

ABSTRACT

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*A Bridge Too Far: The EPA's Diesel Sulfur Rule and
the Increasing Cost of Fuels Regulation Under the Clean Air Act*

53 Admin. L. Rev. 1021 (2001)

Abstract by Frederick G. Jauss, IV

Frederick G. Jauss, IV discusses the Environmental Protection Agency's (EPA) authority to regulate fuels under the Clean Air Act (CAA) rule regarding Highway Diesel Fuel Sulfur Control Requirements, and the lack of a cost-effective mechanism. Jauss specifically examines the EPA's Reformulated Gasoline Rule that requires the amount of sulfur in on-road diesel fuel be lowered from the levels of 500 parts per million (ppm) to 15 ppm by June 1, 2006, a reduction of ninety-seven percent. The Clinton Administration finalized the diesel sulfur rule. Jauss concludes that the second phase of the EPA's diesel sulfur rule, which took effect on January 1, 2000, resulted in a breakdown of the effectiveness of fuels regulation. This article provides a discussion of the extent to which cost should have played a more significant role in the decision to implement fuel regulations under the Reformulated Gasoline Rule. In addition, this article illustrates congressional expansion of the EPA's authority to regulate fuels under the CAA in the CAA 1990 Amendments.

Jauss' examination of the on-road diesel sulfur rule and its implementation reveals that the rule will further reduce the supply of fuels in already tight energy markets. Many refiners will be forced to shutdown due to an inability to meet the 15ppm cap and will cause a shutdown in a significant portion of the industry. Therefore, Jauss recommends that the EPA should be encouraged to work with private industry to jointly develop feasible, cost-effective, pollution control measures.