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**Written Testimony of Anne Steckel
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Submitted to the U.S. House of Representatives Ways and Means Subcommittee on Select Revenue
Measures and Subcommittee on Oversight**

**“Hearing on Energy Tax Policy and Tax Reform”
September 22, 2011**

Executive Summary: Biodiesel is a renewable, low-carbon diesel replacement fuel. It is the only domestically produced, commercial-scale Advanced Biofuel – as defined by the Environmental Protection Agency (EPA) – that meets a strict ASTM fuel specification and is readily available and accepted in the U.S. marketplace. (Note: Biomass-based Diesel is an Advanced Biofuel under the EPA’s Renewable Fuels Standard (RFS2) program, and in general, U.S. biodiesel produced from animal fats, recycled cooking oil, soybean oil, inedible corn oil derived from the ethanol production process, canola and algae qualifies as Biomass-based Diesel).

In its short history, the U.S. biodiesel tax incentive has achieved its desired goal of increasing the domestic production of a clean-burning, renewable fuel while generating jobs, reducing America’s reliance on foreign oil and improving the environment.

When the incentive was enacted in 2004, the U.S. produced 25 million gallons of biodiesel. This year, the industry is on pace for record production of at least 800 million gallons and will support more than 31,000 jobs across the country while generating some \$628 million in federal, state and local tax revenues, according to a recent economic study¹.

This growth is to be applauded, but it should not cloud the fact that biodiesel remains a young and vulnerable industry. In fact, we know from recent history what could happen if Congress allows the tax incentive to lapse. When that occurred in 2010, the result was predictable: Plants closed and thousands of people across the country lost work. Specifically, U.S. biodiesel production plummeted by 42 percent, resulting in the loss of nearly 8,900 jobs and a drop in household income of \$485 million.

Only a few months ago, after Congress ultimately reinstated the tax incentive, did the industry regain its footing and begin ramping up production again.

With the ongoing economic downturn, now is not the time to allow that to happen again. Under projected expansion by 2015, biodiesel is expected to support more than 74,000 jobs, \$4 billion in income, and some \$7.3 billion in GDP, according to the economic study.

That growth will be severely jeopardized by the expiration of the tax incentive, and we strongly encourage the Ways and Means Committee to provide a seamless extension of the biodiesel, renewable diesel and bio-jet tax credit.

Chairmen Tiberi and Boustany and Ranking Members Neal and Lewis, I appreciate the opportunity to submit written testimony on behalf of the National Biodiesel Board (NBB) regarding energy tax policy and tax reform. As producers of America's only commercial-scale Advanced Biofuel that's sold and produced nationwide, the U.S. biodiesel industry looks forward to working constructively with this committee to ensure that our nation's Advanced Biofuel goals are met.

NBB applauds your efforts to review energy tax incentives as the Ways and Means Committee considers fundamental tax reform. History has shown that well-crafted and efficient tax incentives can be powerful policy mechanisms to achieve the nation's energy objectives and leverage private sector investment to promote the deployment and utilization of new energy resources. This is certainly the case with the tax credit for biodiesel, renewable diesel and bio-jet fuel. As with every other major U.S. energy resource, effective tax policy has helped create domestic manufacturing jobs as well as significant economic and energy policy benefits.

The U.S. biodiesel industry is having a record year of production and is creating good-paying jobs in nearly every state in the country. This success is in part attributed to the strong federal policies in place encouraging domestic energy production. While we understand the pressures facing Congress, we believe economic conditions are simply too weak today to pull support from a growing American industry that is a rare bright spot in this struggling economy.

Now, as much as ever, the biodiesel industry needs stability and support to continue its remarkable success story, and we encourage the Ways and Means Committee to provide a seamless extension of the biodiesel, renewable diesel, and bio-jet tax credit. A seamless extension, before the end of this year, would provide needed certainty and protect against future disruptions and the loss of thousands of much-needed jobs.

Background and Industry Overview: Biodiesel is a renewable, low-carbon diesel replacement fuel. The EPA has determined, based on the performance requirements established by the *Energy Independence and Security Act* (EISA) (P.L. 110-140), that domestically produced biodiesel is an Advanced Biofuel under the RFS2 program. In fact, it is the only commercial-scale fuel sold and produced across the United States to achieve this designation.

Biodiesel is made from waste greases like recycled cooking oil, animal fats and secondary-use agricultural oils, and is refined to meet a specific commercial fuel definition and specification. The fuel meets the D6751 fuel specification set forth by ASTM International, the official U.S. fuel-certification organization. Biodiesel is one of the most- and best-tested alternative fuels in the country and the only alternative fuel to meet all of the testing requirements of the 1990 amendments to the Clean Air Act. There are approximately 195 domestic and foreign biodiesel plants registered with the EPA, representing a combined production capacity in excess of 2.7 billion gallons.

Biodiesel is primarily marketed as a five percent (B5) blending component with conventional diesel fuel, but can be used in concentrations up to twenty percent (B20). It is distributed utilizing the existing fuel distribution infrastructure with blending occurring both at fuel terminals and "below the rack" by fuel jobbers.

Status and Background on the Biodiesel Tax Incentive: The biodiesel tax incentive was enacted in 2004 as part of the American Jobs Creation Act (P.L. 108-357). The incentive was subsequently extended through December 31, 2008 as part of the Energy Policy Act of 2005 (P.L. 109-190). H.R. 1424, the Emergency Economic Stabilization Act of 2008 (P.L. 110-343), again extended the incentive for one year through December 31, 2009, at which time the credit expired. After a year of being expired for all of 2010, Congress extended the tax credit through Dec 31, 2011 (P.L. 111-312).

