United States Senate

WASHINGTON, DC 20510

January 6, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our opposition to the Environmental Protection Agency's recent waiver decision to allow the use of a 15 percent ethanol motor fuel blend (E15) for the 2007 model year and newer light-duty motor vehicles, and to convey our concern that the proposed mitigation measures fall far short in adequately protecting consumers. Now that EPA has determined E15 will be introduced into the marketplace, EPA has the responsibility to protect consumers from unintended consequences.

Despite EPA's own awareness of the shortcomings of ethanol, including its corrosive properties and tendency to clog motors not designed to accommodate biofuels, we were disappointed to learn that EPA has moved forward with a partial waiver for E15, allowing for an even higher level of ethanol in gasoline. Many consumers have already experienced difficulties using gasoline with 10 percent ethanol (E10), finding that it causes problems in older cars, snowmobiles, boats, and lawnmowers. Given these experiences, it is incumbent upon EPA to evaluate the impact E15 can have on the engines of many vehicles and equipment prior to giving a waiver to E15. The introduction of new fuel blends containing higher amounts of ethanol increases the chances of misfueling and damaging the more than 200 million engines in use in the United States today that are not approved for the use of E15.

EPA's decision to allow E15 into the marketplace for the 2007 model year and newer light-duty motor vehicles, while prohibiting its use for older vehicles, will cause confusion at the gas pump for consumers. Allowing E15 into the market without substantial precautionary measures will also likely cause significant rates of misfueling, especially given that E15 may cost less than other available fuels and may at times be more readily available. The dangers of misfueling go much further than creating undesirable emissions. Failing or malfunctioning engines in planes, boats, and power tools place consumers in considerable danger. Furthermore, the damage caused by misfueling engines not designed to accommodate ethanol can be very expensive to replace or repair for farmers, fishermen, foresters, construction workers, and many small business operators, whose livelihoods depend on the safe and reliable operation of their vehicles and equipment.

To address the dangers of potential misfuelings, EPA proposes that ethanol suppliers and retailers provide labels warning consumers of the higher ethanol content, and that the ethanol industry be required to conduct a survey of the labeling to measure its effectiveness. We are concerned that labeling may prove to be insufficient to prevent dangerous levels of misfueling.

For example, when the United States made the transition from leaded to unleaded gasoline, the size of the gasoline nozzle was changed to prevent misfueling among consumers, and still many incidences of misfueling occurred. No such mechanical or equipment safeguards are being required or proposed by EPA when introducing E15.

Furthermore, to mitigate E15 misfueling rates, EPA also proposes to simply rely on the ethanol production and manufacturing industry to wage a public information campaign and coordinated outreach program to warn consumers of the risks of misfueling, and places the onus on retailers to make consumers aware of the risks of utilizing E15. When considering the likelihood of significant misfueling and the serious hazards that may result, we believe EPA must take a more active role in ensuring consumers are well-informed.

Specifically, we ask EPA to: 1) reassess how the introduction and impact of E15 stands in contrast to other fuel introduction programs; 2) examine what level of E15 misfueling may occur, considering factors such as availability and cost; 3) explain how the public information and outreach campaign will prevent the problems we have described; and 4) determine steps to be taken if the initial labeling and public outreach efforts are ineffective.

In addition, we are also interested in learning what EPA is doing to guarantee that low-level ethanol and zero-ethanol (E0) fuels remain available in the marketplace for vehicles and equipment for which E15 is not approved. Furthermore, we are also concerned with who will be held liable for damages caused by the misfueling of unapproved vehicles, and what means of recourse may be available to consumers who suffer damages and losses caused by misfueling.

It is our hope that EPA will take the risks of misfueling extremely seriously, and consider all reasonable approaches to educating the public before moving forward with the introduction of E15 into the marketplace.

Sincerely,

Susan M. Collins
United States Senator

Benjamin L. Cardin
United States Senator

James M. Inhofe
United States Senator

Jim Webb
United States Senator

Richard Burr
United States Senator

Jack Reed
United States Senator

Olympia J. Snowe
United States Senator

Lamar Alexander
United States Senator

Kay Bailey Hutchison
United States Senator

cc: Cass Sunstein, Administrator, Office of Information and Regulatory Affairs