

# United States Senate

WASHINGTON, DC 20510

March 19, 2013

President Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Ave.  
Washington, DC 20500

Dear President Obama,

We are writing you regarding the proposed Tier 3 gasoline rulemaking that the Office of Management and Budget (OMB) received on January 29, 2013. America's fuel manufacturers are a strategic and valuable asset for the United States. They provide secure supplies of refined petroleum products that the American economy depends on every day, and these products are critical to our nation's economic security. The Tier 3 gasoline rulemaking will raise gasoline manufacturing costs by billions of dollars and hamper U.S. refiners' global competitiveness. The Environmental Protection Agency (EPA) has decided to move forward with this rule making, despite the fact it has yet to provide clear scientific justification that Tier 3 regulations are necessary and will benefit public health. Instead of moving forward with a notice of proposed rulemaking (NPRM) on Tier 3, we write to request the Administration direct the EPA to issue an Advanced Notice of Proposed Rulemaking (ANPRM) prior to the advancement of rulemaking.

The new Tier 3 regulations at OMB are completely discretionary and would place stringent requirements on fuel manufacturers. Refiners have reduced gasoline sulfur content nearly 90 percent since 2004, from 300 parts per million (ppm) down to 30 ppm. Despite this achievement, Tier 3 regulations call for fuel manufacturers to reduce sulfur content an additional 70%, taking levels from 30 ppm down to 10 ppm. A study performed by Baker & O'Brien examined the effects of these gasoline sulfur specification changes and concluded the Tier 3 rulemaking will have significant impacts. Specifically, the study found that refineries will be required to spend nearly \$10 billion in new capital expenditures and face an annual compliance cost of \$2.4 billion, resulting in an increase in the cost of manufacturing gasoline by up to 9 cents per gallon. In addition to the adverse consumer impacts, the analysis showed that additional hydrotreating, required to meet more stringent requirements under Tier 3, would actually result in increased GHG emissions, something that would be in conflict with EPA's requirements under the Clean Air Act. The impacts of Tier 3 could be even greater if EPA advances additional RVP controls along with the sulfur content reductions.

In light of the potential impact of the Tier 3 rule, we strongly urge EPA to issue an ANPRM that will include a justification on why Tier 3 is necessary. Given the discretionary nature of the Tier 3, we feel such a step is necessary to ensure transparency. EPA has stated that that Tier 3 is necessary to improve air quality, but under the 2008 EPA NAAQS Regulatory Impact Analysis, sulfur reductions or other fuel changes were not even mentioned. Additionally, EPA has said

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they need Tier 3 in order to meet the new fuel economy standards, but has not identified any new vehicle that would be enabled by lower sulfur levels or would be impaired by current sulfur standards. Lastly, an ANPRM will allow the public and affected industries an opportunity to provide feedback and give EPA more time to analyze the data submitted by those industries to determine whether or not the Agency even needs to move forward with Tier 3.

With any new rules released by OMB, we expect a thorough analysis of the science, as well as costs and benefits to the general public and affected industries before proceeding. At a time when consumers are worried about prices at the pump, we urge the Administration to issue an ANPRM before moving forward with any Tier 3 regulation. Because of the significant costs that will be placed on fuel manufacturers and consumers, they deserve an opportunity to review the justifications for this rulemaking and be afforded appropriate time to submit comments and data analysis.

Thank you for your time and attention to this matter, and we look forward to your timely response.

Sincerely yours,



Heidi Heitkamp  
U.S. Senator



Mary Landrieu  
U.S. Senator



Mark Begich  
U.S. Senator



Joe Manchin  
U.S. Senator

CC: Jeffrey Zients – Office of Management and Budget  
Gene Sperling – Director of National Economic Council