

110TH CONGRESS
1ST SESSION

S. 1616

To amend the Clean Air Act to promote and assure the quality of biodiesel fuel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2007

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. CARPER, Mr. LUGAR, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to promote and assure the quality of biodiesel fuel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Biodiesel Promotion
5 and Quality Assurance Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the promotion of the biodiesel industry of
9 the United States is a critical component of an en-

1 ergy policy that reduces dependence on foreign
2 sources of petroleum;

3 (2) a strong biodiesel industry will—

4 (A) significantly enhance the energy secu-
5 rity of the United States; and

6 (B) promote economic development and job
7 creation (particularly in rural areas of the
8 United States), while providing environmental,
9 health, and greenhouse gas reduction benefits;

10 (3) a federally-implemented biodiesel standard
11 will result in the most efficient pricing for biodiesel
12 across the United States; and

13 (4) it is critical to ensure that only high quality
14 biodiesel is dispensed.

15 **SEC. 3. BIODIESEL FUEL STANDARD.**

16 (a) IN GENERAL.—Section 211 of the Clean Air Act
17 (42 U.S.C. 7545) is amended by inserting after subsection
18 (o) the following:

19 “(p) BIODIESEL FUEL.—

20 “(1) DEFINITIONS.—In this subsection:

21 “(A) ASTM.—The term ‘ASTM’ means
22 the American Society of Testing and Materials.

23 “(B) BIO-BASED DIESEL REPLACEMENT.—
24 The term ‘bio-based diesel replacement’ means

any type of bio-based renewable fuel derived
from plant or animal matter that—

“(i) may be used as a substitute for
standard diesel fuel; and

“(ii) meets—

“(I) the registration require-
ments for fuels and fuel additives
under this section; and

“(II) the requirements of applica-
ble ASTM standards.

“(C) BIODIESEL.—

“(i) IN GENERAL.—The term ‘bio-
diesel’ means the monoalkyl esters of long
chain fatty acids derived from plant or ani-
mal matter that meet—

“(I) the registration require-
ments for fuels and fuel additives
under this section; and

“(II) the requirements of ASTM
standard D6751.

“(ii) INCLUSION.—For the purpose of
measuring the applicable volume of the
biodiesel fuel standard under paragraph
(2), the term ‘biodiesel’ includes any bio-
based diesel replacement that meets—

1 “(I) applicable registration re-
 2 quirements for fuels and fuel additives
 3 under this section; or

4 “(II) applicable ASTM stand-
 5 ards.

6 “(D) BIODIESEL BLEND.—The term ‘bio-
 7 diesel blend’ means a blend of biodiesel fuel
 8 that meets the requirements of ASTM standard
 9 D6751 with petroleum-based diesel fuel.

10 “(2) BIODIESEL FUEL STANDARD.—

11 “(A) IN GENERAL.—Not later than 1 year
 12 after the date of enactment of this subsection,
 13 the Administrator shall promulgate regulations
 14 to ensure that diesel fuel sold or introduced into
 15 commerce in the United States, on an annual
 16 average basis, contains the applicable volume of
 17 biodiesel determined in accordance with sub-
 18 paragraphs (B) and (C).

19 “(B) CALENDAR YEARS 2008 THROUGH
 20 2012.—For the purpose of subparagraph (A),
 21 the applicable volume for any of calendar years
 22 2008 through 2012 shall be determined in ac-
 23 cordance with the following table:

“Calendar year:	Applicable volume of biodiesel (in millions of gallons):
2008	450
2009	625

“Calendar year:	Applicable volume of biodiesel (in millions of gallons):
2010	800
2011	1,000
2012	1,250.

1 “(C) CALENDAR YEAR 2013 AND THERE-
2 AFTER.—For the purpose of subparagraph (A),
3 the applicable volume for calendar year 2013
4 and each calendar year thereafter shall be de-
5 termined by the Administrator, in consultation
6 with the Secretary of Energy and the Secretary
7 of Agriculture, based on a review of the imple-
8 mentation of the program during calendar years
9 2008 through 2012, including a review of—

10 “(i) the impact of the use of renew-
11 able fuels on the environment, air quality,
12 energy security, job creation, and rural
13 economic development; and

14 “(ii) the expected annual rate of fu-
15 ture production of biodiesel.

