Environmental Technology Council

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April 15, 2021

The Honorable Paul Tonko
Committee Chairman
House Energy & Commerce
Subcommittee on Environment &
Climate Change
2125 Rayburn House Office
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Washington, DC 20515

The Honorable David B. McKinley
Ranking Member
House Energy & Commerce
Subcommittee on Environment &
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2125 Rayburn House Office
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Statement for the Record
House Energy and Commerce Subcommittee on Environment and Climate Change Hearing – H.R. 1512 "Climate Leadership and Environmental Action for Our Nation's Future Act"

Chairman Tonko, Ranking Member McKinley and Members of the Committee, the Environmental Technology Council (ETC) would like to express its appreciation for the opportunity to submit a statement for the record on H.R. 1512 the "Climate Leadership and Environmental Action for Our Nation's Future Act".

The ETC is the national trade association for the commercial hazardous waste management industry. ETC member companies provide technologies and services to customers for the safe and effective recycling, treatment, and secure disposal of hazardous wastes through high-temperature incineration and other advanced technologies. Our member companies must comply with the safety, security and environmental regulations of the Resource Conservation and Recovery Act (RCRA), the Department of Transportation, the Chemical Facilities Anti-Terrorism Standards program and the Risk Management Program, just to name a few. As part of their business practices ETC member companies are continuously engaging with the communities in which they operate and work with these communities to ensure that their facilities are operating in a responsible, safe and secure manner to protect against environmental injustices (EJ).

While ETC and its member companies understand and appreciate the importance of protecting communities of color, indigenous communities and low-income communities from environmental injustices we believe some of the sections set forth in H.R. 1512 would limit, and in some cases would completely eliminate, the ability of our

member companies to safely and securely treat and dispose of RCRA hazardous waste that has the potential, if not properly managed, to negatively impact low-income communities of color. Therefore, ETC is proposing the following changes to sections 606, 607, 608(a) 608(b) and 903:

Section 606 – Prohibits the granting of CAA permits for proposed major sources located in overburdened census tracts and, after January 1, 2025, prohibits the renewal of permits for proposed major sources located in overburdened census tracts. Section 606 defines "overburdened census tracts" as tracts that have a greater than 100 in 1 million ($1x10^{-4}$) total cancer risk or an annual mean concentration of $PM_{2.5}$ of greater than 8 microns per cubic meter.

ETC Recommendation – Prohibiting the issuance of a CAA permit, and especially denying renewal of an existing facility permit, will cost jobs and substantially harm businesses, especially because a facility that needs a permit renewal may not be the only, or even a significant, contributor of risk or emissions. Additional concerns include:

These CAA permit prohibitions would undercut a successful Title V permit program. Section 606 does not take into account the exorbitant cost associated with moving or building a new facility to replace one that does not get its permit renewed. There would be a significant carbon footprint and substantial waste generated during the building of a new facility particularly when an existing facility is adequately dong the job and meeting the requirements of its Title V permit.

Section 606 could have unintended negative impacts on other EJ communities. For example, denial of a CAA permit renewal for a RCRA-permitted disposal facility would mean that the waste would have to go elsewhere. It could potentially be dumped in EJ communities as opposed to being properly and safely disposed of at a CAA and RCRA regulated facility.

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Section 607 – Prohibits EPA from authorizing a state to administer and enforce a hazardous waste program unless EPA determines that the state program does not create or exacerbate disproportionately high or adverse health or environmental effects on communities of color, indigenous communities, or low-income communities.

ETC Recommendations – RCRA directs EPA to authorize states to administer their own hazardous waste programs, provided the state program is consistent with and no less stringent than the Federal program. Withdrawal of EPA approval of an entire state program is a draconian penalty, and EPA does not have the resources and capability to administer the Federal program in multiple states. State programs have been able to adapt to specific local issues related to the types of industries and local environments.

Rather than prohibiting EPA from authorizing a state program, section 607 should direct EPA to ensure that states have "policies and procedures in place" to prevent the creation or exacerbation of adverse effects, and direct EPA to disapprove only those provisions of a state program that are creating or exacerbating adverse effects.

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Section 608(a) – Requires that not later than 72 hours after a release the facility shall publish a notice in a local newspaper, with at least 24 hours notice, of a public meeting. The facility must provide information on the chemical(s), quantity, time and duration of release, known or anticipated health risks, etc., "to the extent such information is known at the time of the meeting and so long as no delay in responding to the emergency results."

ETC Recommendation – Once the community has been notified of the release, the facility should have 30 days to complete its investigation. This time frame will allow for a thorough investigation that will allow the facility to provide accurate information to the public regarding the release. This will decrease the possibility of incomplete information being given to the community.

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Section 608(b) – Adds a new section 306 to EPCRA that requires facilities to hold an annual meeting at which they inform the community of the name of each chemical present that is on EPA's hazardous substances list, the amount that is in excess of the threshold planning quantity at any time in the preceding year, an estimate of the maximum amount of each chemical present at such facility during the preceding year, and the methods and procedures to be followed in the event of a release of such chemical.

ETC Recommendation – The addition of section 608 (b) is unnecessary as it is redundant with existing Tier II reporting requirements under the EPCRA. Additionally, the section fails to take into account protection of confidential business information or the listed information getting in to the wrong hands.

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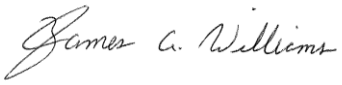
Section 903 – Requires that any proposed permit under the Clean Air Act (CAA) be accompanied by an EJ assessment of the direct and disparate economic, environmental and public health impacts on frontline communities with proposed changes to the proposed permit that would eliminate or mitigate those impacts to the maximum extent practicable.

ETC Recommendations – As written it is not clear how the EJ assessment relates to the permitting process. Under the CAA, EPA or a state with delegated authority is

responsible for preparing the draft permit for public comment. Section 903 directs that the proposed permit should be "accompanied" by the EJ assessment, but it is not clear whether the state permitting authority, or EPA, should prepare the EJ assessment. The EJ assessment must include proposed changes to the proposed permit that would mitigate adverse impacts, but it is not clear whether the proposed permit itself or just the EJ assessment would include those provisions for public comment. Section 903 further directs that public meetings be held prior to the beginning of the public comment period on the proposed permit, but it is not clear why a separate public hearing on the EJ assessment is advisable rather than a hearing as part of the public comment period on the proposed permit. In order to avoid two sets of hearings on the EJ assessment and the proposed permit with the added burden to both the facility and the affected community, we recommend that section 903 better integrate the EJ assessment into the permit process and be limited to direct impacts caused by a facility's operations and not tangential ones.

In closing, ETC and its member companies would like to thank the Chairman and Ranking Member for allowing us to submit a statement for the record on this important hearing and we look forward to working with the Committee as the process moves forward.

Sincerely,



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