



NPRA appreciates EPA's affording us the opportunity to address the Governor's Task Force on Boutique Fuels. Before answering the questions included in Administrator Johnson's letter of May 11, 2006, we believe it both appropriate and valuable to provide NPRA's general overview and thoughts regarding Boutique Fuels, as follows:

The so-called "boutique fuels" issue is multifaceted and requires further study and understanding before any changes are enacted. The underlying reason for the current market situation regarding gasoline and other transportation fuels is that the supply/demand balance has tightened significantly in recent years. This phenomenon is mostly due to (1) an expanding economy—a positive factor—and (2) ever increasing and uncoordinated regulatory requirements—a negative supply factor. These drivers, together with the rapid growth in global demand for crude oil (and the finished products derived from it) as other economies continue their unprecedented expansion, account for the current market situation.

In searching for possible solutions to the current fuels market, it must be kept in mind that there are no short-term solutions to a problem that has been building for at least a decade. Specifically regarding the boutique fuels issue, it must be emphasized that:

- No change in "boutique fuel" requirements will affect the supply situation this summer. The U.S. refining industry must and will continue to do its job to optimize the manufacture and distribution of gasoline and other products this summer.
- A great deal of attention has been directed to national maps showing the varied gasoline specifications required across the nation. Those maps were prepared to explain two things: the logistical considerations in serving gasoline markets, and the fact that certain areas have chosen a special fuel offering the most environmentally sound, economically justifiable approach to their specific clean air and consumer needs. With the agreement of all stakeholders, i.e. regulators, public interest groups, and refiners, these fuels were selected over the more costly and potentially problematic option, federal reformulated gasoline (RFG).
- Refiners have made significant capital expenditures in order to comply with the requirements of these particular fuel blends. This occurred at a time when refiners faced the additional regulatory requirements of Tier 2 gasoline sulfur reductions, preparation for implementation of ultra low sulfur diesel regulations for both highway and non-road applications, and implementation of the renewable fuel standard (RFS) along with the elimination of the 2% oxygenate standard for RFG.
- Failure to consider and balance supply implications, air quality impacts, and fuel choices together risks making the situation worse, perhaps much worse. A precipitous



reduction in the number of boutique fuel blends now could have the unintended affect of actually lessening the overall supply of gasoline. As numbers of these fuel blends are forced from the market, it is obvious that only the most environmentally stringent fuels would be left. This translates into reduced supply, since the cleaner the fuel, the more intensive the refining process required. It takes more barrels of crude oil to produce an equivalent amount of finished product of this kind. This also adds cost to the ultimate product.

- Several factors make limitations on boutique fuels unnecessary. First, Congress has eliminated the requirement that RFG contain 2% oxygenate by weight, now superseded by a 7.5 billion gallon ethanol mandate by 2012. We believe that the oxygenate requirement was a major cause of the increase in the total number of fuel blends. Further, the final phase of Tier 2 gasoline sulfur is now in place. **These changes, coupled with EPA’s promulgation of a revised mobile source air toxics rule (MSAT II), indicate that by the end of the decade, there will be much less difference between conventional gasoline (CG) and RFG.** Why add a substantial new burden on refiners when the objective of reducing fuel blends will most likely be met in a more rational way over the next few years?

- The Energy Policy Act of 2005 both limits the total number of boutique fuels and requires a detailed study of the issue. Congress should allow EPA the time needed to complete the study before making duplicative and potentially counter-productive policies.

- As more states enact “renewable” mandates, these fuels will add additional complexity to the system. Although these mandates will not impact the state implementation plan (SIP) requirements under § 211(c)(4)(C) of the Clean Air Act, Congress should consider federal preemption of these fuels (as it has for other fuel blends) if it does decide to limit the total number of boutique fuels.

The following is in response to EPA’s specific questions:

Q. EPA’s 2001 study analyzed four different fuel scenarios for reducing the number of boutique fuels. Do you agree with these options? Are there other options that should be addressed?

A. The Texas Low Emission Diesel program began this year. Since it is an available option now throughout PADD 3, it should be evaluated.

Q. Given the current state of fuel requirements, are the 2001 study findings regarding the cost, fungibility, air quality, and supply of the four options accurate?



