

United States Senate

WASHINGTON, DC 20510

October 4, 2018

The President
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

In recent months, media outlets reported that the Environmental Protection Agency (EPA) is considering regulatory action to expand the sale of gasoline with 15 percent ethanol by volume (E15) year-round by waiving certain Clean Air Act (CAA) requirements related to Reid Vapor Pressure (RVP). However, a one-sided approach to addressing concerns related to the Renewable Fuel Standard (RFS) that favors only one industry stakeholder is misguided. We are concerned that doing so would do nothing to address the policies impacting refinery jobs, could hurt millions of consumers whose vehicles and equipment are not compatible with higher ethanol blended gasoline, and risk worsening air quality. We write to express our strong opposition to this approach.

As you know, in an effort to address evaporative emissions from motor vehicles and off-road equipment, as part of the 1990 CAA amendments, Congress established a maximum RVP for gasoline of 9.0 psi for the high ozone season, often referred to as the summertime driving season.¹ Recognizing that gasoline's volatility (or tendency to evaporate) increases with the blending of ethanol, the 1990 CAA amendments also provided an RVP limitation for fuel blends containing gasoline and 10 percent ethanol of 1.0 psi higher.² This "one pound waiver" applies only to fuel containing gasoline and 10 percent ethanol.

In 2010 and 2011, the EPA issued two partial CAA waivers permitting the use of E15 for model year 2001 and newer light duty motor vehicles.³ The research to support the Agency's decisions was based on the impact of E15 on emissions control systems, and those results were inappropriately assumed to determine the impact on engine and fuel system durability. Subsequent research revealed that millions of vehicles approved to use E15 by the EPA are susceptible to engine and fuel system damage from E15 fuel.⁴ Automobile manufacturers have cautioned consumers not to use the fuel in vehicles not designed to use it. Additionally, consumers, using lawn equipment, motorcycles, boats, and other small engines not approved by EPA to use E15, do not have the benefit of a robust misfueling prevention system.

Significantly, the EPA premised the original E15 waiver on retaining the existing CAA RVP limits, as the Agency had previously determined it lacked the legal authority to grant an RVP

¹ 42 U.S.C. Section 7545(h)(1).

² 42 U.S.C. Section 7545(h)(4).

³ 75 Fed. Reg. 68094 (November 4, 2010); 75 Fed. Reg. 4662 (January 26, 2011).

⁴ <https://creao.org/reports/recentstudies2013/CRC%20664%20%5bAVFL-15a%5d/AVFL%2015a%20%5bCRC%20664%5d%20Final%20Report%20only.pdf>

waiver to gasoline ethanol blends beyond 10 percent ethanol, noting the “significant potential” for higher blends to increased emissions and risk compliance with air quality standards:

Additionally, as explained in the misfueling mitigation measures proposed rule, EPA interprets the 1.0 psi waiver in CAA section 211(h) as being limited to gasoline-ethanol blends that contain 10 vol% ethanol. Therefore, given the significant potential for increased evaporative emissions at higher gasoline volatility levels, and the lack of data to resolve how this would impact compliance with the emissions standards, today’s waiver is limited to E15 with a summertime RVP no higher than 9.0 psi.⁵

The Agency reinforced this determination eight months later when it declared “the text of section 211(h)(4) and this legislative history supports EPA’s interpretation, adopted in the 1991 rulemaking, that the 1 psi waiver only applies to gasoline blends containing 9–10 vol% ethanol.”⁶

In conclusion, a decision to grant such a waiver goes against the Agency’s long standing interpretation as well as a plain reading of the CAA. We urge you to engage in a collaborative and transparent process with robust engagement on any RFS reform efforts.

We look forward to working with you to address these issues to the benefit of all stakeholders and consumers.

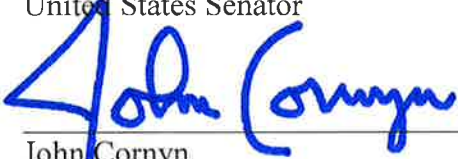
Sincerely,



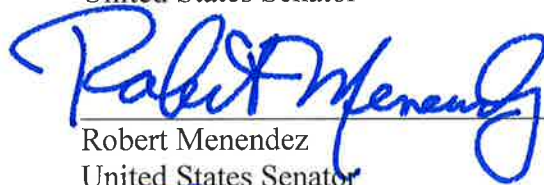
James M. Inhofe
United States Senator



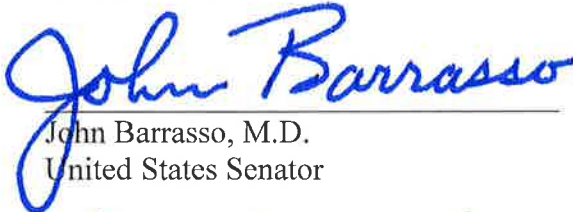
Benjamin L. Cardin
United States Senator



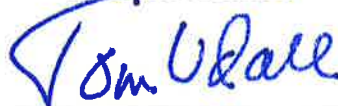
John Cornyn
United States Senator



Robert Menendez
United States Senator



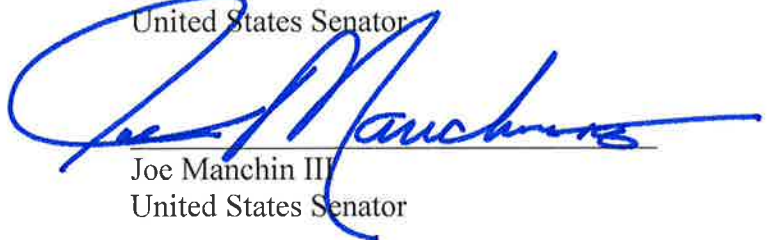
John Barrasso, M.D.
United States Senator



Tom Udall
United States Senator



Shelley Moore Capito
United States Senator



Joe Manchin III
United States Senator

⁵ 75 Fed. Reg. 68094, 68096 (November 4, 2010).

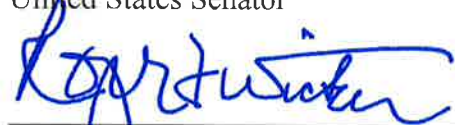
⁶ 76 Fed. Reg. 44406, 44434 (July 25, 2011).



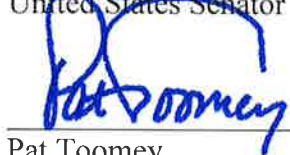
Orrin G. Hatch
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Bill Cassidy, M.D.
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