

March 15, 2022

Mr. David Woldseth  
Policy Analyst, Division of Trade and Consumer Protection  
Wisconsin Department of Agriculture, Trade and Consumer Protection  
2811 Agriculture Drive  
Madison WI 53718  
Via email: DavidA.Woldseth@wisconsin.gov

Dear Mr. Woldseth,

Growth Energy is the world's largest association of biofuel producers, representing 89 biorefineries that each year produce nearly 9 billion gallons of cleaner-burning, renewable fuel; 99 businesses associated with the production process; and tens of thousands of biofuel supporters around the country. Together, we remain committed to bring better and more affordable choices at the fuel pump to consumers, help our country diversify our energy portfolio in order to grow more energy jobs, sustain family farms, and drive down the costs of transportation fuels for consumers.

We appreciate the opportunity to comment on the modifications proposed to the fuel regulations for the state. The change to the regulation in to allow common hose fueling was an excellent step forward to recognize a nationwide industry practice. Growth Energy has reviewed these changes to Wisconsin statute Chapter ATCP94 entitled "Petroleum and Other Liquid Fuel Products" and we have a few comments.

In Section 8 (2)(d), we strongly recommend deleting this section as the Federal Trade Commission (FTC) already requires labeling for flex-fuels. Leaving the state requirement in place is unnecessarily duplicative.

**SECTION 8.** ATCP 94.120 is repealed and recreated to read:

**ATCP 94.120 Definitions.** In this chapter:

(2) "Automotive fuel rating" means:

(a) For gasoline, the octane rating;

(b) For an alternative liquid automotive fuel other than biodiesel, biomass-based diesel, biodiesel blends, biomass-based diesel blends, and ethanol flex fuels, the commonly

used name of the fuel with a disclosure of the amount, expressed as the minimum percentage by volume, of the principal component of the fuel. A disclosure of other components, expressed as the minimum percentage by volume, may be included, if desired;

(c) For biomass-based diesel, biodiesel, biomass-based diesel blends with more than 5 percent biomass-based diesel, and biodiesel blends with more than 5 percent biodiesel, a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume; or

(d) For ethanol flex fuels, a disclosure of the ethanol component, expressed as the percentage by volume and the text “Use Only in Flex-Fuel Vehicles/May Harm Other Engines.”

Additionally, we strongly recommend that you strike the reference to 10% ethanol in Section 18(1)(d) as this wording is in conflict with Section 21, ATP 94.215 and undermines the original “Rule Content” intent to add clarification for fuels that contain higher blends of ethanol (E15 and E85.)

**SECTION 18.** ATP 94.210 (1) (d) (Title), (1) (d) 2., 3., 4., (1) (e) 1., and 2. are amended to read:

ATCP 94.210 (1) (d) (title) ~~Gasoline/oxygenate~~ Gasoline-oxygenate blends.

1. Anhydrous denatured alcohol may be added to gasoline if the original gasoline product meets the requirements of par. ~~(b) or~~ (c).

2. The alcohol content for ethyl alcohol may not exceed a concentration of 10 ~~volume~~-percent by volume.

We also suggest that you exclude varying ethanol blends from the “dissimilar products” requirements in Section 42, ATP 94.300 as there are no technical or fuel quality concerns and no consumer risk when switching from E10 to E15 and back. The ethanol content will be declared on the bills of lading or other product transfer documents.

The growth in ethanol use since the 1980s was due in part to the phase out of tetra-ethyl lead (lead) due to severe neurotoxicity which created a need for a new octane source. Especially in “racing gasoline” applications, the use of ethanol has increased exponentially; ethanol has replaced unhealthy and environmentally harmful octane additives. The same sentiment applies to MTBE which is banned from use in Wisconsin.

Today, 98 percent of all gasoline sold in the U.S. contains 10 percent ethanol, and E15 is now available at nearly 2,600 retail locations in 31 states and at 267 terminals. Consumers have

now driven more than 25 billion miles on E15 and retailers have conducted millions of transactions with this fuel. There have been no adverse reports of fuel quality experienced with E15 since first being approved 11 years ago. There are retailers making significant investments in Wisconsin to offer a cheaper, cleaner fuel; the Department can take steps to support these local investments by including legally approved fuels.

Growth Energy appreciates the opportunity to comment on the modifications to the fuel regulation for the state of Wisconsin. Additionally, we support the comments submitted by the Wisconsin Biofuels Association. We are available to discuss these comments on the modifications at your convenience and would welcome an opportunity to update you on our efforts to advance ethanol blends.

Respectfully,

A handwritten signature in blue ink, appearing to read "Chris Bliley".

Chris Bliley  
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