



Capitol Gains: Federal Legislative Review and Outlook

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Overview

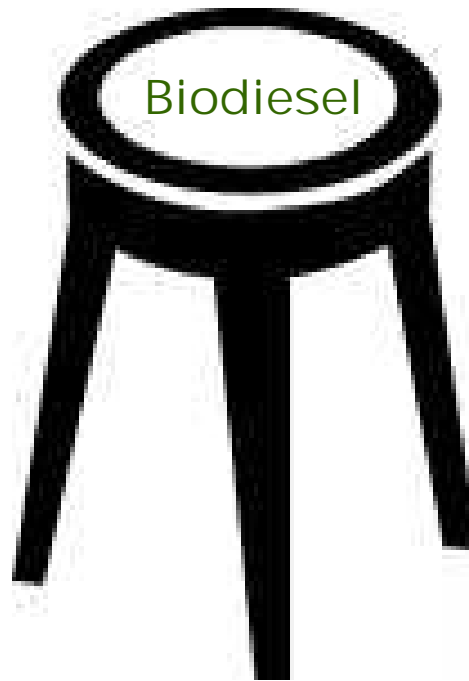
- The Biodiesel Tax Extension and a discussion of Tax Issues
- The CCC Bioenergy Program and the status of the Farm Bill
- RFS 2 – The Impact of the Energy Independence and Security Act of 2007 on Biodiesel

Public Policy Platform for Biodiesel



Bioenergy Program
(Domestic Production)

(Pending)



Tax Credit
(economic driver)



RFS for Biodiesel
(Insurance Policy)



Tax Issues / Extension



Current Law Tax Incentives

- **Biodiesel Volumetric Excise Tax Credit:**
- Biodiesel when blended with diesel fuel is eligible to receive a \$1.00 per gallon credit against excise tax on first use vegetable and animal oils (virgin oils), and a \$.50 per gallon credit against excise tax on second use oils (yellow grease).
- Available through December 31, 2008.
- Imported and Exported Biodiesel is eligible for the tax credit.



Current Law Tax Incentives

- **Small Producer Tax Credit:**
- 10 cents per gallon income tax credit. To qualify, facility's annual production capacity cannot exceed 60 million gallons.
- Credit is capped at 15 million gallons of capacity for a total of \$1.5 million per facility per year.
- Agribiodiesel Producers (Expires 12-31-2008)



The Biodiesel Tax Extension and Congress

- The NBB supports a long-term extension of the biodiesel tax incentive.

- The Energy Independence and Security Act of 2007 (EISA) or (H.R. 6)
 - The final energy bill (EISA) did NOT include an extension of the biodiesel volumetric tax credit.

 - The Senate failed to pass the renewable energy tax extenders package, which included the biodiesel tax credit program

- The Farm Bill of 2007
 - Senate's version of the 2007 Farm Bill, passed by the Senate in late December includes an extension of the biodiesel volumetric tax credit through 2010.

 - The House Farm Bill does not include the extension.



The Biodiesel Tax Extension and Congress

- Economic Stimulus Package
- Expectations for 2008



House Ways and Means

- **Biodiesel:** Extends blenders excise tax credit and small agribiodiesel tax credit through 12-31-10.
- Passed the House of Representatives on August 4, 2007 - (HR 2776) – *The Renewable Energy and Energy Conservation Tax Act of 2007*, and again on December 6, 2007 – (HR 6) *The Energy Independence and Security Act of 2007*.
- *Not signed into law....*



Senate Finance

- Biodiesel:
 - Extends blender excise tax credit through December 31, 2010
 - Extends small agri-biodiesel producer tax credit through December 31, 2012.
 - Addresses Splash and Dash
 - Keeps Biodiesel Exports and Imports eligible for the credit
 - New rules for taxpayers who take the credit
 - New rules for exporters of biodiesel
 - Changes the point of taxation to the biodiesel producer

- Tax package was passed by Senate Finance on October 4, 2007, and added to the Senate's version of the Farm Bill (pending).



Trade/Tax Provisions



House Ways and Means

Limitation on Credit – Trade

- Initial energy bill had language to limit credit to biodiesel and ethanol “produced and consumed” in the U.S.
 - “Splash & Dash” not eligible for the tax credit – retroactive denial of credit.
 - Exports not eligible for the tax credit on a prospective basis.



Senate Finance

Limitation on Credit – Trade

- Finance Agriculture Tax Package requires IRS to implement new fuel reporting and testing requirements. However, exports would continue to qualify for credit.
- Applies to all “VEETC” type fuels – not just biodiesel or ethanol.
- Small producer credit could still be claimed on exports.
- Significant move away from previous Finance Energy Tax Package, which denied excise credit for exported fuels.