A. This question is based on the premise that the study performed by EPA in 2001 was accurate and enjoyed the support of all stakeholders. However, that basic premise is in question. The Agency issued its report in 2001 for public comment and made these comments available. Has the Agency dismissed these comments? If not, specifically what comments that pointed out, among other deficiencies, analytical problems does the agency believe are valid or have merit? Conversely, which of these comments does the Agency believe are not valid?

Section 1541(c)(6) of the Energy Policy Act of 2005 requires a report by August 2006 of a joint EPA/DOE study on boutique fuels, including effects on air quality, fuel availability and fungibility. This study will provide information and many stakeholders look forward to providing comments as we did four years ago. What is the status of this study? What offices at EPA and DOE are involved?

Q. What data would be needed to complete additional analysis on these four factors for boutique fuel options?

A. There have been several, significant regulatory requirements directly affecting transportation fuels specifications in the last five years. These include: Tier 2/Gasoline Sulfur, MSAT Phase 1, and ultra low sulfur diesel (ULSD) for both highway and non-road applications. In addition, elimination of the RFG oxygenate standard, coupled with implementation of the Renewable Fuel Standard (RFS), and MSAT Phase 2 requirements could also have an effect on costs, air quality, and supply. This list of significant new programs warrants a new study.

It is evident that variations in motor fuels may be reduced with implementation of current regulatory programs. For example, EPA published the Mobile Source Air Toxics Phase 2 proposal (71 FR 15804; 3/29/06). The primary feature is a proposed reduction in the average annual benzene content in all gasoline (conventional plus RFG) to 0.62 vol%. This would eliminate a current toxics distinction between RFG and CG. Furthermore, the recent removal of the oxygen content requirement for federal RFG reduces the difference between winter RFG and winter CG and between summer RFG and summer 7.0 psi RVP CG. In addition, the average sulfur content of RFG and CG is identical because of the federal Tier 2 Gasoline Sulfur program. Therefore, differences between RFG and CG are diminishing making both fuels environmentally attractive. NPRA thinks that this convergence will minimize or eliminate state decisions to opt for new boutique fuel formulas. For this reason, NPRA believes that any attempt to limit the number of viable motor fuels in regions or nation-wide is nothing more than a solution in search of a problem.



Q. Would a menu of fuels be helpful to the current SIP process? Should the menu also require some sort of EPA SIP approval process, or should a state be able to simply choose the fuel they want within the applicable PADD?

The federal preemption provisions in the Clean Air Act preserve a rational motor fuel supply because states are precluded from unilateral adoption of unique specifications unless EPA grants a waiver. EPA explains the merits of federal preemption in the preamble for the federal RFG and anti-dumping final rules, which includes the following statements:

“The regulations proposed here will affect virtually all of the gasoline in the United States. As opposed to commodities that are produced and sold in the same area of the country, gasoline produced in one area is often distributed to other areas. The national scope of gasoline production and distribution suggests that federal rules should preempt State action to avoid an inefficient patchwork of potentially conflicting regulations.”
59 FR 7809.

NPRA supports this EPA review process and the expansion of the scope of this analysis in section 1541 of last year’s energy bill. Clean Air Act section 211(c)(4)(C) was amended by the Energy Policy Act of 2005 to make it the joint responsibility of EPA and DOE to review motor fuel control choices by states and require that both agencies consider the regional supply implications of such requests. Before granting a waiver of federal preemption, the Administrator of EPA is required, after consultation with the Secretary of Energy and after notice and comment, to find that the fuel control choice will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas. NPRA strongly supports this important focus on supply-side impacts. This provision has not yet been implemented. Therefore, it is premature to judge its effectiveness. NPRA is not ready now to conclude that this supply-based filter is inappropriate or ineffective. We cannot support any alternatives until the new process is implemented and the results analyzed. We do not advocate an alternative to a recently amended process that has yet to be found deficient.

Q. Are decisions to produce certain RVP-level gasoline based upon distribution constraints? If so, what are these constraints?

Distribution constraints played little or no role in the adoption of certain RVP-level gasoline. Rather, as previously mentioned, these fuel blends were adopted with the concurrence of all stakeholders as the more environmentally sound, economically justifiable approach to their specific needs, compared to RFG.