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Testimony before the New Jersey Clean Air Council

“Air Toxics: How Far Has New Jersey Come in Almost a Quarter Century” Presented by Raymond Cantor, New Jersey Business & Industry Association

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Good morning. My name is Raymond Cantor, and I am the Deputy Chief Government Affairs Officer for the New Jersey Business & Industry Association. NJBIA was founded in 1910 as a group of manufacturers sharing ideas about workplace safety. Over the past century NJBIA has grown to be the largest statewide business association in New Jersey, representing businesses from every sector, from large industries, technology companies, clean energy companies, utilities, and retail giants such as Amazon, to thousands of smaller and Main Street businesses that we all utilize every day.

Our mission is to advance the competitive excellence and financial success of our members. Because NJBIA's membership is diverse, my testimony is not focused on any particular industry or activity, but rather will be general in nature reflecting the viewpoints of the business community as a whole.

It is also not my purpose today to provide you with statistics you already know, or to provide you with technical or scientific advice, which is beyond my expertise. Rather, I want to give you the perspective of the business community as a partner and fellow citizen of this state and as entities that are subject to regulation. We are not seeking to avoid regulation. We understand the necessity of government regulation when it comes to air emissions, and we benefit from a level playing field. We seek balanced, reasonable regulation, and a recognition that society must accept certain tradeoffs when it comes to emissions. That is why emissions can never, at least not with any foreseeable technology or practices, as a general rule, be set at “zero” and why we set policy by developing reasonable health and environmental standards for emissions. It is why the Department of Environmental Protection's air program has been so successful since its modern inception with the passage of the New Jersey “Air Pollution Control Act” in 1970. It has managed to both protect the public health and allowed businesses to operate within confined parameters for emissions.

However, balance is always necessary and we must be aware of the societal benefits of business in general, and manufacturing, in particular. New Jersey has already lost over 278,000 of its previous 529,000 manufacturing jobs between 1990 and 2019. Previously, manufacturing represented nearly 15% of the state's nonfarm employment. Now that number is 6%. Still, we remain a strong manufacturing state with over 250,000 jobs, jobs we want to keep. While there are many factors responsible for those job losses, we cannot deny that regulatory burdens played at least some part in these job losses as well as the failure to bring manufacturing back to the state in any significant way. I will note, anecdotally, that a colleague of mine, recently returning from a trip to North Carolina, told me that their state's air program could not keep up with the permit requests from new manufacturing moving into the state. New Jersey should have that problem.

I want to focus my presentation today on three points: one, we have made substantial progress in reducing toxic air emissions in our state over the last 25 years; two, part of the success of those efforts resulted from the relationship the Department's air program has developed with the regulated community so that new regulations that mandate the reduction of emissions has been done rationally, methodically, and in a manner that often takes into account industry concerns. Finally, I want to push for the continuation of predictable, risk-based standards. The business community has significant concerns that there is a trend to ignore the lessons we have learned from our past successes, and that we are beginning to be driven more by politics than science-based and balanced policy considerations.

The Department has been monitoring the level of hazardous air pollutants in the ambient air since 1989. While some hazardous air pollutants (HAPs) remain above health-based standards, we have seen measurable reductions, and many are now below health-based standards. We have seen these reductions through a variety of measures, including the imposition of maximum control technologies on point sources, and regulations on consumer products, architectural coatings, fuel containers, and other non-point sources of pollution. We have also seen reductions as the result of emission controls and reformulation of fuels for both on-road and off-road vehicles. The Department's diesel retrofit program was very successful in taking heavily polluting truck and bus engines off the road, and it did so in a manner that made it economically viable to make those retrofits.

There has also been a considerable number of recent statements that the Department's environmental programs, in particular its air program, does not do enough to protect individual communities from toxic and other air pollutants. While no program is perfect in its inception or execution, such broad statements ignore the fact that the Department does have representative air monitoring stations that gives a general indication of the condition of air quality, even in more urbanized areas.

The Department's regulatory efforts have produced statewide reductions in both criteria and hazardous air pollutants, bringing benefits to everyone. Significantly, and I believe largely overlooked, is the testing and standards for individual air permits, especially for Title V and other large industrial emitters. These facilities not only have to meet increasingly stringent emission standards and control technologies, but they are required to perform area-specific risk assessments. These risk assessments do consider local conditions and cumulative pollution. Modifications, including stack height and operations, are required if standards would not be met under the original proposal. I would be remiss if I did also not point out that, despite its demonization, point source industrial facilities account for only 4% of toxic air emissions in New Jersey. Contrary to popular rhetoric, air pollution is decreasing, neighborhoods are more protected, and health outcomes are improving, all as we work to keep good paying jobs in our state.