16 “(D) MINIMUM PERCENTAGE OF BIO-
17 DIESEL.—For the purpose of subparagraph
18 (B), at least 80 percent of the minimum appli-
19 cable volume for each of calendar years 2008
20 through 2012 shall be biodiesel.

21 “(E) COMPLIANCE.—The regulations pro-
22 mulgated under subparagraph (A) shall contain

1 compliance provisions applicable to refineries,
 2 blenders, distributors, and importers, as appro-
 3 priate, to ensure that the requirements of this
 4 paragraph are met, but shall not—

5 “(i) restrict geographic areas in which
 6 biodiesel may be used; or

7 “(ii) impose any per-gallon obligation
 8 for the use of biodiesel.

9 “(F) WAIVERS.—

10 “(i) MARKET EVALUATION.—The Ad-
 11 ministrator, in consultation with the Sec-
 12 retary of Energy and the Secretary of Ag-
 13 riculture, shall continually evaluate the im-
 14 pact of the biodiesel requirements estab-
 15 lished under this paragraph on the price of
 16 diesel fuel.

17 “(ii) WAIVER.—If the Administrator
 18 determines that there is a significant bio-
 19 diesel feedstock disruption or other market
 20 circumstances that would make the price
 21 of biodiesel fuel unreasonable, the Admin-
 22 istrator, with the concurrence of the Sec-
 23 retary of Energy and the Secretary of Ag-
 24 riculture, shall issue an order to reduce,
 25 for a 60-day period, the quantity of bio-

1 diesel required under subparagraph (A) by
2 an appropriate quantity that does not ex-
3 ceed 15 percent of the applicable annual
4 requirement for biodiesel.

5 “(iii) FACTORS.—In making deter-
6 minations under this subparagraph, the
7 Administrator shall consider—

8 “(I) the purposes of this Act;

9 “(II) the differential between the
10 price of diesel fuel and the price of
11 biodiesel; and

12 “(III) the impact the biodiesel
13 mandate has on consumers.

14 “(iv) EXTENSIONS.—If the Adminis-
15 trator determines that the feedstock dis-
16 ruption or circumstances described in
17 clause (ii) is continuing beyond the 60-day
18 period described in clause (ii) or this
19 clause, the Administrator, with the concu-
20 rrence of the Secretary of Energy and the
21 Secretary of Agriculture, may issue an
22 order to reduce, for an additional 60-day
23 period, the quantity of biodiesel required
24 under subparagraph (A) by an appropriate
25 quantity that does not exceed an additional

1 15 percent of the applicable annual re-
2 quirement for biodiesel.

3 “(v) RESTORATION.—If the Adminis-
4 trator determines that the feedstock dis-
5 ruption or circumstances described in
6 clause (ii) or (iv) has concluded and that
7 it is practicable, the Administrator, with
8 the concurrence of the Secretary of Energy
9 and the Secretary of Agriculture, may
10 issue an order to increase the quantity of
11 biodiesel required under subparagraph (A)
12 by an appropriate quantity to account for
13 the gallons of biodiesel not used during the
14 period a waiver or extension was in effect
15 under this subparagraph.

16 “(G) PREEMPTION OF STATE BIODIESEL
17 MANDATES.—

18 “(i) IN GENERAL.—The standard es-
19 tablished under subparagraph (A) shall not
20 apply to any diesel fuel subject to a State
21 biodiesel mandate that has been enacted as
22 of January 1, 2007.

23 “(ii) PRODUCTION AND USE OF BIO-
24 DIESEL AND BIO-BASED RENEWABLE DIE-
25 SEL.—Subject to clause (iii), no State or

unit of local government shall establish or
 continue to enforce a mandate that re-
 quires the level of production or use of bio-
 diesel or bio-based diesel replacement to
 exceed the maximum level of production or
 use of biodiesel or bio-based diesel replace-
 ment described in any—

“(I) engine warranty; or

“(II) specification derived in ac-
 cordance with the ASTM.

