999), 8.

4. National Petroleum Council, *Observations on Petroleum Product Supply*, (Washington, DC: National Petroleum Council, 2004), 16–18.

5. Joseph Bast and Jay Lehr, “The Increasing Sustainability of Cars, Trucks, and the Internal Combustion Engine,” Policy Study 95 Heartland Institute, Chicago, June 22, 2000.

6. Joel Schwartz, *No Way Back: Why Air Pollution Will Continue to Decline* (Washington, DC: American Enterprise Institute, 2003).

7. National Research Council. *Ozone-Forming Potential of Reformulated Gasoline* (Washington, DC: National Academies Press, 1999).

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### Recommended Readings

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