

2007 to be a bumper crop year for biodiesel legislation

States around the country have picked up the pace in addressing biodiesel policy. Policy makers are considering everything from mandates, to production incentives, to tax exemptions and credits to encourage the growth of the industry.

Several states are considering some form of requirement legislation – or mandate – that would require either a certain percentage of diesel sold in a state to be biodiesel or that all diesel fuel sold in a state contain a minimum of a two percent biodiesel (B2) blend. Many states are adding language that would increase the B2 blend to a B5 level after a designated period. These states include Florida, Connecticut, Missouri, California, Oregon, Mississippi, Arkansas, Montana and New Mexico.

Some states' proposals – such as Missouri and New Mexico – simply require by a specific date all diesel fuel sold at retail to contain at least 2 or 5 percent biodiesel by volume. In some cases it increases to five percent by volume at a later date. Similar to what occurred in some states last year, state legislatures such as Maryland are leaning toward establishing a Task Force, or study committee, to research mandates further before turning them into law. Other states have chosen to tie their requirements to in-state or regional feedstock production.

The state of Oregon, for example, has proposed legislation similar to what passed in Washington state in 2006. It would require all diesel fuel sold in the state to contain a minimum of 2 percent biodiesel by volume when the production of biodiesel in this state from Pacific Northwest feedstock reaches a level of at least five million gallons on an annualized basis for at least three months. (Pacific Northwest in this case is Oregon, Washington, Idaho and Montana.) The requirement increases to 5 percent biodiesel by volume when production levels reach at least 15 million gallons annually.

Oregon's mandate legislation has a unique twist in that it coincides with the city of Portland's biodiesel mandate that passed in 2006. That city ordinance requires effective July 1 all diesel fuel sold by fuel distributors or resellers to fuel retailers, nonretail dealers or wholesale purchaser-consumers, to contain a minimum blend of 5 percent biodiesel (B5). Beginning Aug. 15, it requires all diesel fuel sold by fuel retailers, dispensed by nonretail dealers or purchased by wholesale purchaser-consumers to contain a minimum blend of B5. In 2010, the required blend level increases to B10.

a big state with big biodiesel hopes

California is also considering a series of bills that would encourage biodiesel use there. Sen. Dean Florez (D-Shafter) introduced a package of legislation in early January. Senate bills 70 through 76 would do the following:

- SB70-define biodiesel as a fuel, not an additive; implement regulation on meeting the ASTM spec.
- SB71-mandate the use in state-owned diesel-powered vehicles
- SB72-require the use in school buses throughout the state
- SB73-create a tax credit to stimulate California production

- SB74-exempt biodiesel fuels from state sales and excise taxes
- SB75-mandate that the state only purchase diesel-powered vehicles that come with a warranty on the engine, something the diesel manufacturing industry has resisted
- SB76-establish the California Biodiesel Investment Account, which would offer incentives such as grant money to local governments, farmers and research agencies to build fueling stations, grow feedstock crops and develop new biodiesel technologies.

Hearings on most of these bills were to take place in late March.

Many other states are also looking at ways to encourage biodiesel use and production through a variety of tax incentives and grants and loans. For example, Florida Governor Charlie Crist asked the state legislature for \$68 million in funding incentives for Florida-based biodiesel and ethanol projects. Arkansas's legislature wants to provide grant money as part of a \$20 million biodiesel incentive bill to Arkansas companies willing to build the equipment necessary to crush soybeans into oil for biodiesel production. The bill, by House Speaker Benny Petrus (D-Stuttgart) would offer grants to companies wanting to build such equipment. It would also provide the state Department of Agriculture with \$16 million to distribute to companies that make biodiesel fuel from soybeans or ethanol from wood products. Several states, such as Connecticut and Tennessee, have proposals to exempt the state's diesel tax for the portion of biodiesel in the blend. In Tennessee, for example, that would work out to \$0.17/gallon for B100 and roughly \$0.04/gallon for B20.

label legislation

Several states are considering the issue of labeling pumps that dispense biodiesel. Some states are pursuing options in line with the recommendations of the National Conference of Weights and Measures that would require labels for pumps dispensing biodiesel blends between B6 and B20, saying the fuel contains biodiesel from 6 to 20 percent. In most cases, pumps dispensing fuel containing less than 5 percent of biodiesel by volume would not be required to be labeled. A few states, such as Arizona, have proposals that would require biodiesel and biodiesel blends be identified by the capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel, regardless of the blend level.

It is likely that many of these proposals will become law in some form by the end of this year. The year 2007 promises to be yet another active one for the biodiesel industry.

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