H. R. 1149

To amend the Clean Air Act to include algae-based biofuel in the renewable fuel program and amend the Internal Revenue Code of 1986 to include algae-based biofuel in the cellulosic biofuel producer credit.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. Bilbray (for himself, Mr. Inslee, Mrs. Bono Mack, Mrs. Davis of California, Mr. Hunter, Mr. Dreier, Mr. Carnahan, and Mr. Bartlett) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Clean Air Act to include algae-based biofuel in the renewable fuel program and amend the Internal Revenue Code of 1986 to include algae-based biofuel in the cellulosic biofuel producer credit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF ALGAE-BASED BIOFUEL IN RENEWABLE FUEL PROGRAM.

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended—

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(1) in subparagraph (E) by adding at the end
the following “The term ‘cellulosic biofuel’ also in-
cludes algae-based biofuel.”, and
(2) by adding the following new subparagraph
at the end thereof:

“(M) ALGAE-BASED BIOFUEL.—The term
‘algae-based biofuel’ means liquid fuel—
“(i) derived from the biomass of
single- or multi-cellular organisms which
are inherently aquatic and classified as
non-vascular plants (including microalgae,
blue-green algae (cyanobacteria), and ma-
croalgae (seaweeds)); and
“(ii) that has lifecycle greenhouse gas
emissions, as determined by the Adminis-
trator, that are at least 60 percent less
than the baseline lifecycle greenhouse gas
emissions.”.

SEC. 2. INCLUSION OF ALGAE-BASED BIOFUEL IN DEFINI-
TION OF CELLULOSIC BIOFUEL.

(a) Cellulosic Biofuel Producer Credit.—
(1) GENERAL RULE.—Paragraph (4) of section
40(a) of the Internal Revenue Code of 1986 is
amended by inserting “and algae-based” after “cel-
lulosic”.
(2) DEFINITIONS.—Paragraph (6) of section 40(b) of such Code is amended—

(A) by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading,

(B) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—The cellulosic and algae-based biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of—

“(i) qualified cellulosic biofuel production, and

“(ii) qualified algae-based biofuel production.”,

(C) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (I), (J), and (K), respectively,

(D) by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading of subparagraph (I), as so redesignated,

(E) by inserting “or algae-based biofuel, whichever is appropriate,” after “cellulosic biofuel” in subparagraph (J), as so redesignated,
(F) by inserting “and qualified algae-based biofuel production” after “qualified cellulosic biofuel production” in subparagraph (K), as so redesignated, and

(G) by inserting after subparagraph (E) the following new subparagraphs:

“(F) QUALIFIED ALGAE-BASED BIOFUEL PRODUCTION.—For purposes of this section, the term ‘qualified algae-based biofuel production’ means any algae-based biofuel which is produced by the taxpayer, and which during the taxable year—

“(i) is sold by the taxpayer to another person—

“(I) for use by such other person in the production of a qualified algae-based biofuel mixture in such other person’s trade or business (other than casual off-farm production),

“(II) for use by such other person as a fuel in a trade or business, or

“(III) who sells such algae-based biofuel at retail to another person and
places such algae-based biofuel in the fuel tank of such other person, or
“(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified algae-based biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

“(G) QUALIFIED ALGAE-BASED BIOFUEL MIXTURE.—For purposes of this paragraph, the term ‘qualified algae-based biofuel mixture’ means a mixture of algae-based biofuel and gasoline or of algae-based biofuel and a special fuel which—

“(i) is sold by the person producing such mixture to any person for use as a fuel, or

“(ii) is used as a fuel by the person producing such mixture.

“(H) ALGAE-BASED BIOFUEL.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘algae-based biofuel’ means any liquid fuel, in-
excluding gasoline, diesel, aviation fuel, and ethanol, which—

“(I) is produced from the biomass of algal organisms, and

“(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

“(ii) ALGAL ORGANISM.—The term ‘algal organism’ means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae, blue-green algae (cyanobacteria), and macroalgae (seaweeds).

“(iii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.”.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (D) of section 40(d)(3) of such Code is amended—
(i) by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading, 

(ii) by inserting “or (b)(6)(F)” after “(b)(6)(C)” in clause (ii), and 

(iii) by inserting “or algae-based” after “such cellulosic”. 

(B) Paragraph (6) of section 40(d) of such Code is amended—

(i) by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading, and 

(ii) by striking the first sentence and inserting “No cellulosic and algae-based biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic or algae-based biofuel unless such cellulosic or algae-based biofuel is produced in the United States and used as a fuel in the United States.”. 

(C) Paragraph (3) of section 40(e) of such Code is amended by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading. 

(D) Paragraph (1) of section 4101(a) of such Code is amended—

(i) by inserting “or algae-based” after “cellulosic”, and
(ii) by inserting “and 40(b)(6)(H), respectively” after “section 40(b)(6)(E)”.

(b) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—Subsection (l) of section 168 of the Internal Revenue Code of 1986 is amended—

(1) by inserting “AND ALGAE-BASED” after “CELLULOSIC” in the heading,

(2) by inserting “and any qualified algae-based biofuel plant property” after “qualified cellulosic biofuel plant property” in paragraph (1),

(3) by redesignating paragraphs (4) through (8) as paragraphs (6) through (10), respectively,

(4) by inserting “or qualified algae-based biofuel plant property” after “cellulosic biofuel plant property” in paragraph (7)(C), as so redesignated,

(5) by striking “with respect to” and all that follows in paragraph (9), as so redesignated, and inserting “with respect to any qualified cellulosic biofuel plant property and any qualified algae-based biofuel plant property which ceases to be such qualified property.”,

(6) by inserting “or qualified algae-based biofuel plant property” after “cellulosic biofuel plant property” in paragraph (10), as so redesignated, and
(7) by inserting after paragraph (3) the following new paragraphs:

“(4) QUALIFIED ALGAE-BASED BIOFUEL PLANT PROPERTY.—The term ‘qualified algae-based biofuel plant property’ means property of a character subject to the allowance for depreciation—

“(A) which is used in the United States solely to produce algae-based biofuel,

“(B) the original use of which commences with the taxpayer after December 31, 2008,

“(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after December 31, 2008, but only if no written binding contract for the acquisition was in effect on or before such date, and

“(D) which is placed in service by the taxpayer before January 1, 2013.

“(5) ALGAE-BASED BIOFUEL.—

“(A) IN GENERAL.—The term ‘algae-based biofuel’ means any liquid fuel which is produced from the biomass of algal organisms.

“(B) ALGAL ORGANISM.—The term ‘algal organism’ means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae,
blue-green algae (cyanobacteria), and macroalgae (seaweeds).”.

(c) EFFECTIVE DATES.—

(1) CELLULOSIC BIOFUEL PRODUCER CREDIT.—The amendments made by subsection (a) shall apply to fuel produced after December 31, 2008.

(2) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—The amendments made by subsection (b) shall apply to property purchased and placed in service after December 31, 2008.