AXPC has significant concerns with H.R.1512, the CLEAN Future Act of 2021

The American Exploration and Production Council (AXPC) represents the largest independent onshore producers of oil and natural gas in the United States. U.S. independents produce about 83 percent of the nation's oil and 90 percent of its natural gas and natural gas liquids.

Provisions in this legislation specifically target the oil and gas industry and, if enacted, would cripple the ability to continue safely producing domestic oil and natural gas. The bill would harm American jobs and economic recovery, undercut the nation's energy security, and make us more reliant on foreign oil.

Section 625—Closing Loopholes and Ending Arbitrary and Needless Evasion of Regulations

Contradicts prior findings from the U.S. Environmental Protection Agency (EPA), infringes upon state authority, granted by Congress, and ignores decades of state experience regulating oil and gas. Upends the current system, without evidence, to support the need for federal regulation.

- Since EPA's original regulatory determination, exploration and production (E&P) wastes have been regulated as non-hazardous wastes under the Resource Conservation and Recovery Act (RCRA).

- EPA has repeatedly assessed and determined that the states effectively manage these wastes. EPA stated in the most recent assessment that, "revisions to the federal regulations for the management of exploration, development and production wastes of crude oil, natural gas and geothermal energy under Subtitle D of RCRA are not necessary at this time."[1] **The federal review of E&P waste sought through this legislation has already occurred.**

  States are charged by EPA to demonstrate the adequacy of their programs and continuous improvement. EPA regularly reviews state programs including through the State Oil and Gas Regulatory Exchange (the Exchange) and the State Review of Oil and Natural Gas Environmental Regulations ("STRONGER").

- A new regime at EPA would not be able to address regional variability and would shift primary authority away from states, who have the most experience. States are free to impose more stringent requirements if they determine state-specific factors or concerns warrant. The current regulatory framework gives states critical authority to address concerns unique to their jurisdiction.

- States already have the tools they need to manage the disposal of production wastes. This legislation risks removing those tools, if EPA were to change course and reclassify produced waters and drill cuttings associated with E&P operations as hazardous per the directed review. Given the small number of hazardous waste injections wells, and an almost 40-year ban on approving new ones, reclassification could result in waste management options that pose a greater risk of leaks.

Section 623—Safe Hydration is an American Right in Energy Development

This provision could allow EPA to essentially shut down hydraulic fracturing nationwide.

- Both the EPA and more than 25 scientific, peer-reviewed studies and expert assessments have concluded that hydraulic fracturing is not a major threat to groundwater.[2]

- Congress provided states with authority to regulate hydraulic fracturing to best account for varying conditions nationwide. During the Obama Administration, EPA released a comprehensive report on

[1] https://www.epa.gov/hw/management-oil-and-gas-exploration-and-production-waste#2019Review

[2] https://www.ipaa.org/fracking/#studies

the potential impacts of hydraulic fracturing on water resources. After years of analysis and stakeholder input, the study found further regulation at the federal level was unwarranted.

- Hydraulic fracturing is successfully regulated by the states. States and EPA coordinate the sharing of best practices through organizations like the Interstate Oil and Gas Compact Commission (IOGCC) and the Ground Water Protection Council (GWPC).

- Producing states each have comprehensive laws and regulations for safe operations and to protect drinking water sources and have trained personnel with decades of experience.

- States used their expertise and authority to set well integrity standards and require disclosure of chemicals used in the hydraulic fracturing process. All major oil and gas producing states have public disclosure requirements in place for these chemicals through publicly accessible databases like FracFocus, a widely used chemical registry developed by the GWPC.

Section 702—Controlling Flaring

Creates a one-sized fits all federal approach for managing oil and gas operations, duplicative of existing regulations.

- Flaring is already regulated by states which control the flare volumes permitted, and the EPA which regulates for air quality.

- The oil and gas industry recognizes the need to reduce unnecessary flaring. AXPC members are engaged in voluntary efforts such as with The Environmental Partnership (TEP). TEP is an industry-led effort focused on reducing emissions and flaring by sharing best practices, advancing new and proven technologies, and fostering collaboration.

- With broad industry support, continued reduction in flaring will occur as innovation and technology advance and more pipeline capacity is developed. In addition to allowing for flexibility, Congress should look to increasing pipeline capacity as an attainable solution to reduce flaring.

Section 701—Controlling Methane Emissions from the Oil and Gas Sector

Requires EPA to develop methane regulations that the agency is already developing.

- The historic reduction in U.S. GHGs over the last decade has been driven by the emergence of U.S. natural gas production as a low-cost source of reliable energy. It is important that regulatory policy enables us to build on that success.

- Although significant displacement has already occurred in the U.S., GHG emissions have global impacts; natural gas has an important role to play in displacing higher-emissions fuels globally.

- Federal regulations should encourage innovation and flexibility, instead of command-and-control regulations that are an inefficient means of reducing methane emissions.

- Methane regulations should allow and incentivize the development and deployment of technologies to monitor and mitigate methane emissions for compliance purposes.

- Regulations should appropriately quantify and assess the feasibility, costs, and benefits of implementing new requirements for existing facilities.

- Additionally, regulations should avoid creating duplicative and overlapping regimes at the federal and state levels, and properly interpret and adhere to the Clean Air Act (CAA).

Section 624—Addressing Hazardous Air Pollution from Oil and Gas Sources

Creates an unworkable permitting regime under the Clean Air Act.

- Aggregation would complicate the permitting process, forcing two different companies to apply for the same permit under the Clean Air Act.

Section 621—Enhancing Underground Injection Controls for Enhanced Oil Recovery

Creates regulatory roadblocks for more widespread use of carbon capture utilization and storage in oil and gas operations.

- Establishes a duplicative monitoring plan already contained in the Section 45Q tax provision.

- Post-injection requirements for Class II wells already exist under EPA's Underground Injection Control program.

- Requires a non-attainable capture efficiency that ultimately discourages carbon capture.

Clean Electricity Standard

Arbitrarily picks winners and losers in determining the nation's power generation sources.

- This legislation severely limits the benefits of using natural gas to reliably meet our energy needs while lowering the emissions associated with power generation.

- The substitution of natural gas for coal has helped reduce power sector emissions to mid-1980 levels.[3] As a result of its low emissions profile, reliability, and affordability, natural gas is now the largest source of U.S. electric power generation.

- Natural gas is essential to supporting the scaling up of renewable sources in that it provides reliability to the intermittent sources of wind and solar.

- A clean electricity standard should consider advancements in innovation and encourage the acceleration, development, and commercialization of clean energy technologies.

Section 852—Disclosures Related to Climate Change

Ignores SEC's Materiality Threshold and Risks Misleading Investors

- Public companies are already required to routinely report on potential risks and impacts to their business. This would include risks associated with climate change or climate change policies if found to be material to a company's specific assets, business plan, or financial position.

- The SEC's role is to promote fairness in the market and ensure that investors are able to make informed decisions with their investments. SEC disclosures should not be used as a backdoor for policymaking.

- Public companies must be able to determine whether a particular climate-focused disclosure is pertinent to their specific underlying financials of the issuer, otherwise forced disclosure of immaterial information may mislead investors.

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[3] https://www.c2es.org/content/natural-gas/