February 5, 2023

The Honorable Cathy McMorris Rodgers
Chairman
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Jeff Duncan
Chairman
Energy, Climate, & Grid Security Subcommittee
Subcommittee
United States House of Representatives
Washington, DC 20515

The Honorable Diana DeGette
Ranking Member
Energy, Climate, & Grid Security

United States House of Representatives
Washington, DC 20515

The Honorable Bill Johnson
Chairman
Environment, Manufacturing, & Critical Minerals Subcommittee
United States House of Representatives
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Environment, Manufacturing, & Critical Minerals Subcommittee
United States House of Representatives
Washington, DC 20515

Dear Chairman Rodgers and Ranking Member Pallone:

Our organizations write to offer our strong opposition to the proposed legislation that would amend the Clean Air Act to exempt refineries that use extremely dangerous hydrofluoric acid (HF) from assessing whether they could potentially use safer technologies. We are united to prevent chemical disasters,[1] and we urge committee members not to advance this legislation. This bill would undermine crucial protections for workers, environmental justice communities, nearby schools, hospitals, and the public, which are under consideration by the Environmental Protection Agency in their rulemaking on the Risk Management Program (RMP).

[1] Comment submitted by Coalition to Prevent Chemical Disasters, Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention (Docket Number EPA-HQ-OLEM2022-0174). (2022, Nov 4). https://www.regulations.gov/comment/EPA-HQ-OLEM-2022-0174-0269

We stand opposed to this legislation as aligned with the Louisville Charter for Safer Chemicals (louisvillecharter.org), which calls for the prevention of disproportionate exposures and hazards, and reduction of cumulative impacts on Environmental Justice communities; requiring safer substitutes and solutions for a non-toxic economy; to act with foresight to protect health and prevent pollution, particularly when credible evidence shows that a substance or class of substances is potentially hazardous and/or harmful; and to ensure that the public and workers fully have the right-to-know, participate and decide in the decisions that impact their health because of the potential harm from toxic chemicals.

This legislation would exempt facilities that use HF in alkylation units (e.g. HF refineries) from modest requirements to assess whether they could possibly convert to safer chemicals or processes. Safer technologies alternatives assessments encourage innovation. Alternatives identified in such assessments can prevent chemical disasters, such as the one that occurred in 2019 at the HF alkylation unit at the Philadelphia Energy Solutions Refinery in Philadelphia, Pennsylvania.[2] This devastating series of explosions injured five workers and a first responder, led to the evacuation of 4,000 people, and culminated in over 1,000 workers being laid off with no severance and almost no notice when the plant shut down.[3] During the incident, over 5,000 pounds of highly toxic HF were released and the estimated property damage loss was $750 million.[2]

The U.S. Chemical Safety and Hazard Investigation Board (CSB), the U.S. Government's independent agency charged with investigating chemical disasters across the country, identifying their root causes, and making recommendations to government and industry on best practices to prevent future occurrences did not mince words in their recommendations to EPA following the PES disaster. CSB concluded in their final report on this disaster that EPA should:

> "require new and existing petroleum refineries with HF alkylation units to conduct a safer technology and alternatives analysis (STAA) and to evaluate the practicability of any inherently safer technology (IST) identified. "

As the climate changes the risk and severity of chemical disasters and releases can be exacerbated by extreme weather. When industrial facilities, including HF refineries located in these areas fail to adequately prepare for extreme storms, wildfires, earthquakes, heat waves, floods, rising sea levels, and other natural disasters this can lead to a cascading series of harms, including toxic chemical exposures, on top of the effects of the weather event itself.[4] The

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[2] CSB, Fire and Explosions at Philadelphia Energy Solutions Refinery Hydrofluoric Acid Alkylation Unit at 80 (June 21, 2019), No. 2019-04-I-PA (published Oct. 11, 2022) (CSB PES Report), https://www.csb.gov/philadelphia-energy-solutions-pes-refinery-fire-and-explosions-/.