House/Senate Agreement

Limitation on Credit – Trade

- Fuel produced outside the US for use as a fuel outside the US ineligible for the credit (splash and dash). Effective date *retroactive to October, 2004* in House bill. Prospective effective date in the Senate considered bill.
- Exports of US produced fuel continue to qualify for tax credit.



Co-Processed Renewable Diesel



Current Law – Renewable Diesel

- ❑ Provides a \$1 per gallon blenders excise tax credit for renewable diesel.
- ❑ Renewable diesel must be derived from biomass, meet either D975 or D396 fuel specification and Clean Air requirements.
- ❑ Must use thermal depolymerization.
- ❑ IRS Regs. allow co-processing to qualify.



NBB Position

- Co-Processed Renewable Diesel – renewable diesel derived from co-processing biomass with petroleum products – should not qualify for the \$1 per gallon renewable diesel tax credit.




House Ways and Means

- Consistent with H.R. 2361, Doggett/Hulshof bill, denies renewable diesel credit to co-processed renewable diesel.
- Passed House of Representatives in August as part of H.R. 3221, *the New Direction for Energy Independence, National Security, and Consumer Protection Act*



Senate Finance Committee


- Establishes 60 million gallon per facility cap for Renewable Diesel Credit for Co-Processing.
- Included in both Finance Energy Tax Package and the Agriculture Tax Package.



Latest Conference Agreement on Biodiesel and Renewable Diesel (December 13, 2007)

Biodiesel

- Extended through December 31, 2010
- Splash and Dash Eliminated
 - House – retroactive to original date of enactment
 - Senate – prospective
- Exports / Imports
 - Credit Allowed
- Point of Taxation remains the same as current law



Latest Conference Agreement on Biodiesel and Renewable Diesel (December 13, 2007)

Renewable Diesel

- Extended through December 31, 2010
 - Co-processed Renewable Diesel not allowed
 - Thermal Depolymerization and ASTM Specification 396 removed from the definition

Farm Bill

Biodiesel Issues



Farm Bill Energy Title

We are seeking a Bioenergy Program that pays biodiesel producers a mandatory per gallon payment on all production to offset subsidies on foreign imports and increasing feedstock costs.



House Bill

- The House passed Farm Bill includes a CCC Bioenergy Program:
- Funded at \$1.4 billion.
- Biodiesel, cellulosic and other renewable energy sources would be eligible. Corn starch ethanol is excluded.
- The House language maintains focus on increased production, rather than all gallons.



Senate Bill

The Senate Farm Bill includes a CCC Bioenergy Program:

- ❑ Funded at \$245 million.
- ❑ Advanced Biofuels are eligible; corn starch ethanol is excluded.
- ❑ Maintains focus on increased production.
- ❑ Requires producers to choose between the Small Producer Tax Credit (SPTC) and the Bioenergy Program.



Senate Farm Bill Tax Title

- The Senate Farm Bill includes a tax package that extends the Biodiesel tax incentive through 2010
- The tax provisions make biodiesel a taxable fuel and change the point of taxation.
- The tax credit would remain available to exports under the Senate Farm Bill tax title.



Farm Bill Energy Title

Conference Priorities

- ❑ Secure sufficient funding for the Bioenergy Program.
- ❑ Ensure that the program focuses on all gallons, rather than increased production.
- ❑ Remove the SPTC provision.
- ❑ Extend the Biodiesel Tax Incentive through 2010 and maintain access to the credit for exports.



Farm Bill Outlook

- ❑ Conference negotiations between the House, Senate, and USDA are underway.
- ❑ The Administration veto threat over tax provisions, among other things.
- ❑ The stand-off over Farm Bill funding is central to the Energy Title and Bioenergy Program.
- ❑ Veto is likely; Post veto approach?



The New Renewable Fuels Standard

“RFS 2”

- Originally enacted as part of the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act (EISA) of 2007 Passed in the Energy Independence and Security Act of 2007 (EISA)

- Requires a minimum use of renewable fuels in transportation fuels.

- Examples of Renewable Fuels
 - Ethanol
 - Biodiesel
 - Cellulosic Ethanol (not yet commercial)
 - Biobutanol (not yet commercial)
 - Bio-Based Replacement Diesel (not yet commercial)



The New Renewable Fuels Standard

“RFS 2”

- The Environmental Protection Agency (EPA) will be drafting a new regulatory rule to implement RFS 2
- NBB is working with EPA and will provide input into the updated rule.
- EPA will be presenting during Section 27 (Tuesday at 10:45)

“RFS 2”

