



July 26, 2019

Mr. Edward A. Boling
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Council on Environmental Quality
730 Jackson Place, NW
Washington, DC 20503

Attn: Docket ID No. CEQ-2019-0002

Re: Draft National Environmental Policy Act Guidance on Considerations of Greenhouse Gas Emissions

Comments submitted electronically at <https://www.regulations.gov/>

The American Coal Council (ACC) appreciates the opportunity to submit these comments in response to the Council on Environmental Quality's (CEQ) Draft National Environmental Policy Act Guidance on Considerations of Greenhouse Gas Emissions. This draft guidance is intended to assist federal agencies in their considerations of greenhouse gas (GHG) emissions when conducting reviews of proposed major Federal actions in accordance with the National Environmental Policy Act (NEPA). If finalized, this guidance would replace the final CEQ guidance issued by the prior administration on August 1, 2016 which was withdrawn on April 5, 2017 for further consideration pursuant to Executive Order 13783 on "Promoting Energy Independence and Economic Growth".

The American Coal Council has been in existence for 37 years and represents the collective business interests of the American coal industry. Our members include mining companies and suppliers, transportation companies and terminals, electric utilities and independent power producers, industrial coal consumers, and many industry support services providers. ACC's member companies touch every aspect of turning one of America's most abundant resources into reliable and affordable electricity for the United States economy. In addition to its use by the electric power sector, coal is utilized in the industrial production of cement and chemicals and is integral to the steel-making

process. ACC's diverse membership base encompasses the entire coal supply chain, and it is from this broad perspective that we assess the impacts of new or revised regulations and related matters such as this guidance that may impact coal supply and use. While ACC provides these comments from that broad perspective, individual member companies of ACC may submit separate comments on their own behalf that offer additional or other views.

ACC previously provided comments to CEQ on August 20, 2018 in response to CEQ's Advance Notice of Proposed Rulemaking as CEQ considered revisions to update the regulations for implementing the procedural provisions of the National Environmental Policy Act under Docket ID No. CEQ-2018-0001.

CEQ's consideration of revisions to update and improve the environmental analysis and review process is important to the coal sector. Coal projects are deterred by the excessively long process and uncertain timeframe for approval, or even whether approval may ultimately be granted. Regulatory delays and uncoordinated, inefficient reviews cause costs to balloon and discourage development. This delays or precludes the benefits of such projects at the federal, state, and local community levels in the United States. In addition to negative domestic impacts, these regulatory barriers inhibit projects associated with the export of coal to international steel, industrial, and power sector customers. Priority must be given to streamlining the analysis-review-decision processes, reducing timeframes, and coordinating project reviews when performed by multiple agencies.

The Trump administration recognizes that permitting is facilitated by efficient, timely review and effective coordination between federal and state agencies. The administration understands that delays add barriers and costs to mining, and are a disincentive to capital investments for mine development and expansion.

President Trump signed Executive Order 13807 "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects" in August 2017. It states "Inefficiencies in current infrastructure project decisions, including management of environmental reviews and permit decisions or authorizations, have delayed infrastructure investments, increased project costs, and blocked the American people from enjoying improved infrastructure that would benefit our economy, society, and environment. More efficient and effective Federal infrastructure decisions can transform our economy, so the Federal Government, as a whole, must change the way it processes environmental reviews."¹

¹ President Donald Trump, August 15, 2017, Executive Order 13807 "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects", Section 1.

ACC appreciates the CEQ's efforts to provide appropriate direction and parameters to Federal agencies, including for how GHGs should be considered in the context of NEPA reviews. This CEQ draft guidance takes a reasonable and prudent approach for Federal agency reviews and assessments of such:

- CEQ's draft guidance provides that agencies undertaking NEPA analyses need not give greater consideration to potential effects from GHG emissions than to other potential effects on the human environment.
- In agency assessments of reasonably foreseeable environmental consequences, the draft guidance states that agencies should not consider those that are remote or speculative.
- CEQ's draft guidance notes that in NEPA analysis, impacts of a proposed action should be discussed in proportion to their significance, and there should only be a brief analysis of issues that are not significant.
- As set forth in the draft guidance, CEQ states that per NEPA and CEQ's implementing regulations, agencies are not required to perform a monetary costs and benefits analysis of alternatives. Additionally, they need not use estimates for the Social Cost of Carbon (SCC) or other similar cost metrics. CEQ states that SCC estimates were not intended for socio-economic analysis under NEPA or decision-making on individual actions, including project-level decisions.

CEQ provides that agencies should attempt to quantify a proposed action's direct and reasonably foreseeable indirect GHG emissions when the amount of those emissions is substantial enough to warrant quantification. It also frames how such quantifications can be undertaken to satisfy NEPA's requirement for agencies to analyze the cumulative effects of a proposed action, and directs that a separate cumulative impacts analysis is not required. CEQ also stipulates that agencies are not required to quantify GHG effects where information to do so is not available, not of high quality, or the complexity of identification would make quantification overly speculative. Additionally, agencies are not required to undertake new research or analysis of potential climate effects.

CEQ's draft guidance indicates that in their NEPA analyses, agencies should consider reasonable alternatives to the proposed action and address their long and short term effects. CEQ states that NEPA does not require agencies to adopt mitigation measures. Nor are agencies required to expand the range of Federal agency actions subject to NEPA or develop new NEPA implementing procedures.

The draft guidance also provides that if an agency does consider costs and benefits of the various environmental alternatives of a proposed action, the agency should

incorporate by reference or append such analyses to the environmental impact statement as an aid in evaluating environmental consequences.

CEQ's draft guidance appropriately puts addressing GHG emissions in NEPA analyses by Federal agencies in the context of other relevant environmental factors to be assessed, and this should facilitate the agency review process. As such, the American Coal Council is supportive of the CEQ proceeding with replacement of its 2016 guidance.