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United States Senate

December 22, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

I write to request you alter the regulation of biodiesel for on-farm and small community microprocessors from the currently cost-prohibitive process. By changing bio-diesel from an atypical fuel to a non-baseline fuel under the EPA Clean Air Act guidelines, rural farmers can realize the sustainable practice of producing and using their own biofuels. Once classified as a non-baseline fuel, on farm producers can utilize exemptions which are already available to other small business owners that produce fuels and fuel additives, including small ethanol producers.

As you know, currently, the EPA requires fuels and fuel additives intended for use in motor vehicles to be registered under provisions in sections 211(b) and 211 (e) of the Clean Air Act and regulations promulgated in 40 CFR Part 49. According to Jon Van Gerpen, professor of Agricultural Engineering at the University of Idaho:

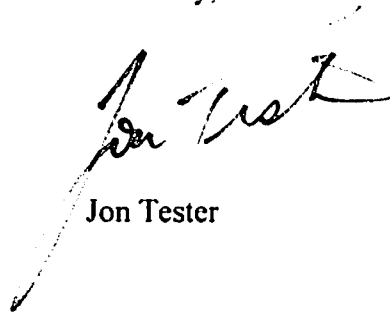
The EPA fuel registration regulations include small business exemptions that were intended to provide a way for small business owners to avoid the requirement for expensive testing. These exemptions are widely used by small companies that produce other fuels and fuel additives, but due to a technicality in EPA's interpretation of the regulations, the exemptions are not available to small biodiesel producers. If these exemptions could be made available to small producers without the need for expensive testing, it would improve the profitability of biodiesel production.

According to Dr. Van Gerpen, to ease the impact of the testing costs on small producers, the fuel and fuel additives (F/FA) regulations state that fuel manufacturers of baseline and non-baseline fuels with annual sales of less than \$50 million only need to submit basic registration data such as what the fuel contains and how it is used. They are not required to submit engine testing or animal testing data. Without this savings, on-farm producers will have a difficult time pursuing biofuels which is counter-productive to the whole intent of the program.

Thus, with this information I urge you to reverse earlier decisions and reclassify bio-diesel as a typical non-baseline fuel. This will exempt small-scale on-farm producers from exhaustive engine testing, allowing small producers to qualify for existing small business exemptions.

Thank you for your consideration and I look forward to working with you to solve this issue for small on-farm producers in Montana and the rest of the country.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Tester". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Jon Tester