

BACKGROUND

The American automotive fuel market underpins one of the world's largest road transportation systems. Born in the early years of the last century, automotive fuel retailing grew from a niche service for the rich to an everyday infrastructure component that facilitates about eighty percent of all travel in the country.

For decades, this market was mostly stagnant. Fuel retailers built underground storage tanks, filled them with gasoline and diesel, and went about filling the tanks of drive-up customers. Some attached them to convenience stores, others focused only on fuel sales for passenger cars, while still others focused on selling fuel to truckers and other freight transportation companies. What tied these enterprises together was their reliance on fixed fuel tanks, or “depots” as they are often called.

Like other transportation products, things changed with the rise of new technologies. Today, the fuel market has started to decentralize, making space for specialized firms to serve consumers who demand new styles of fueling service, including fuel delivery for both consumers and fleet vehicles. But changing physical infrastructure markets is never easy, and regulations designed for traditional gas stations stand to hinder innovation and render new fueling services unpredictable or impossible.

CURRENT DEBATE

Fuel sales are regulated by multiple state- and municipal-level government agencies. Local regulations cover things like fire codes and land-use restrictions. State departments of transportation regulate how fuel is moved, while state environmental protection departments limit air pollution from fueling operations. Some states further delegate air pollution regulation to sub-state regional governments, as California does with its air quality districts.

SUMMARY

- The automotive fuel market is decentralizing. Legacy gas station regulations make this transition more difficult for new entrants.
- State environmental protection departments are good at regulating stationary environmental hazards, but struggle to regulate mobile hazards.
- State departments of transportation have experience regulating decentralized delivery markets, including wholesale tanker-based fuel delivery. They are better positioned to regulate this market as it expands.

Air quality districts are good at addressing air pollution from geographically fixed sources, like industrial plants, energy facilities and traditional gasoline stations. But state departments of transportation have more experience regulating mobile hazards, including safety risks from fuel tanker trucks. With local-, regional- and state-level rules binding the automotive fueling industry, conflicts are bound to arise when technology opens the door for new business models.¹ Indeed, the rise of fuel delivery is being tempered by conflicts between point-source focused pollution regulators and transportation regulators with no mandate to regulate air pollution.

ACTION ITEMS

These jurisdictional conflicts present an opportunity for state regulators to make their economies more dynamic with limited cost to the public. For fuel delivery, consolidating industry regulation in the hands of transportation regulators would likely make for the lowest overall burden on new firms.

1. For more on regulatory barriers to fueling innovation, see our full study: <https://www.rstreet.org/2019/10/23/r-street-policy-study-no-185-regulating-fuel-delivery/>

State transportation departments understand that intra-state commerce is harmed when each local government or regional body applies its own rules to transportation companies. When expanding service to a new town means navigating another layer of bureaucracy, new firms struggle to scale their businesses.

DOTs also have incentive to consider the consumer benefits of new fueling business models. Pollution regulators are more narrowly focused on limiting pollution risk, with little reason to consider consumer benefits. They have every reason to follow a principle of precaution over dynamism.

The role of air pollution regulators could be limited to approving pollution-mitigating equipment, including important systems like those that handle fuel vapor recovery. Where environmental regulators have yet to approve pollution control systems that allow for tanker-based fuel delivery, state lawmakers can force the bodies to set new standards. But with DOT oversight and approved equipment, there's little need for oversight by regional air quality management boards that set standards for air pollution sources already in compliance with statewide rules.

CONTACT US

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