[3] Maykuth, Andrew. (1 July, 2019.) Philadelphia refinery workers sue over abrupt closure, layoffs. The Philadelphia Inquirer. https://www.inquirer.com/business/energy/philadelphia-refinery-fire-workers-sue-pes-closure-job-layoffs-20190701.html

[4] Center for Progressive Reform, Earthjustice, and the Union of Concerned Scientists. (2021, July). Preventing "Double Disasters". https://www.ucsusa.org/sites/default/files/2021-07/preventing-double-disasters%20FINAL.pdf

Government Accountability Office (GAO) released a report in 2022 showing that approximately 31% of RMP facilities with at least one program 2 or 3 process, including some that are HF refineries, "are located in areas with one or more selected natural hazards that may be exacerbated by climate change".[5]

This bill would require regulators to defer to the American Petroleum Institute (API) rather than the Government's own data and the recommendations of the very federal agencies responsible for chemical safety and government accountability. The legislation refers to API Recommended Practice 751, Safe Operation of Hydrofluoric Acid Alkylation Units, a voluntary industry guideline. Regulators cannot enforce voluntary guidelines.[6,7] CSB reports of deadly incidents have shown the weaknesses of API guidelines, including the HF guideline.[8] Some refineries that use HF alkylation are not even members of API; they may be members of other trade associations, such as American Fuel and Petrochemical Manufacturers, and likely do not even follow API voluntary guidelines, increasing the potential for "natech" ("natural hazards triggering technological accidents" as defined by GAO) disasters .

Additionally, hazard assessments are crucial for determining if hazards are present, or are likely to be present, in the workplace, and to help determine whether such hazards require the use of additional personal equipment to protect workers. Exempting such requirements in this bill would put workers at risk of death or injury, and by extension, neighboring fenceline communities. Fully informed and protected workers are key to preventing disasters and keeping neighbors safe, as evidenced by a number of recent "near miss" incidents that could have been much more disastrous had it not been for the quick action of highly trained union workers, such as in the case of the PES incident.[9,10] Workers have a right to know the hazards in their workplace, and robust hazard assessments are essential to ensure their full knowledge and protection.

Hazard assessment are also important for determining whether and what hazards are present, or likely to be present, for the purpose of protecting and assisting first responders. In a number

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[5] U.S. GAO, Chemical Accident Prevention: EPA Should Ensure Regulated Facilities Consider Risks from Climate Change. (2022, March 2) https://www.gao.gov/products/gao-22-104494

[6] For example, BP Products North America, Inc., and BP-Husky Refining, LLC, v. Department of Labor, OSHRC Docket No. 10-0637, 2018.

[7] Comments of the United Steelworkers Union on the U.S. Department of Labor, Occupational Safety and Health Administration Process Safety Management Stakeholder Solicitation of Public Comments [Docket No. OSHA–2013–0020] (pp. 6-8 and p. 17).

[8] See among others CSB investigation reports: Tesoro Anacortes Refinery, Catastrophic Rupture of Exchanger, May 2014; Chevron Richmond Refinery Pipe Rupture and Fire, January 2015; Fire and Explosions at Philadelphia Energy Solutions Refinery Hydrofluoric Acid Alkylation Unit, October 2022.

[9] Bicameral Chemical Disaster Rule Letter to EPA April 2022. https://www.booker.senate.gov/imo/media/doc/final_bicameral_chemical_disaster_rule_letter_to_epa.pdf

[10] PES Workers' Response to Fire Saves Community From Disaster; Company Announces Shut Down. https://m.usw.org/news/media-center/articles/2019/pes-workers-response-to-fire-saves-community-from-disaster-company-announces-shut-down

of chemical disasters the quick and informed action of first responders prevented far greater catastrophe.[11] Exempting facilities storing and processing extremely hazardous chemicals like HF from commonsense hazard assessments can cause costly delays or miscalculations in emergency response due to the absence of full and clear understanding of the potential hazards.

The dangers of HF are well established and the proximity of several HF refineries to residents puts millions of Americans at risk. As the CSB explains in the report referenced above on the 2019 PES Refinery explosion:

> *Because HF vaporizes upon release to the air, a large release of HF has the potential to travel off site and expose people, animals, and vegetation to harmful concentrations of the chemical. A 2005 study by the U.S. Public Interest Research Group found that HF releases from refineries could have significant off-site consequences, stating "[s]even petroleum refineries using hydrofluoric acid reported toxic release 'worst-case' scenarios in which more than one million people could be affected." It also found that "15 refineries could place more than 500,000 people in harm's way, and 28 refineries could endanger more than 100,000 people in the event of a worst-case hydrofluoric acid release".[12]*