The 2010 expiration of the tax credit had a severely detrimental impact on the domestic biodiesel industry. In fact, the industry's decline resulted in the loss of nearly 8,900 jobs and a drop in household income of \$485 million.

The biodiesel tax incentive is designed to encourage the production and use of biodiesel by making the fuel price-competitive with conventional diesel fuel. In general, current law allows taxpayers to claim the biodiesel tax incentive as either a \$1.00 per gallon general business income tax credit or as a \$1.00 per gallon blenders excise tax credit. To qualify for the biodiesel tax incentive, the fuel must by statute meet both the ASTM D6751 fuel specification and the Environmental Protection Agency's (EPA) registration requirements under Section 211 of the Clean Air Act.

The Internal Revenue Code provides a general business income tax credit to encourage the production and use of biodiesel, renewable diesel and bio-jet fuel. The credit is the sum of three credits – the biodiesel mixture credit; the biodiesel credit; and the small agri-biodiesel producer credit. The biodiesel mixture credit provides a \$1.00 per gallon credit for each gallon of biodiesel that is blended with conventional diesel fuel. The biodiesel credit provides \$1.00 per gallon for each gallon of pure B100 biodiesel that is used as a fuel. The small agri-biodiesel producer credit is a 10 cents per gallon credit for plants with a production capacity of less than 60 million gallons per year. The credit can be claimed on the first 15 million gallons of production.

Biodiesel Public Policy Benefits: The biodiesel tax incentive has helped achieve the worthwhile policy goal of creating jobs while increasing the production and use of biodiesel in the U.S. In 2004, when the incentive was initially enacted, the U.S. produced 25 million gallons. This year, with the tax credit reinstated we anticipate the industry will produce at least 800 million gallons. There are compelling public policy benefits associated with the enhanced production and use of biodiesel in the U.S.

Biodiesel Reduces our Dependence on Foreign Oil: Biodiesel can play a major role in expanding domestic refining capacity and reducing our reliance on foreign oil. The 2.8 billion gallons of biodiesel produced in the U.S. since 2005 have displaced an equivalent amount of diesel fuel with a clean-burning, efficient fuel that according to the EPA reduces lifecycle greenhouse gas emissions by as much as 86 percent compared to petroleum diesel fuel and creates 5.5 units of energy for every unit of energy that is required to produce the fuel.

Biodiesel is Good for the Environment: Biodiesel is an environmentally safe fuel, and is the most viable transportation fuel when measuring its carbon footprint, life cycle and energy balance. Since 2005, biodiesel has reduced lifecycle greenhouse gas emissions by 37.6 billion pounds, the equivalent of removing 3.31 million passenger vehicles from America's roadways.

Biodiesel Reduces Diesel Emissions: Tailpipe emissions from traditional diesel – primarily from trucking fleets, school buses and other vehicles – are a significant health and air quality concern. In an update to its National-Scale Air Toxics Assessment earlier this year, EPA cited diesel exhaust as one of the nation's

most dangerous pollutants, saying it is “among the substances that may pose the greatest risk to the U.S. population.” Thousands of trucks and buses hit the road every day burning traditional diesel fuel. Substituting higher amounts of biodiesel for traditional diesel fuel is the simplest, most effective way to immediately improve emissions.

The Biodiesel Industry is Creating Green Jobs and Making a Positive Contribution to the Economy: In 2011, the NBB estimates that the U.S. biodiesel industry will support 31,000 jobs in all sectors of the economy. This will add more than \$3 billion to the nation’s Gross Domestic Product (GDP).

Biodiesel is America’s first advanced biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development and should be treated as a new fuel in the marketplace. The petroleum industry has received a number of tax incentives for many years; and the ethanol industry has been around for decades and has had its tax break since 1980. In contrast, the biodiesel industry has had commercial-scale production for only about six years, and has had its tax credit only since 2005. The gasoline marketplace is approximately 140 billion gallons, the diesel pool is approximately 60 billion gallons and the ethanol marketplace is producing some 14 billion gallons. By comparison, biodiesel is on pace to produce about 800 million gallons this year, up from approximately 300 million gallons last year, when the tax credit had expired. Biodiesel is an up-and-coming industry and is in a far more fragile stage of development.

Conclusion: The biodiesel tax incentive has helped achieve the desired goal of increasing the domestic production and use of biodiesel, and in turn has helped the U.S. realize the energy security, economic and environmental benefits associated with displacing petroleum with domestically produced renewable fuels. These benefits, however, will be jeopardized if Congress does not act in a timely manner to address the immediate issue facing the industry and extend the biodiesel tax incentive.

About NBB: NBB is the national trade association representing the biodiesel industry as the coordinating body for research and development in the U.S. It was founded in 1992, and since that time, NBB has developed into a comprehensive industry association which coordinates and interacts with a broad range of cooperators including industry, government and academia. NBB’s membership is made up of biodiesel producers; state, national and international feedstock organizations and feedstock processor organizations; fuel marketers and distributors; and technology providers.

Chairmen Tiberi and Boustany and Ranking Members Neal and Lewis, I again appreciate having the opportunity to submit written testimony on this issue of significant importance to the U.S. biodiesel industry. We look forward to serving as a resource for the Committee on issues related to biofuels tax policy as the committee proceeds.

ⁱ Cardno ENTRIX June 8, 2011, Economic Impact of Removing the Biodiesel Tax Credit for 2010 and Implementation of RFS2 Targets Through 2015.