

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

March 8, 2010

Nancy H. Sutley
Chair
Council on Environmental Quality
Executive Office of the President
722 Jackson Place, NW
Washington, DC 20503

Dear Ms. Sutley:

During the State of the Union address, President Obama stated that “jobs must be our number-one focus in 2010,” echoing similar statements during the past year that jobs are the President’s highest priority. At the same time, nevertheless, the Obama Administration has been promulgating complex, costly and expansive new environmental regulations, including global warming regulations and other initiatives, that will cumulatively impose billions of dollars in new costs and regulatory burdens on U.S. businesses and consumers. We are concerned the Administration’s environmental agenda is creating significant regulatory uncertainty and discouraging infrastructure and other business development -- and, as a result, stifling economic growth and job creation.

Given your position as chair of the Council on Environmental Policy (CEP) and principal environmental policy advisor to the President, we write today to request information about what actions, if any, the Administration is taking to analyze economic and job impacts before proposing new environmental regulations and initiatives that may harm the economy or employment in the United States. We understand CEP coordinates Federal environmental efforts and works closely with agencies and other White House offices in the development of environmental policies and initiatives, and that as chair you assist and advise the President in developing such policies and initiatives.

We are particularly interested in whether the Administration has analyzed the potential economic and job impacts of the draft global warming guidance issued on February 18, 2010 and entitled "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" (hereinafter "draft guidance"). This draft guidance would appear to create additional regulatory hurdles under the National Environmental Policy Act (NEPA) for new infrastructure and other large projects anticipated to cause 25,000 metric tons or more of carbon dioxide equivalent greenhouse gas emissions annually. For example, the draft guidance proposes that for such actions, and potentially even for actions below that threshold, agencies consider preparing a quantitative and qualitative climate change assessment. Such assessments would add new and potentially very complex analyses on top of existing requirements, including that agencies project and quantify cumulative emissions associated with proposed actions; consider effects of climate change on proposed actions; identify, assess and summarize relevant scientific literature; consider climate models and scenarios; predict and analyze future climate change impacts on proposed new projects; evaluate and disclose scientific uncertainties associated with projections; and consider mitigation measures and reasonable alternatives to reduce action-related greenhouse gas emissions. Moreover, although the draft guidance exempts "Federal land and resource management actions," and presumably the energy development associated with these actions, it nevertheless seeks public comments so that additional specific NEPA guidance can be developed to address projects involving federal lands or the use of federal resources.

The NEPA process is already extraordinarily time consuming and expensive, and the NEPA related costs for new infrastructure and other large proposed projects can range from tens of thousands to millions of dollars and take years to complete. NEPA review requirements, moreover, attach to virtually all major Federal actions that may significantly affect the quality of the environment, including agency rules, regulations, plans, programs, legislative proposals, government financed projects, federal grants, permits, licenses, rights of way and other regulatory approvals. Given the evolving, complex, controversial, uncertain, and global nature of climate science, we have significant concerns that layering more analyses and requirements contemplated in the draft guidance will further delay the NEPA process, increase overall permitting and project costs, lead to protracted litigation, and adversely impact new energy and other infrastructure development in the United States.

In view of the above concerns, we respectfully ask that you provide your response to the following no later than three weeks from the date of this letter:

1. Please identify each of the federal departments and agencies that would be subject to the draft guidance if it is finalized by the Administration.
2. In developing the draft guidance, has CEQ analyzed the amount of time that implementation of the guidelines may add to the NEPA process, the increased government resources that would be required, the additional staff required, and/or the

additional costs to the taxpayer or the regulated community? If yes, please provide copies of any documents reflecting such analyses.

3. In developing the draft guidance, has CEQ analyzed the potential litigation that may result from implementing the guidance? If yes, please provide copies of any documents reflecting such analyses.
4. Has CEQ analyzed the impacts of the draft guidance for the U.S. energy sector? If yes, please provide copies of any documents reflecting such analyses.
5. Does CEQ anticipate issuing specific NEPA guidance applicable to “land and resource management actions”?
 - a. If yes, what is CEQ’s planned timetable for issuing such guidance?
6. In developing the draft guidance, did CEQ consult with any non-governmental entities?
 - a. Please identify all environmental organizations, industry organizations and other entities with which CEQ consulted.
 - b. Please identify any environmental organizations, industry organizations, and other entities with which CEQ shared drafts of the guidance in advance of its public issuance on February 18, 2010.
7. Since January 2009, has CEQ prepared its own analyses of the potential economic or job impacts that may result from implementation of any of the Administration’s proposed global warming environmental regulations, policies, or initiatives? If yes, please provide copies of all such analyses.
8. Since January 2009, has CEQ received any analyses from other offices within the Executive Office of the President, federal agencies, and/or non-governmental entities, of economic or job impacts that may result from implementation of any Administration’s proposed global warming environmental policies, regulations or initiatives? If yes, please provide copies of all such analyses in CEQ’s possession.
9. Since January 2009, has CEQ taken any actions to expedite the NEPA process in order to promote economic growth and new job creation? If yes, please describe and provide copies of documents relating to such actions.
10. Since January 2009, has the Administration taken any actions to ensure that economic and job impacts are considered and evaluated before the Administration promulgates new environmental regulations?

- a. Please list each specific action taken, including the date of such action, and describe the action.
- b. If no such actions have been taken by the Obama Administration, please explain why no actions have been taken.

If any documents or information requested in this letter are withheld, please provide a Vaughan Index or log of the withheld items. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Should you have any questions, please have your staff contact Minority Committee Staff at (202)-225-3641.

Sincerely,



Joe Barton
Ranking Member



Michael Burgess
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Chairman

The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations