May 4, 2023

President Joe Biden
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Administrator Michael Regan
U.S. Environmental Protection Agency

RE: Protect Fenceline Communities, End Free Passes to Pollute and Close All Startup, Shutdown, and Malfunction Loopholes

Dear Mr. President and Administrator Regan:

We write to urge the Environmental Protection Agency to swiftly close all startup, shutdown, and malfunction (SSM) loopholes that exist across regulations implementing the Clean Air Act. For decades, illegal SSM loopholes have allowed industrial facilities in communities across our country to release massive amounts of deadly air pollution with no consequences or accountability. EPA must take action to correct these environmental injustices and close these loopholes once and for all so fenceline communities can finally begin to breathe clean air.

The Clean Air Act is meant to protect air quality at all times and was never intended to shield polluters from accountability during periods of startup, shutdown, or malfunction. The courts have found SSM loopholes to be unlawful on multiple occasions, yet these dangerous loopholes persist throughout state implementation plans (SIPs), Title V operating permits, new and existing source performance standards, and emissions standards for hazardous air pollutants.

These loopholes allow industry polluters to release massive amounts of dangerous air pollutants—including soot, benzene, cyclohexane, dioxins, ethylene oxide, formaldehyde, acid gases, chloroprene and many more—into primarily communities of color and low-income communities on the fenceline. Unpermitted emissions releases from these events—which range from days to week—can sometimes exceed a facility's annual emissions allowances. The health impacts are devastating, especially to children and the elderly, and cumulative impacts of these exposures put
communities at higher risk for cancer, respiratory ailments, birth defects, and myriad other health risks. SSM pollution spikes are rarely monitored or reported, and communities may have no idea until after an event that they were exposed to harmful emissions.

EPA has made important progress on closing these loopholes, but dozens still exist and decisive action, through a consolidated rulemaking, is needed to swiftly close all remaining loopholes to protect people and meet the commitments made to environmental justice communities. Ending these loopholes will protect public health, put people over profits, and begin to deliver the clean air that communities deserve.

Sincerely,

Nanette Diaz Barragán
Member of Congress

Sheila Jackson Lee
Member of Congress

Jasmine Crockett
Member of Congress

Eleanor Holmes Norton
Member of Congress

Jennifer L. McClellan
Member of Congress

Glenn Ivey
Member of Congress
James P. McGovern  
Member of Congress

Summer Lee  
Member of Congress

Veronica Escobar  
Member of Congress

Darren Soto  
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Grace Meng  
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Jared Huffman  
Member of Congress

Yvette D. Clarke  
Member of Congress

Frederica S. Wilson  
Member of Congress

Robert Garcia  
Member of Congress

Brittany Pettersen  
Member of Congress