

**Responses of the
State and Territorial Air Pollution Program Administrators
and the
Association of Local Air Pollution Control Officials
to Four Questions Posed by the
Governors' Task Force on Boutique Fuels**

May 16, 2006

The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) applaud the President's and the U.S. Environmental Protection Agency's (EPA's) efforts to seek guidance from the nation's Governors in addressing escalating fuel prices. This is certainly a very important and timely issue and our associations understand the desire of the President and the Governors to take swift action to address it. Accordingly, we are pleased to have this opportunity to provide our views to the Governors' Task Force on Boutique Fuels, which has been charged by the President "to find ways to reduce the number of state boutique fuels and to increase cooperation among states on gasoline supply decisions."

Although we do not dispute the serious nature of today's high fuel prices or the potential supply disruptions that could occur, we are very concerned that boutique fuels have been singled out and wrongly targeted as the cause, especially given the recent changes under the Energy Policy Act of 2005 (EPAct). We believe that any further curtailment of state and local authorities to pursue such programs could unnecessarily jeopardize public health and clean air. Therefore, we respectfully urge that the Task Force not recommend any further limitation of states' rights to adopt boutique fuel programs.

The Task Force has posed four questions. Our responses to these questions further detail our perspectives.

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

Note: The term "boutique fuel" refers very specifically to a fuel developed and included by a state or local area in an EPA-approved State Implementation Plan to reduce motor vehicle emissions and improve air quality. Authority for these programs is provided under Section 211(c)(4) of the Clean Air Act. According to EPA, areas in 12 states currently use a total of seven distinct types of boutique fuels.

2. Given the current state of fuel requirements, are the 2001 study findings regarding the cost, fungibility, air quality, and supply of the four options still accurate?
3. What data would be needed to complete additional analysis of these four factors for boutique fuel options?
4. What do you see as the appropriate balance between state ability to adopt unique fuels to address air quality problems and limiting fuel types to manage supply/distribution concerns?

The Task Force seeks stakeholder input on whether scenarios included in EPA's October 2001 Staff White Paper, *Study of Unique Gasoline Fuel Blends ("Boutique Fuels"), Effects on Fuel Supply and Distribution and Potential Improvements*, are still appropriate for consideration.

STAPPA and ALAPCO do not believe they are.

When the Staff White Paper was issued in 2001, STAPPA and ALAPCO wrote to then-EPA Administrator Christine Todd Whitman recommending that before moving forward to address the alleged "proliferation" of regional, state and local fuel programs, EPA should first study and validate the conclusion that there was, in fact, a "likelihood" that regional, state and local fuel programs would lead to supply shortfalls and price spikes, as asserted by the National Energy Policy Development Group established by the President.

However, following the publication of EPA's October 2001 Staff White Paper, our associations concluded that EPA had not offered a convincing validation of the underlying premise and, instead, relied on unsubstantiated concerns and speculation:

As the problems to date have been rather limited in terms of geographical scope and duration, however, many of the stakeholders we spoke with did not express a large concern with the current situation. Most stakeholders were instead concerned with the potential for the continued proliferation of boutique fuels into the future and the added stress it would place on the fuel production and distribution systems. (EPA Staff White Paper, p. 4)

The fear is that the resulting growth in the number of boutique fuels and the number of areas with boutique fuels could change what is now an occasional and isolated supply problem into a much broader and frequent problem which will require significant investment on the part of the fuel production and distribution systems to address. (EPA Staff White Paper, p. 5)

Five years later, it is clear that this "fear" of a "proliferation" of boutique fuels has never materialized. Moreover, Congress took steps in EPAct to ensure against any proliferation in the future.

First, EPAct restricts the number of boutique fuels to the total number of fuels approved by EPA as part of a State Implementation Plan as of September 1, 2004, thus eliminating

the possibility of any future increase in fuel types. In addition, in selecting from even that restricted list, states are limited to fuels already in use in their specific PADD.

Second, EPAct rescinds the federal reformulated gasoline (RFG) oxygenate requirement that various states had expressed interest in avoiding. Prior to EPAct, RFG was required to contain 2 percent oxygen by weight – a requirement that was often fulfilled by blending in the controversial fuel additive methyl tertiary butyl ether, or MTBE. The elimination of this requirement will likely obviate the need for states to develop special fuel blends to avoid MTBE.

Third, to the extent there is concern over the potential for boutique fuels to exacerbate a future fuel supply disruption caused by a natural disaster or other unexpected circumstance, such as a pipeline break or refinery shutdown, this concern should be allayed by the new statutory authority provided to EPA under EPAct, specifically authorizing the Administrator to temporarily waive fuel requirements during supply emergencies. This authority was used almost immediately thereafter, following the devastation of Hurricanes Katrina and Rita.

