

Enclosure

**Committee on Natural Resources  
Oversight Hearing  
1324 Longworth House Office Building  
May 16, 2024  
10:00AM**

*"Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters. "*

**Questions from Chairman Bruce Westerman for The Hon. Brenda Mallory, Chair,  
White House Council on Environmental Quality**

***NEPA Phase 2:***

- 1. Aren't CEQ's Final Phase 2 NEPA Regulations a significant departure from NEPA's historic role as a procedural statute?**
  - a. How can you reconcile Phase 2 and the Administration's imposing an obligation on federal agencies to "use all practicable means" to achieve environmental goals with the forty plus years of court cases saying NEPA doesn't mandate specific results?**

The National Environmental Policy Act (NEPA) directs Federal agencies to "use all practicable means" to achieve the national environmental policy goals, along with other national goals, set forth in NEPA. *See* 42 U.S.C. § 4331. Accordingly, from 1978 to 2020, CEQ's regulations instructed agencies to "[u]se all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment." *See* 40 C.F.R. § 1500.2(f) (2019).

The Bipartisan Permitting Reform Implementation (BPRI) Rule restores this longstanding policy statement, *see* 40 C.F.R. § 1500.2(f) (2024), consistent with the NEPA statute, while maintaining NEPA's status as a procedural statute that serves the twin aims of ensuring that agencies consider the significant environmental consequences of their proposed actions and informing the public about their decision making. The final rule addresses NEPA's procedural nature in 40 C.F.R. § 1500.1(b) but removes the repetitive language from the 2020 rule that described NEPA as a purely procedural statute, because it created the misimpression that NEPA is a purely ministerial statute, in contravention of its stated goals and purposes.

Consistent with the statute and case law, the final rule does not establish specific environmental goals or require specific environmental outcomes. Rather, it requires agencies to consider the effects of their proposed actions and whether or not those effects are significant. Like NEPA itself—including the amendments to NEPA that Congress made in the Fiscal Responsibility Act of 2023—the rule makes clear that projects and decisions that lack the potential for significant environmental effects require less analysis and review than those that may have significant effects on the environment and nearby communities.

2. **Does Chevron doctrine or Chevron deference apply to CEQ?**
  - a. **What is your contingency plan should Chevron be overturned by the Supreme Court given the divergence between the text of NEPA amendments contained in the FRA and CEQ’s new Phase 2 regulations?**

CEQ will continue to follow and implement the best reading of Congress’s statutory directions, as interpreted by the federal courts. The BPRI rule reflects the intent of Congress, as expressed through the plain language of NEPA, including the Fiscal Responsibility Act amendments, and interpreted by federal courts in applicable caselaw.

CEQ is reviewing the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, No. 22-451.

3. **The recently finalized NEPA Phase 2 rulemaking appears to disproportionately favor renewable energy related projects and discriminate against oil and natural gas projects when the rule should prompt agencies instead to focus on a project’s environmental effects regardless of energy type.**
  - a. **Explain CEQ’s rationale in crafting a rule that has the high potential to stop the permitting of many critical energy projects in the U.S. that Americans and overseas allies will need to meet their growing energy demands in the coming decades - demands for petroleum products that this administration’s own EIA notes will continue to rise through at least 2050?**

The NEPA process does not predetermine any outcome. Further, CEQ’s NEPA regulations apply to all major Federal actions in the same manner, irrespective of project sector, and do not favor particular sectors or types of projects. The final rule is grounded in the statute, incorporates decades of case law, and fully implements and incorporates the amendments to NEPA from the Fiscal Responsibility Act.

The rule provides direction to agencies so they can complete their NEPA reviews effectively and efficiently, thereby providing policy makers with the information and analysis they need to make decisions that are guided by high-quality information and informed by robust community engagement. The rule outlines the

process for Federal agencies to analyze, consider, and disclose the environmental effects of a proposed action. The final rule emphasizes efficiency, predictability, informed decision making, and transparency for all project types.

### ***30 x 30 Initiative***

- 4. Since President Biden took office, gas prices at the pump have gone from \$1.93 in April 2020 to \$3.73 in April 2024. This is digging into the wallets of the everyday, hardworking American people. Do you truly think locking up America's lands under the 30x30 initiative from further resource development will help decrease the price of gas at the pump?**

The United States has proven time and time again that we have the capability to conserve lands and waters and, at the same time, responsibly develop and sustainably manage the resources we need.