I don't think we talk enough about the progress that has been made in cleaning our air over the last 25 years, and longer, and of the Department's work in achieving this. We live in a time when bad news gets the headlines and is used to promote policy objectives. Rarely, if ever, do we hear about how toxic and other criteria pollutants have been reduced and many are within safe ranges or meet standards. While no one should have to breathe unhealthy air, a misperception has been cultivated by advocates, the media, and some policymakers, that things are getting worse, not better, or that these issues are being ignored. It is to avoid those misperceptions that we collect data and issue trends reports. Knowing the facts allows us to make progress with objective data so that we can make the best, and, hopefully, rational and balanced decisions.

I also want to recognize the invaluable cooperation that has existed between the Department and the regulated community, especially industrial facilities and manufacturers. While no one would suggest that the Department should not serve as the regulator with the primary purpose of protecting the public health and safety, and while many in the regulated community would argue that the Department may have engaged in “overregulation,” I believe that the dialogue that the Department has purposefully engaged in with the regulated community has allowed for those reductions to be made in a rational and balanced manner and has led the air program to become one of the most successful in the nation. Cooperation and dialogue, much like compromise, are not dirty words.

This Council is one example of that cooperative relationship by grouping together representatives from many backgrounds, including the business community, to come together to solve air emission problems. The Industrial Stakeholder’s Group has been highly successful in fostering good public policy and achieving results. The stakeholder meetings the air program holds when it is contemplating regulatory or policy changes, including when the Department is considering general permits, guidance documents, and new toxics risk assessment procedures, help to highlight potential issues and very often results in better policy.

There is a lack of appreciation among the general public of how much the business community works with the Department to achieve air pollution reductions. Often, the question is not what, but how and in what timeframe. These questions are vital to ensure that New Jersey not only meets its environmental and public health obligations, but also to help ensure that our citizens have good paying jobs and healthy and happy lives. Environmental regulation is complicated. The Department cannot do it on its own, at least not well. Cooperation and information sharing are necessary for a successful regulatory program. We ask that the Department be a bit more vocal about the achievements that have already been made.

Finally, we are concerned that a failure to recognize the progress that has been made is leading us away from the sound policies that have resulted in these achievements. Our air program has focused on two key strategies, requiring technology and setting health-based standards. While different in their approach, both strategies are science based and are founded on predictable, risk-based objectives. We fear that we may be moving away from these sound, and effective strategies and replacing them with subjective criteria based on political, small “p”, standards.

The recently enacted Environmental Justice Law (the Department’s implementing rules have been proposed, but not adopted as of today) is an example of that trend. The EJ law sets requirements for the review of permits, including air permits, that are specifically not based on health risk standards. Rather, the law uses surrogate “stressors” which are more perceptually a problem than they are in reality. Further exacerbating the move away from objective standards is the deference to community objections which may result in additional, undefined, conditions being placed on a facility seeking a permit or a permit renewal.

This is not the forum to relitigate the efficacy of the environmental justice law or its implementing regulations, but it is important to recognize the recent tendency to move away from risk-based, objective criteria, and now base permit decisions on those with the loudest, or most influential voices. It only makes it worse that new Title V and other major facilities cannot be located in most of the state despite the fact that they meet all environmental standards, would economically benefit communities, and there is no health standard being violated.

While in no sense am I arguing that community concerns should not be listened to and addressed where warranted, a regulatory program cannot effectively exist if it is purely subjective in its application. I know you have heard this mantra a million times from the regulatory community, but most businesses want a predictable and efficient regulatory process. Tell us upfront what we need to do and help create a regulatory process where we can get timely approvals. While there is nothing the Department can do about the laws that are on the books, the Department does have the ability to work within those laws to retain predictable, and health-based regulatory processes.

In conclusion, I want to thank this Council for inviting me here today to give the perspective of the business community. We are no longer living in the era before the Clean Air Act when there was little, if any controls or considerations about toxic air pollutants. The business community recognizes the need to limit air pollutants and to have healthy air to breathe. We have been your partner in this effort for decades. We want to be good neighbors. We live here too, and we share the same values. We have come a long way in reducing air pollution from all sources, including toxics, since the inception of the CAA and in the last 25 years. Let's recognize those improvements, acknowledge that both government regulation and business cooperation are necessary to achieve even greater reductions, and let's ensure that tomorrow's toxics regulatory programs learn from the practices that got us to this point.

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