



BERGESON & CAMPBELL, P.C.

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BERGESON & CAMPBELL, P.C.

Fuel and Fuel Additive Practice

This document is intended to introduce you to Bergeson & Campbell, P.C.'s (B&C) practice concerning registration, testing, and regulation of fuels and fuel additives under Section 211 of the Clean Air Act (CAA). B&C's legal and business professionals have significant and specialized expertise in this growing practice area. Many of the issues presented in registering specific fuels and fuel additives, developing data to support such registration, allocating the costs of data development, assessing the effect of fuels and fuel additives on public health and welfare and on the efficacy of emission control systems, and responding to regulatory proposals to regulate or restrict fuel or fuel additive use, are analogous to issues presented in registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Thus, B&C has been able to leverage its extensive experience and specialized knowledge in FIFRA matters in addressing similar fuel and fuel additive issues arising under the CAA. In addition, the B&C team includes legal professionals who have extensive experience in addressing the specific regulatory issues presented by CAA Section 211.

CAA Section 211 requires all fuels and fuel additives distributed in commerce in the United States to be registered. In the past, obtaining and maintaining a U.S. Environmental Protection Agency (EPA) registration for a fuel or fuel additive was often a relatively simple process. This process has become more complex in recent years, however, as EPA has introduced requirements for complex testing to support fuel and fuel additive registrations. EPA has also increased its scrutiny of the impact of fuel and fuel additive products on public health and welfare, and on the increasingly elaborate devices and systems it requires to control motor vehicle emissions. B&C can assure that a fuel or fuel additive manufacturer is prepared to navigate through the registration process, which can be confusing and present unexpected challenges. Our mission is to assure that our clients receive timely guidance concerning the information that will be required to secure a fuel or additive registration, and detailed assistance in resolving any issues that must be addressed in maintaining such a registration.

B&C attorney Michael F. Cole has considerable experience assisting fuel additive manufacturers in resolving registration issues under CAA Section 211. Michael has worked with manufacturers to satisfy the testing requirements required when an additive is first registered, and to address legal questions presented when the registration is updated or amended.

We are pleased that attorney Timothy D. Backstrom has recently joined the B&C team. Tim worked extensively on fuel and fuel additive registration and regulation issues during his 25 years with the EPA Office of General Counsel. Tim was directly involved in the promulgation by EPA in 1994 of new fuel and fuel additive testing regulations, and helped develop the system for classifying fuels and fuel additives and the system for imposing



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specialized data development requirements for atypical fuel additives, which are key features of those regulations. Tim also has extensive experience in interpreting the CAA prohibition on the introduction of new fuels and fuel additives which are not “substantially similar” to the fuels and additives used to certify 1975 model year vehicles, and in processing applications for waivers of this prohibition. Tim was the EPA attorney who handled extensive litigation concerning the manganese-containing fuel additive MMT, and he argued for EPA in cases involving MMT before the D.C. Circuit Court of Appeals and the Fourth Circuit Court of Appeals.

Now that the extensive legal and technical experience of the entire B&C team in registration issues arising under FIFRA can be combined with the specific expertise in fuel and fuel additive regulation under CAA Section 211 contributed by Michael and Tim, B&C is uniquely positioned to provide timely and authoritative advice to fuel and fuel additive manufacturers in meeting EPA requirements. We believe that the combination of skills and expertise that the B&C team brings to fuel and fuel additive registration issues compares favorably to any other practice group, and that translates to value for our clients.

B&C also offers value in a quantitative form -- as a small and highly specialized business, B&C is able to offer its professionals' legal skills, business judgment, and years of experience at rates below those of our competitors. Because we do not need to carry hundreds of attorneys throughout the world, we offer fixed, flat-fee, or other competitive business arrangements. Moreover, the professionals with whom you begin a project are the same ones with whom you close it. B&C maintains and maximizes efficiencies by having a core group of professionals devoted to projects from start to finish. You will not be paying to train inexperienced or new attorneys.

What we cannot as easily share in this communication is the value we offer to your business and the enthusiasm and creativity with which we approach all representations. We invite you to experience both. Additionally, we invite you to speak with us about our diverse billing arrangements. All are intended to enhance the value of our representation and your business.

For further information, please call Lynn Bergeson at (202) 557-3801 or Lisa Campbell at (202) 557-3802.

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