This Administration has presided over record levels of domestic oil and gas production. During Fiscal Year 2023, oil and gas operators started 2,106 new oil and gas wells on Federal lands. At the current pace, operators would need 3.5 years to drill all of the wells that are currently approved and pending development.

- 5. CEQ has been restricting access to America's natural resources the day President Biden took office. The United States currently imports 51 minerals and 12 are considered "critical." Will the 30x30 initiative affect foreign dependency on importing our natural resources?**

As stated in the Biden-Harris Administration *Fundamental Principles for Domestic Mining Reform*, “[t]o meet current and future demand, and to break our reliance on single sources while creating good jobs for American workers, mining reform should assure that a reliable and sustainable supply of critical minerals can be provided both through environmentally and socially responsible mining and processing projects and other sustainable sources.”

President Biden is prioritizing the responsible development of critical minerals and advancing efforts to strengthen our nation's sustainable domestic critical mineral supply chain.

Consistent with the President's direction to secure a sustainable domestic mineral supply chain, the Department of the Interior has authorized 38 new mines or mine expansions since 2021. The Biden Administration has also catalyzed billions of dollars in investments that strengthen the domestic critical mineral supply chain, including investments in lithium, antimony, and cobalt mines in the United States. Federal engagement with nations that have free trade agreements with the United States further strengthens our mineral supply chain while ensuring that mining in partner nations is subject to strict labor and environmental standards.

The America the Beautiful Initiative does not preclude or prevent mining. It does, however, set a national goal of conserving at least 30 percent of America's lands and waters by 2030.

**6. A portion of the 30x30 initiative states that the goal is to “create jobs and strengthen the economy,” but the 30x30 initiative does the complete opposite. The Biden Administration has increased inflation to almost 20% and the prices of homes, cars, groceries, and gas are the highest in our country's history. What has CEQ done to actually strengthen the economy for the American people?**

As noted above, this Administration is committed to conserving America's lands and waters *and* achieving sustainable economic growth. Through the President's Investing in America Agenda, the Administration is helping put people to work restoring our lands and waters by capping idled wells, restoring abandoned mine lands, and preparing forests to address the wildfire crisis.

The Biden-Harris Administration has also launched the American Climate Corps, a workforce training and service initiative that will connect young people with skills-based training for well-paying careers in the clean energy, conservation, and climate resilience economy. The American Climate Corps will mobilize a new, diverse generation of more than 20,000 Americans—putting them to work conserving and restoring our lands and waters, bolstering community resilience, deploying clean energy, implementing energy efficient technologies, and advancing environmental justice, all while creating pathways to high-quality, well-paying clean energy and climate resilience jobs in the public and private sectors after they complete their paid training programs. In April 2024, the Biden-Harris Administration launched ClimateCorps.gov, a new website where people can apply to join the American Climate Corps. The first class of the American Climate Corps was sworn in on June 18, 2024.

In addition to helping coordinate these kinds of job-creating interagency land and water conservation and restoration efforts, CEQ is playing a lead role in implementing the President's Permitting Action Plan. By working to improve the efficiency and effectiveness of Federal permitting processes and environmental reviews, CEQ is helping accelerate the construction and modernization of infrastructure across the country – from bridges and broadband deployment to clean energy projects that are creating jobs and affordable, reliable power in communities across the country.

Over the last year, inflation has come down to 2.9% while the economy grew 3.1%. Since 2021, the Biden-Harris Administration has presided over the creation of 2.5 million jobs. The agenda that President Biden and Vice President Harris are fighting to achieve has helped the country come back strong from the worst economic crisis since the Great Depression and deliver for working families.

## *Global Freshwater Challenge*

- 7. On December 10, 2023, while attending the United Nations Climate Change Conference (COP28), you announced that the United States would participate in the Global Freshwater Challenge. During earth week of this year, the Biden-Harris administration announced America the Beautiful Freshwater Challenge which, according to the press release, is intended to “call on all states and other governments and entities, including Tribes, interstate organizations, cities, and local communities to advance their own policies and strategies for conserving and restoring America’s freshwater systems.” What is the Global Freshwater Challenge? Who is participating in it? Who funds it?**

The Global Freshwater Challenge is an international partnership to – globally - restore 300,000 kilometers of degraded rivers and 350 million hectares of degraded wetlands by 2030 and conserve freshwater ecosystems. To date, [45 countries](#) and the European Union have joined the Challenge.