Notwithstanding these legislative changes, a state's right to adopt a boutique fuel program remains an important regulatory tool, particularly as states continue to grapple with what is likely the most complex air quality problem our nation faces: achievement and maintenance of the health-based National Ambient Air Quality Standards. Even after decades of diligent effort, at least 160 million Americans – more than half our population – still live in areas with unhealthful levels of 8-hour ozone, fine particulate matter or both.

The health and environmental impacts associated with elevated levels of ozone are serious, including aggravation of asthma and chronic lung disease, permanent lung damage, reduced lung function, irritation of the respiratory system and cardiovascular symptoms. Although even healthy individuals can be at risk from exposure to elevated levels of ozone, children, seniors and those with compromised respiratory systems are especially vulnerable.

Pollution from airborne particulate matter also plagues our nation. In fact, fine particles pose the greatest health risk of any air pollutant, resulting in thousands of premature deaths each year. These fine particles are also responsible for a variety of other adverse health impacts, including aggravation of existing respiratory and cardiovascular disease, damage to lung tissue, impaired breathing and respiratory symptoms, irregular heart beat, heart attacks and lung cancer.

There is widespread agreement that cleaner fuels have been, and will continue to be, critical to reducing air pollution and protecting public health. EPA has stated, "Fuel controls can provide significant, cost effective emission reductions of VOCs and NO_x. Further, such fuel controls can often be implemented quickly and, once implemented, produce benefits immediately, typically reducing emissions from each vehicle in the fleet with no need for vehicle fleet turnover. This fleet-wide impact distinguishes fuels control from most other mobile source emission control options available to state and local

areas.” In a June 2005 report, the Government Accountability Office reported that state boutique fuel programs have reduced smog-forming emissions by up to 25 percent over conventional gasoline.

The Clean Air Act gives primary authority for regulating the environmental impacts of fuels to EPA, preempting states and localities from controlling or prohibiting any characteristic component of a motor vehicle fuel or fuel additive. However, recognizing that there may be extenuating circumstances warranting a state or local fuel program, in Section 211(c)(4) of the Clean Air Act, Congress provides two specific exceptions to the otherwise general preemption – if the EPA Administrator finds that a special state or local fuel standard is necessary to attain the NAAQS because 1) no other measures exist to bring about timely attainment or 2) other measures exist, but are unreasonable or impracticable. It is important to note that in either case, EPA approval is required.

Also noteworthy is the fact that over the years states have availed themselves of these limited exceptions very judiciously to address specific local air quality problems, resulting in just seven distinct types of boutique fuels nationwide. States pursue boutique fuels for various reasons. For instance, some are not eligible to opt into the federal RFG program and, therefore, adopt a boutique fuel in order to obtain cleaner-than-conventional gasoline in a particular area. Others, who are eligible to voluntarily opt into federal RFG, have elected to pursue a low-volatility boutique fuel instead, as a less expensive alternative to RFG. It is especially significant that in a number of instances, a state or local area seeking to reduce smog-forming emissions pursued a boutique fuel over opting into the federal RFG program at the urging of the fuel suppliers. Although federal RFG would have reduced not only ozone precursors, but toxic air pollutants as well, fuel suppliers argued instead for a low-volatility boutique fuel (i.e., one with a low Reid Vapor Pressure, or RVP) with more limited air quality benefits and a lower price tag. Thus, fuel suppliers were “willing partners” in advancing boutique fuel programs over the uniform federal RFG program.

According to EPA, “boutique fuels deliver substantial air quality and public health benefits at minimal costs – ranging from 0.3 to 3 cents per gallon.” When compared to today’s average national price for a typical gallon of regular gasoline – about \$3.00 per gallon – boutique fuels cost literally a fraction of 1 percent of the cost of gasoline. So what does account for a typical gallon of gasoline? According to the U.S. Department of Energy’s Energy Information Administration, over half (55 percent) is for domestic and foreign crude oil. About 22 percent is for refining (processing the crude to make gasoline, diesel fuel and other products for sale to refiners). Almost 20 percent goes for taxes or fees that are paid to the federal, state or local governments, while 4 percent is for distribution and marketing, including shipping by pipeline, storage at terminals and delivery by trucks to retail stations.

There is no question that gasoline prices are high and climbing. However, gas prices are escalating for reasons unrelated to clean air protections. Moreover, gas prices have increased at the same rate nationwide, not just in areas with cleaner fuel.

In summary, we believe the ability of states and localities to adopt boutique fuel programs is an important regulatory tool for controlling air pollution. There is no evidence that boutique fuels contribute to high gasoline prices, and there are safeguards in place that allow EPA to respond swiftly and effectively should fuel supply disruption ever become an issue. In addition, several of the key reasons areas have pursued boutique fuels in the past have been otherwise addressed and, in no case can the number of types of boutique fuels expand. In light of all this, we urge that the Task Force not further limit the right of states and localities to adopt boutique fuel programs. We also encourage the Task Force to recommend that states' authorities be expanded to allow them to work cooperatively to adopt regional fuel programs.