<u>Year</u>	<u>Volume in billions of gallons</u>	<u>Conventional Biofuels</u> (may include all fuels)	<u>Advanced Biofuels</u>	<u>Cellulosic Biofuels</u>	<u>Biomass-Based Diesel</u>	<u>Undifferentiated Advanced Biofuels</u> (All fuels except conventional)
2006	4.000	4.000				
2007	4.700	4.700				
2008	9.000	9.000				
2009	11.100	10.500	0.600		0.500	0.100
2010	12.950	12.000	0.950	0.100	0.650	0.200
2011	13.950	12.600	1.350	0.250	0.800	0.300
2012	15.200	13.200	2.000	0.500	1.000	0.500
2013	16.550	13.800	2.750	1.000	≥1.000*	0.750
2014	18.150	14.400	3.750	1.750	≥1.000*	1.000
2015	20.500	15.000	5.500	3.000	≥1.000*	1.500
2016	22.250	15.000	7.250	4.250	≥1.000*	2.000
2017	24.000	15.000	9.000	5.500	≥1.000*	2.500
2018	26.000	15.000	11.000	7.000	≥1.000*	3.000
2019	28.000	15.000	13.000	8.500	≥1.000*	3.500
2020	30.000	15.000	15.000	10.500	≥1.000*	3.500
2021	33.000	15.000	18.000	13.500	≥1.000*	3.500
2022	36.000	15.000	21.000	16.000	≥1.000*	4.000

* Administrator determines minimum use allocation for out years



“RFS 2”

- Conventional Biofuels: 9.0 in 2008 – 15 bgy in 2015
- Advanced Biofuels: 600 mgy in 2009 – 21 bgy in 2022
- Cellulosic Biofuels: 100 mgy in 2010 – 16 bgy in 2022
- Biomass-Based Diesel: 500 mgy in 2009 – 1.0 bgy in 2012
- Undifferentiated
Advanced Biofuels: 100 mgy in 2009 – 4.0 bgy in 2022



“RFS 2” – What We Know

- Biomass-Based Diesel
 - Biodiesel
 - Renewable Diesel
 - Emulsified Diesel
 - Other

- “Co-processed Renewable Diesel” is NOT “Biomass-Based Diesel”

- Lifecycle Greenhouse Gas Emissions
 - 50 %
 - To be certified by EPA



“RFS 2” – What We Know

- 9.0 billion gallons in 2008
 - The current RFS program will be used in 2008
 - 9.0 billion gallons = 9.0 billion “ethanol equivalent” RINs
 - RINs = Renewable Inventory Numbers
 - Biodiesel Producers must keep track of RINs

- RFS 2 includes all transportation fuels, not just gasoline
 - Expanded marketplace for renewable fuels
 - Brings new “obligated parties” into the program
 - Transportation Fuel ...
 - “... fuel for use in motor vehicles, motor vehicle engines, nonroad vehicles, or nonroad engines (except ocean-going vessels).”

“RFS 2” – What We Know

- Current U.S. Production of Biodiesel = 675 million RINS
 - 450 million gallons x 1.5 = 675 million RINS

