



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 5

TO: MEMBERS OF THE SPECIAL COMMITTEE ON DOMESTIC BIOFUELS

FROM: Larry Konopacki, Staff Attorney, and John Stolzenberg, Chief of Research Services

RE: Wisconsin Renewable Fuels Standard

DATE: December 11, 2008

This Memo is intended to organize the committee's discussion related to creating state biofuels sales requirements. The first section is an outline for a potential Wisconsin-specific renewable fuels standard, followed by discussion topics for committee consideration.

Example Wisconsin-Specific Renewable Fuels Standard

1. Require the Wisconsin Department of [Agriculture, Trade and Consumer Protection/Commerce/other agency] (department) to administer a Wisconsin-specific renewable fuel standard (W-RFS).
2. The W-RFS would require motor vehicle fuel "suppliers" that sell more than 10,000 gallons of motor vehicle fuel in a calendar year in this state to include prescribed percentages of renewable fuels in their fuel sales in this state, beginning in 2011.
3. The W-RFS would prescribe annual sales percentages for all of the following categories of renewable fuels:
 - a. Corn starch ethanol.
 - b. Cellulosic biofuel.
 - c. Biomass-based diesel.
 - d. Total advanced biofuels.
4. The definitions of these categories of renewable fuels would mirror federal renewable fuel standard (RFS) definitions except that they would not incorporate lifecycle greenhouse gas emission reduction requirements contained in the federal definitions.

5. The department would calculate the state's required sales percentages as follows:
 - a. Determine the percent of motor vehicle fuel sold nationally that was sold in Wisconsin for the three most recent calendar years for which information is available.
 - b. Multiply the average of these three percentages by the federal RFS volumes for the upcoming calendar year for each category of renewable fuel to determine a state renewable fuel volume target for each category.
 - c. Use the state's average total motor vehicle fuel sales for the three years in the first step above to calculate the percent of each category of renewable fuel that would have to be sold per gallon of motor fuel in this state for each volume target to be reached, and increase each percentage by an additional 10%.
 - d. Require each supplier to sell the calculated percentage of each category of renewable fuel in the supplier's total sales of motor vehicle fuel in the upcoming calendar year.
 - e. Allow a supplier who does not meet sales percentage requirements for a calendar year to make up the deficiency in the following calendar year.
6. The W-RFS would be linked to the federal RFS volumes so that if the federal RFS volume is reduced for a particular category of renewable fuel the state renewable fuel volume target for that category is also reduced.
7. The department would be allowed to temporarily suspend or reduce all or a part of the W-RFS if it determines that there is not a sufficient supply of the applicable category of renewable fuel available to suppliers.
8. The department would combine its W-RFS reporting requirements with those of the Departments of Revenue and Commerce under the motor fuel tax and petroleum inspection programs, to the extent practicable.
9. The department would create a system that would allow for the trade and banking of "credits" for renewable fuel sales.
10. The penalties for violation of the W-RFS would depend on the number of offenses as follows:
 - a. Only a written warning would be issued for a first violation.
 - b. For a second violation, a forfeiture not to exceed \$5,000.
 - c. For a third violation, a forfeiture not less than \$500 nor more than \$10,000.
 - d. For a fourth or subsequent violation, a forfeiture not less than \$1,000 nor more than \$25,000.

Discussion Topics

Some of the topics that the committee may choose to consider in its discussion of this potential state-specific RFS include:

- Adoption of federal definitions.

- Effective date.
- Minimum fuel volume for affected suppliers.
- Definition of “supplier.”
- Renewable fuel categories.
- Exceptions for certain types of fuel (e.g. racing fuel).
- Adjustments to the biofuels sales formula.
- Implementing a per gallon biofuels sales requirement (e.g. E10) instead of a sales formula based on the federal RFS.
- Penalties for violation of this requirement.
- Funding and staffing for this program.

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