“(iii) STATE AND MUNICIPAL VEHI-
 CLES.—Nothing in this paragraph pre-
 empts the authority of a State or unit of
 local government—

“(I) to regulate the use of bio-
 diesel in vehicles owned by the State
 or local government, respectively; or

“(II) to establish financial incen-
 tives to promote the use of biodiesel.

“(iv) FINANCIAL INCENTIVES.—Noth-
 ing in this paragraph precludes States
 from establishing financial incentives to
 promote the voluntary use or production of
 biodiesel.”.

1 (b) CONFORMING AMENDMENTS.—Section 211 of the
 2 Clean Air Act (42 U.S.C. 7545) is amended—

3 (1) in subsection (o)(1)(C)(ii)(II), by striking
 4 “biodiesel (as defined in section 312(f) of the En-
 5 ergy Policy Act of 1992 (42 U.S.C. 13220(f))) and”;
 6 and

7 (2) by redesignating the first subsection (r) (re-
 8 lating to fuel and fuel additive importers and impor-
 9 tation) as subsection (u) and moving that subsection
 10 so as to appear at the end of the section.

11 **SEC. 4. BIODIESEL QUALITY.**

12 Subsection (p) of section 211 of the Clean Air Act
 13 (42 U.S.C. 7545) (as added by section 3(a)) is amended
 14 by adding at the end the following:

15 “(3) BIODIESEL QUALITY.—

16 “(A) QUALITY REGULATIONS.—Not later
 17 than 180 days after the date of enactment of
 18 this subsection, the Administrator, in consulta-
 19 tion with the Secretary of Energy and the Sec-
 20 retary of Agriculture, shall promulgate regula-
 21 tions to ensure that only high-quality biodiesel
 22 that is consistent with appropriate ASTM
 23 International standards for biodiesel and bio-
 24 diesel blends is introduced into commerce.

1 “(B) ENFORCEMENT.—The Administrator
 2 shall establish an inspection program to ensure
 3 that biodiesel and biodiesel blends entering
 4 commerce meets the standards established
 5 under subparagraph (A).

6 “(C) VIOLATIONS.—Regardless of whether
 7 the Administrator promulgates regulations
 8 under subparagraph (A), it shall be a violation
 9 of this Act to produce or distribute—

10 “(i) biodiesel or any bio-based diesel
 11 replacement that does not meet the re-
 12 quirements of ASTM standard D6751; or

13 “(ii) a biodiesel blend that does not
 14 meet the equivalent ASTM standard, as
 15 determined by the Administrator.

16 “(D) FUNDING.—There are authorized to
 17 be appropriated to carry out this paragraph
 18 \$3,000,000 for each of fiscal years 2008
 19 through 2010.”.

20 **SEC. 5. BIODIESEL LABELING.**

21 Subsection (p) of section 211 of the Clean Air Act
 22 (42 U.S.C. 7545) (as amended by section 4) is amended
 23 by adding at the end the following:

24 “(4) BIODIESEL LABELING.—

1 “(A) IN GENERAL.—Each retail diesel fuel
 2 pump shall be labeled in a manner that informs
 3 consumers of the percent of biodiesel that is
 4 contained in the biodiesel blend that is offered
 5 for sale, as determined by the Administrator.

6 “(B) LABELING REQUIREMENTS.—Not
 7 later than 180 days after the date of enactment
 8 of this subsection, the Administrator shall pro-
 9 mulgate biodiesel labeling requirements as fol-
 10 lows:

11 “(i) Biodiesel blends that contain less
 12 than or equal to 5 percent biodiesel by vol-
 13 ume and that meet ASTM D975 diesel
 14 specifications shall not require any addi-
 15 tional labels.

16 “(ii) Biodiesel blends that contain
 17 more than 5 percent biodiesel by volume
 18 but not more than 20 percent by volume
 19 shall be labeled ‘contains biodiesel in quan-
 20 tities between 5 percent and 20 percent’.

21 “(iii) Biodiesel blends that contain
 22 more than 20 percent biodiesel by volume
 23 shall be labeled ‘contains more than 20
 24 percent biodiesel’.”.

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