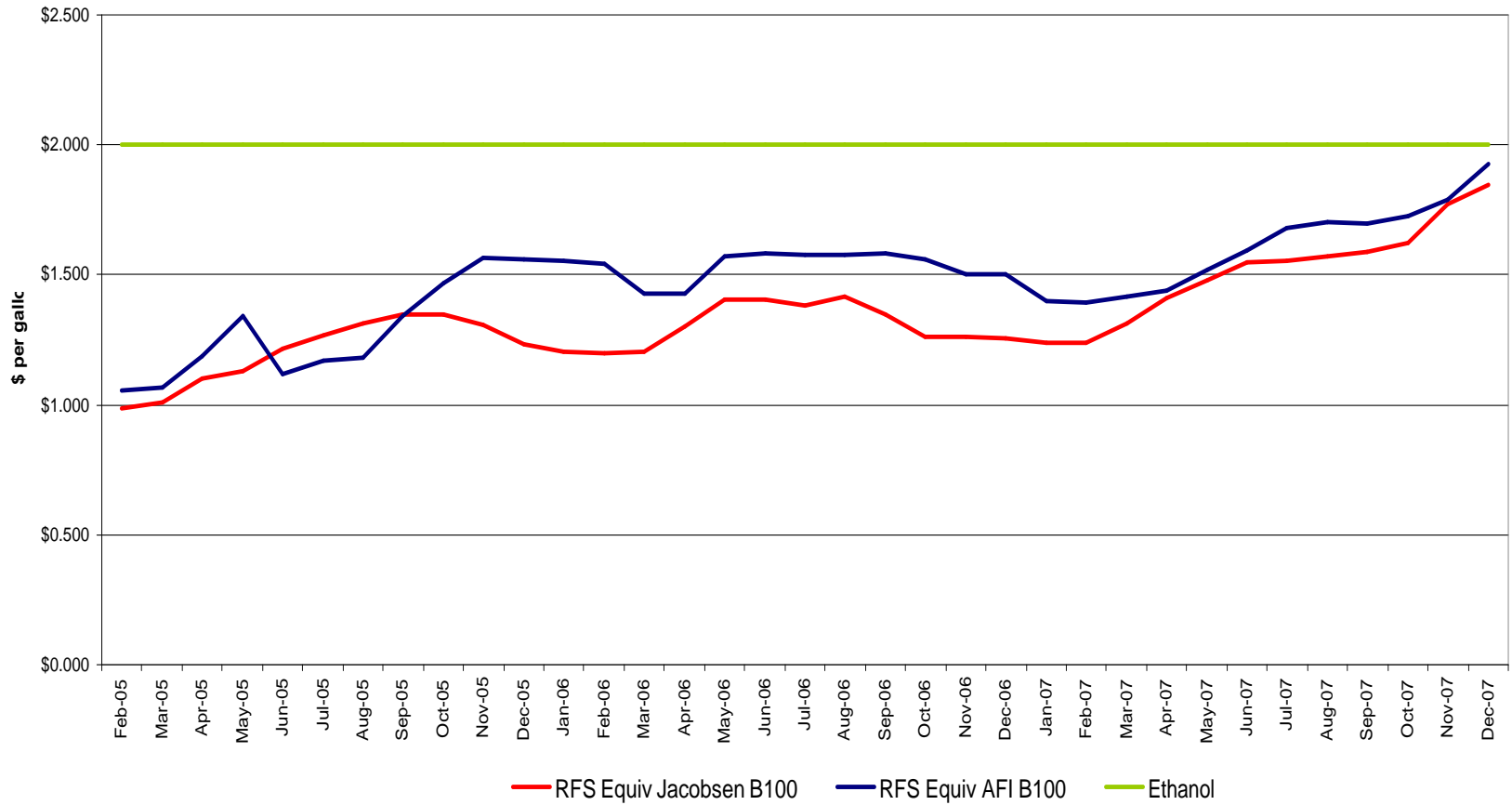
- Biodiesel RIN Gallon
 - RINs based on “Ethanol Equivalency”
 - 2008 = 9 billion RINs required
 - Biodiesel RIN Gallons will be needed
 - Today’s “Biodiesel RIN Gallon” value = **\$2.20**
 - $\$4.30 - \$1.00 / 1.5 = \$2.20$

The Value of a “Biodiesel RIN Gallon”

	Jacobsen B100	AFI B100	RFS Equivalent		Ethanol @ \$2.50
			Jacobsen B100	AFI B100	
Jan-2007	\$2.858	\$3.096	\$1.239	\$1.397	\$2.000
Feb-2007	\$2.854	\$3.094	\$1.236	\$1.396	\$2.000
Mar-2007	\$2.974	\$3.124	\$1.316	\$1.416	\$2.000
Apr-2007	\$3.116	\$3.162	\$1.410	\$1.441	\$2.000
May-2007	\$3.219	\$3.279	\$1.479	\$1.519	\$2.000
Jun-2007	\$3.323	\$3.395	\$1.549	\$1.596	\$2.000
Jul-2007	\$3.330	\$3.517	\$1.554	\$1.678	\$2.000
Aug-2007	\$3.354	\$3.553	\$1.569	\$1.702	\$2.000
Sep-2007	\$3.387	\$3.549	\$1.591	\$1.700	\$2.000
Oct-2007	\$3.431	\$3.586	\$1.620	\$1.724	\$2.000
Nov-2007	\$3.661	\$3.687	\$1.774	\$1.791	\$2.000
Dec-2007	\$3.770	\$3.892	\$1.846	\$1.928	\$2.000



RFS Equivalent Price
(Based Upon a Credit of 1.5 per Gallon of B100 and Net of the Excise Tax Credit)





The Biodiesel RIN Gallon

<u>RINS from Biodiesel</u>	<u>In Gallons</u>
■ 2007 = 350 million (estimate)	200 mgy
■ 2008 = 675 million (opportunity)	450 mgy
■ 2009 = 750 million	500 mgy
■ 2010 = 975 million	650 mgy
■ 2011 = 1.2 billion	800 mgy
■ 2012 = 1.5 billion	1.0 bgy



U.S. Biofuels Industry Today

- Ethanol –
 - 2007 = Actual production of 7.0 bgy

- Biodiesel -
 - Actual 2007 production of 450 mgy
 - Estimated 2008 production of 550 mgy
 - Today – 172 plants in 40 states with the production capacity of nearly 2.2 bgy, with 58 new plants in the planning and construction phases (1.11 bgy)

- 2 billion ethanol equivalent gallons needed to meet the 2008 requirement in RFS 2



Capitol Gains

Questions & Answers

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