

July 1, 2025

Amanda Lefton
Commissioner
Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Commissioner Lefton:

Thank you for the opportunity to comment on New York state's proposal to establish a mandatory greenhouse gas (GHG) emissions reporting program. Growth Energy is the world's largest association of biofuel producers, representing 97 U.S. plants, including Western New York Energy in Medina, New York, that produce 9.5 billion gallons of renewable fuel annually; 130 businesses associated with the production process; and tens of thousands of biofuel supporters around the country. Together, we are working to bring better and more affordable choices at the fuel pump to consumers, improve air quality, and protect the environment for future generations. We remain committed to helping our country diversify its energy portfolio to grow more green energy jobs, decarbonize the nation's energy mix, sustain family farms, and drive down the costs of transportation fuels for consumers.

Excessive Burden of Required Data Points for Liquid Fuel Suppliers

As you continue the process of engaging stakeholders and assessing input before developing a final mandatory GHG reporting proposal, we encourage DEC to weigh the benefit of a number proposed required data points for liquid fuel suppliers relative to the cost of gathering, verifying, and reporting said data points. The data proposed to be required in Chapter 253-2.18 (b)(4)(vi) extends well beyond what can be considered reasonable and easily determined without significant time and cost or risk of divulging proprietary information. We believe requiring data, for example, on a rail transport's "energy intensity in MMBtu per ton-mile and average speed in meters per second" or a waterborne transport's "power in horsepower, and load factor of the ship" is unnecessary and an excessive burden.

In other jurisdictions such as California, while biofuels producers are exempt from the Cap-and-Trade program, they are required to report their emissions. Biofuels producers are only required to submit the mass of emissions of the transportation of the fuel. Additionally, if an ethanol plant meets the threshold of 25,000 metric tons, they are required to report GHG and other emissions data to the U.S. Environmental Protection Agency.¹ The compliance and verification requirements proposed by DEC are redundant and expensive without providing any additional

¹ <https://www.epa.gov/ghgreporting/subpart-j-ethanol-production>

benefits beyond EPA reporting requirements. We urge DEC to adopt a reporting rule that exempts biofuels from reporting or mirrors the reporting requirements of other jurisdictions, ensuring that carbon intensity and GHGs are the focus of mandatory reporting.

Gathering these data points requires reliance on supply chain factors largely outside of a biofuels producer's control. It also raises an important question on noncompliance due to circumstances beyond a biofuels producer's control. What are the consequences if for instance, despite all good faith efforts to identify an ocean tanker's "average speed, power in horsepower, and load factor", the vessel owner or operator fails or refuses to disclose said information?

Additionally, given the extent of proposed required data collection, DEC should provide a statement of reasoning detailing the necessity of such data and what the organizations intend to do with said data. We understand this is part one of a three-part rulemaking, with separate cap-and-invest and credit auction rulemakings anticipated in the future. We believe it would benefit the integrity of the future cap-and-invest program were DEC to outline the value and intended use of such data before reporting entities must begin collecting it.

Finally, in addition to questions over the value of the data collected, we also have concerns about the costs of third-party verification. While DEC estimates an annual compliance cost range of \$4,000-\$17,000, we believe it could be much more than that. We encourage DEC to reexamine the necessity of such granular data reporting and verification given what it is likely to cost biofuels producers who are already subject to reporting requirements in other jurisdictions.

Exempting Biofuels from Future Rulemakings

We also request DEC and NYSERDA consider the appropriate role biofuels plays in other jurisdictions' cap-and-invest programs. Specifically, as mentioned previously, in California, biofuels are exempt from obligation. Similarly, in Washington, "fuels derived from biomass that have at least 30 percent lower GHG emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute."

These exemptions were enacted to maximize the benefits of low-carbon biofuels like bioethanol, which has been shown to reduce GHG emissions by 46% compared to gasoline.² And as readily available technologies such as carbon sequestration and climate-smart agriculture practices are adopted, bioethanol can continue to improve toward net zero.

We believe the lack of an exemption for crop-based biofuels, currently the source of 74% of GHG reductions in states with both a Cap-and-Trade program and a low carbon fuel standard, could ultimately prohibit the use of sizeable volumes of lower-carbon bioethanol. This may inadvertently increase the state's reliance on fossil fuels for the transportation sector.

² <https://iopscience.iop.org/article/10.1088/1748-9326/abde08>

Providing an exemption for biofuels in New York's Cap-and-Invest program creates regulatory synergy with existing emissions systems. It also provides New York the opportunity to link its own market with California, Quebec, and Washington in the future; the latter of which is currently in the process of pursuing linkage with California and Quebec.

We strongly urge DEC and NYSERDA to recognize the role biofuels play in decarbonizing the transportation sector and provide an exemption for biofuels in future rulemakings of the Cap-and-Invest program.

The Environmental Value of E15 and E85

We applaud New York for recognizing the environmental and economic value of E15—fuel containing up to 15% ethanol which can be used in more than 96% of all vehicles on the road today—approving it for sale and use in the state in 2019.³ Simply by using E15 statewide, New York could reduce GHG emissions from the transportation sector.

To further illuminate bioethanol's potential to reduce emissions, a 2020 study by Air Improvement Resource, Inc. estimates the state could reduce GHG emissions by nearly 774,000 tons annually by replacing E10 gasoline, the most commonly sold and used fuel for internal combustion vehicles, with E15. This is the emissions-reduction equivalent of removing nearly 170,000 vehicles from New York roads without negatively impacting a single driver in the state.⁴

Additionally, E85 is currently available at 120 retail sites in the state⁵. With an existing fleet of more than 633,000 Flex Fuel vehicles (FFVs)⁶, New York can utilize E85, which will promote even greater reductions in GHG emissions in addition to reductions in air toxics. We encourage New York to incentivize the use of FFVs and invest in infrastructure expanding access to E85 in the state. Doing so would achieve multiple goals: improve air quality and GHG emissions, reduce the state's dependence on fossil fuels, and provide consumers with an affordable choice to power their vehicles.

We would be happy to further discuss the role of higher bioethanol blends in further GHG reductions and the additional environmental justice benefits of higher ethanol blends to disadvantaged communities. Thank you for the opportunity to comment and in advance for your consideration.

³ <https://growthenergy.org/wp-content/uploads/2019/11/Fuels-for-Use-in-Automobiles-and-Motor-Driven-Devices-and-State-Register-11-20.pdf>

⁴ <http://www.airimprovement.com/reports/national-e15-analysis-final.pdf>

⁵ <https://getbiofuel.com/fuelfinder/>

⁶ <https://afdc.energy.gov/vehicle-registration>

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Bliley". The signature is fluid and cursive, with a large, stylized "B" at the end.

Chris Bliley
Senior Vice President of Regulatory Affairs
Growth Energy