Not all refineries use HF alkylation. As of October 2022 of the 155 U.S. petroleum refineries currently in operation, 46 operated HF alkylation units.[2] Safer alternatives to HF in oil refining exist and are already being used in some refineries. For instance, in April 2021, Chevron and Honeywell announced the start up of an HF-free process for Chevron's Salt Lake City refinery. Big West Oil in Salt Lake City has announced plans to make the same conversion as Chevron SLC (from hydrofluoric acid to ionic liquid catalyst).[13] Honeywell is offering this process to existing and new refineries.[14] Additional facilities are in the process of considering or transitioning to other alternative processes, such as the CVR Wynnewood Refinery in Oklahoma, which has announced plans to convert from hydrofluoric acid catalyst to a solid acid catalyst.[15]

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[11] Yellin, D. (2022, January 24). Keeping Passaic fire from chlorine prevented 'one of the biggest disasters in the country'. North Jersey Media Group. https://www.northjersey.com/story/news/passaic/passaic-city/2022/01/16/passaic-chemical-fire-nj-qualco-majestic-industries/6548160001/

[12] U.S. PIRG Education Fund, "Needless Risk - Oil Refineries and Hazard Reduction," August 2005. [Online]. Available: https://uspirg.org/sites/pirg/files/reports/Needless_Risk_USPIRG.pdf. [Accessed 10 September 2019].

[13] Big Oil west Proceeds with Honeywell to Revamp Alklation Unit to ISOALKY™ Technology. (2021, November 11.) https://pmt.honeywell.com/us/en/about-pmt/newsroom/press-release/2021/11/big-west-oil-proceeds-with-honeywell-to-revamp-alkylation-unit-to-isoalky-technology

[14] chevron and honeywell announce start-up of world's first commercial isoalky™ ionic liquids alkylation unit. (2021, April 13.) https://www.chevron.com/newsroom/2021/q2/chevron-and-honeywell-announce-start-up-of-isoalky-ionic-liquids-alkylation-unit

[15] CVR Energy Proceeds with KBR on Second Phase Scope for Alkylation Revamp Project. (2021, February 4.) https://www.kbr.com/en/insights-news/press-release/cvr-energy-proceeds-kbr-second-phase-scope-alkylation-revamp-project

This bill could undermine such transitions and provide an unwarranted exemption from merely considering safer processes that will provide crucial protections for the communities that live around these facilities and the workers inside the facilities,[16] who are disproportionately burdened by chemical disasters. Decades of research and evidence,[17,18] including testimonies of the impacted people themselves have documented this historical burden on workers[19] and communities of color and low-income communities.[20, 21, 22, 23]

We strongly oppose this legislation. Protections proposed under EPA's RMP rule that would be undermined by this piece of legislation are long overdue for workers and communities disproportionately impacted by chemical disasters. We urge the Committee, and any other committees with jurisdiction over this legislation, to eliminate catastrophic hazards and injustices and address this legacy of harm, by promptly rejecting this bill.

Respectfully submitted by:

Coming Clean
Environmental Justice Health Alliance for Chemical Policy Reform
Earthjustice
Center for Environmental Health
Union of Concerned Scientists

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[16] A Risk Too Great: Hydrofluoric Acid in U.S. Refineries. (2013.) Tony Mazzocchi Center for Health, Safety and Environmental Education, and the United Steelworkers. https://www.usw.org/workplaces/oil/oil-reports/A-Risk-Too-Great.pdf

[17] Coming Clean and the Environmental Justice Health Alliance for Chemical Policy Reform, Who's in Danger: Race, Poverty and Chemical Disasters, (2014). https://comingcleaninc.org/assets/media/images/Reports/Who%27s%20in%20Danger%20Report%20FINAL.pdf

[18] Coming Clean and the Environmental Justice Health Alliance for Chemical Policy Reform. Life at the Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities (2015). https://ej4all.org/life-at-the-fenceline

[19] Public comments submitted to the EPA docket EPA-HQ-OLEM-2022-0174 by the United Steelworkers, 2022 https://www.regulations.gov/comment/EPA-HQ-OLEM-2022-0174-0216

[20] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 26, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0157

[21] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 27, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0158

[22] Virtual Public Hearings on the Risk Management Program Safer Communities by Chemical Accident Prevention Proposed Rule, September 28, 2022. https://www.regulations.gov/document/EPA-HQ-OLEM-2022-0174-0160

[23] Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Rule Retrospection Under Executive Order 13990; Virtual Public Listening Sessions; Request for Public Comment.86 FR 28828. https://www.regulations.gov/document/EPA-HQ-OLEM-2021-0312-0001