Finance panel set to close ‘splash and dash’ loophole
By Ian Swanson
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The Senate Finance Committee today will mark up legislation intended to close a loophole that has allowed importers to pocket tens of millions of dollars in subsidies for biodiesel that never finds its way to U.S. gas tanks.

Known as “splash and dash,” the loophole allows 100 percent biodiesel made from soybeans and other commodities and imported from a third country, such as Brazil or Malaysia, to be carried to a U.S. port, where a “splash” of petroleum diesel is added. This allows the importer to qualify for tax credits intended to promote the production and use of U.S. biodiesel.

The ship then quickly leaves the U.S. port to “dash” to another port, usually in Europe, where the subsidized biofuel is unloaded and sold. Tax incentives have created a hugely profitable market for biofuels in Europe, so the companies pocketing the U.S. tax breaks are again rewarded in Europe.

Critics of the approach say the biodiesel tax incentives, first approved by Congress in 2004, were intended to promote the use of renewable fuel in the U.S. Fuels blended in the U.S. but used in other countries should not benefit from the tax breaks, they argue.

“Allowing foreign-produced biodiesel to be transshipped through the U.S. market solely to take advantage or our biodiesel tax is indefensible,” said Joe Jobe of the National Biodiesel Board, which fully supports efforts to shut down “splash and dash” transactions.

Both committee Democrats and Republicans, such as Finance ranking member Chuck Grassley (R-Iowa), were concerned because the credit for blending fuel was meant to encourage biodiesel production in the U.S., a committee aide said.

It is estimated that the practice cost the U.S. Treasury $30 million in the last year, but critics say the price will grow as the practice is becoming more common.

The loophole has been particularly galling to the European industry, which has lobbied European Union officials to press the U.S. to change its system. In a letter to E.U. Trade Commissioner Peter Mandelson earlier this year, the European Biodiesel Board (EBB) complained that U.S. biodiesel can qualify for the tax breaks by adding only a drop of mineral diesel, even though biodiesel blends are typically as much as 95 percent mineral diesel.

The blended fuel “is then ready to be exported to Europe in order to fully benefit from European subsidy schemes,” said the letter, which calls it an unfair trade practice.

Lobbyists for E.U. farmers who hope to have their commodities used for the production of bio-fuels in Europe also have pressed for the change in U.S. policy, since the U.S. produced ethanol is cutting into their home markets.

“It’s pushing the price down so it’s hurting the European farmer,” said Ralph Ichter, who represents French oilseed producers and processors.

He said the U.S. tax incentives are not meant to subsidize European motorists. At the same time, Ichter said it is not clear whether European drivers see lower fuel costs because of the U.S. tax breaks, or whether those profits are simply pocketed by the traders in the U.S.

Language closing the loophole is tucked away in the Energy Advancement and Investment Act of 2007 unveiled by Finance last Thursday. The provision is one of the smaller revenue raisers included in the bill to pay for various tax incentives for renewable energies.

The Finance legislation is set to be incorporated into the energy bill the Senate is debating this week on the floor. Senate approval of the energy bill will turn on the result of a number of debates, from the viability and cost of coal-to-liquid technology to the auto industry’s opposition to the bill’s mandated fuel efficiency standards.

Under current law, U.S. biodiesel producers are eligible for a subsidy of $1 per gallon of biodiesel mixed with mineral diesel.

The Senate legislation would change U.S. law so that only biodiesel consumed or sold for consumption in the U.S. would qualify for the subsidy. Foreign-produced fuel would have to be entered in the U.S. for consumption in the U.S. to get the tax credits. The bill would also not allow domestically produced fuel sold for export to qualify for the tax incentive.