



March 25, 2015

Via electronic mail: GCC.guidance@ceq.eop.gov

Mr. Horst Greczmiel
Associate Director for NEPA Oversight
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, DC 20503

Re: Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews, Council on Environmental Quality, 79 Fed. Reg. 77,802 (December 24, 2014).

Dear Mr. Greczmiel:

The Natural Gas Council submits these comments in response to the Council on Environmental Quality's ("CEQ") revised draft guidance regarding the consideration of greenhouse gas ("GHG") emissions and the effects of climate change in federal departmental and agency reviews under the National Environmental Policy Act ("NEPA").¹ The Natural Gas Council collectively represents segments along the entire natural gas value chain that produce, transport, deliver, and use clean, affordable, natural gas throughout the United States. The draft CEQ guidance calls upon over 80 federal agencies and departments to consider GHG and climate impacts analysis as part of any NEPA review required for federal proposed actions and would be applicable to all land and resource management decisions. Natural gas pipeline and related facility projects must undergo NEPA review and, therefore, the Natural Gas Council value chain has a direct interest in the outcome of this proceeding.

¹ *Notice, Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews*, Council on Environmental Quality, 79 Fed. Reg. 77,802 (December 24, 2014) (hereinafter, "draft guidance").

The Natural Gas Council urges CEQ to withdraw this draft guidance because it is inconsistent with NEPA, the implementing regulations and established case law and, if allowed to stand, could have serious impacts on the development of our nation's critical natural gas infrastructure. The draft guidance is adverse to our members' interests because it would create unnecessary litigation, delays, costs and inefficiencies in the permitting of natural gas infrastructure projects while providing only speculative environmental benefits.

The Natural Gas Council emphasizes that the rapid rehabilitation and expansion of natural gas delivery infrastructure is critical to achieving the President's energy security and climate agenda. The President's Climate Action Plan is predicated in part on using clean, domestically-abundant, affordable natural gas resources to drive cleaner generation, support renewables, and sustain the affordable energy deliverability needed for economic growth. In fact, EPA's Clean Power Plan ("the Plan"), the centerpiece of this climate program, depends on the rapid expansion and development of natural gas resources and infrastructure. Specifically, under the Plan, EPA anticipates that natural gas will displace coal-fired electric generation. Natural gas also will support increased renewable generation.

Independent of the climate agenda, the Administration has recognized the crucial need for expedited, modernized and timely review of energy infrastructure projects – including interstate natural gas pipelines. Under Executive Order No. 13604, *Improving Performance of Federal Permitting and Review of Infrastructure Projects*, and the May 2014 Implementation Plan, the Administration pledged to cut back on federal infrastructure permitting and review timelines. CEQ, as a co-chair of this initiative's Steering Committee, acknowledged that major federal decisions involve "diverse and often divergent sets of agency permit and decision-making responsibilities," which can "lead to friction and create inefficiencies, and extend the timeframe for the Federal permitting and review process."² However, the same friction, delays and inefficiencies that could be remedied through positive action under Executive Order 13604 may be exacerbated by CEQ's guidance. CEQ should help accelerate, not hinder, our nation's ability to meet this Administration's goals for increasing access to cleaner, reliable and affordable energy through the expanded use of natural gas.

The CEQ guidance does not recognize a federal agency's existing discretion to tailor NEPA reviews to address climate change, including the possibility that an agency may not consider climate change at all if it is too removed, unforeseeable, or speculative in relation to the proposed project. The CEQ guidance contradicts established Supreme Court precedent that an agency only is required to consider environmental impacts in a NEPA review if the impacts are proximately caused by the proposed action and the agency has control over such impacts. *See U.S. Dep't of Transp. v. Public Citizen*, 541 U.S. 752 (2004). The CEQ regulations and relevant case law require that impacts be both reasonably foreseeable and significant before they must be analyzed. Nevertheless, the CEQ guidance appears to compel federal permitting agencies to

² See Implementation Plan for the Presidential Memorandum on Modernizing Infrastructure Permitting, Steering Committee on Federal Infrastructure Permitting and Review Process Improvement, May 2014, <http://www.permits.performance.gov/pm-implementation-plan-2014.pdf>, at p. 3.

consider upstream and downstream climate change-related impacts of project-level GHG emissions and propose mitigation measures, regardless of whether the agency can establish any causal connection between a particular project's GHG emissions and global climate change. The guidance, if finalized, would create delays in federal permitting and spur contentious litigation over the conflicts between the guidance and existing NEPA law.

The Natural Gas Council thanks CEQ for ensuring an adequate public comment period, and looks forward to an opportunity to further discuss these issues or provide additional information. We may be contacted at the information listed below.

Respectfully submitted,

American Gas Association

America's Natural Gas Alliance

American Public Gas Association

Independent Petroleum Association of
America

Interstate Natural Gas Association of
America

Natural Gas Supply Association

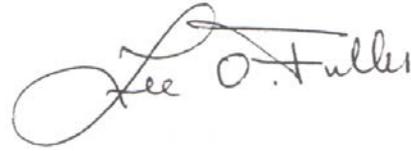
[Signatures on the following page]

AMERICAN GAS ASSOCIATION



Arushi Sharma Frank
Counsel, Regulatory Affairs
American Gas Association
400 N. Capitol Street, N.W.
Washington, D.C. 20001
(202) 824-7120
asharma@aga.org

INDEPENDENT PETROLEUM
ASSOCIATION OF AMERICA



Lee Fuller
Executive Vice President
Independent Petroleum Association of
America
1201 15th Street, N.W., Suite 300
Washington, D.C. 20005
(202) 857-4722
lfuller@ipaa.org

AMERICA'S NATURAL GAS
ALLIANCE



Erica Bowman
Vice President, Research and Policy
Analysis
America's Natural Gas Alliance
701 8th Street, N.W., Suite 800
Washington, D.C. 20001
(202) 789-2642
ebowman@anga.us

INTERSTATE NATURAL GAS
ASSOCIATION OF AMERICA



Joan Dreskin
General Counsel
Interstate Natural Gas Association of
America
20 F Street, N.W., Suite 450
Washington, D.C. 20001
(202) 216-5928
jdreskin@ingaa.org

AMERICAN PUBLIC GAS
ASSOCIATION



David Schryver
Executive Vice President
American Public Gas Association
201 Massachusetts Ave., N.E., Suite C-4
Washington, D.C. 20002
(202) 464-0835
dschryver@apga.org

NATURAL GAS SUPPLY ASSOCIATION



Jenny Fordham
Senior Vice President, Government Affairs
Natural Gas Supply Association
1620 Eye Street, N.W., Suite 700
Washington, D.C. 20006
(202) 326-9317
jfordham@ngsa.org