There are no financial commitments for countries that join the Global Freshwater Challenge.

The Global Freshwater Challenge is separate from the [Biden-Harris Administration’s America the Beautiful Freshwater Challenge](#), which sets a bold, new goal to protect, restore, and reconnect 8 million acres of wetlands and 100,000 miles of our nation’s river and streams by 2030 here in the U.S..

Despite their importance to both people and nature, freshwater resources here in the U.S. and around the world are at risk. Globally, wetlands are disappearing at three times the rate of our forests, and freshwater animal populations are declining at twice the rate of terrestrial animals. In the U.S., over 50% of the nation’s wetlands in the Lower 48 states have been lost since colonization; most Western states are experiencing long-term drought conditions; nearly half of threatened and endangered species in the U.S. are dependent on wetlands; and more than 600,000 miles, or about 17%, of our rivers have been modified by large dams. Furthermore, in 2023, the Supreme Court’s ruling in *Sackett v. EPA*, 598 U.S. 651 (2023), limited the ability of Federal agencies under the Clean Water Act to protect some of our country’s most important and most imperiled streams, wetlands, and freshwater resources from pollution and destruction.

This is why actions such as joining the Global Freshwater Challenge and setting goals through the America the Beautiful Freshwater Challenge are so critical. There is still time for us to protect these critical freshwater resources for ourselves and for our children. Federal agencies, states, Tribal, and local communities all have major roles to play in conserving these vital resources. Water, and everything in it, moves without regard to geopolitical boundaries, so we must work together across

governments to conserve and restore the freshwater bodies that protect and support us.

- 8. Since this was launched at the United Nations, how is the UN supporting this initiative? Can you walk the committee through how the initiative will work? Are there incentives being given to the participants?**

The governments of Colombia, the Democratic Republic of the Congo, Ecuador, Gabon, Mexico, and Zambia launched the Global Freshwater Challenge at the UN Water Conference in New York in March 2023. The United States joined this effort in December 2023 at COP 28, in recognition of the importance of freshwater resources to human health and economic growth. As noted above, there are no financial commitments for countries that join the Global Freshwater Challenge. Instead, the Global Freshwater Challenge aims to support member countries in accelerating the implementation of freshwater-related investments. Additionally, the Global Freshwater Challenge supports its member countries through information-sharing and by facilitating coordination.

- 9. What checks are in place to ensure that Foreign Nationals, foreign groups, or groups which receive funding from the Chinese Communist Party do not participate in the Global Freshwater Challenge in the United States?**

The United States is not a founder or lead organizer of the Global Freshwater Challenge and is not responsible for its membership, which is open to all UN countries. Moreover, the United States' participation in the Challenge does not authorize any specific projects in the United States, or alter any domestic laws, regulations, or policies. More information on membership of the Global Freshwater Challenge can be found on its website: <https://www.freshwaterchallenge.org/>.

### *Executive Order 14072*

- 10. Executive Order 14072 directed the Department of Agriculture and the Department of the Interior to define, identify, and inventory so-called mature and old growth forests on federal land, and to develop policies to protect these forests. This effort has raised serious concerns from many stakeholders who believe it will be used to block forest management activities in areas at a high risk for catastrophic wildfire. In the face of a historic wildfire crisis, this is a very understandable concern. Can you provide some clarification on that front. Is the overall goal of this old growth forest order to reduce forest management activities, and responsible timber harvests?**

On June 20, 2024, the U.S. Department of Agriculture's Forest Service published a draft environmental impact statement (EIS) for the proposed national old growth forest plan amendment. The purpose of this amendment is to provide consistent guidance for the stewardship, conservation, and recruitment of old growth across

national forests. The proposed amendment highlights the importance of proactive stewardship actions in managing threats to old growth forests, and to reduce wildfire risk, considering current and emerging climate-driven threats. It also calls for adaptive management strategies to be developed using local, geographically relevant information and the best available science, including Indigenous Knowledge. The draft EIS for the proposed national old growth forest plan amendment will be [open for public comment](#) until September 20, 2024.

Additionally, on May 9, 2024, the Bureau of Land Management (BLM) finalized its Conservation and Landscape Health rule (Public Lands Rule). To support ecosystem health and resilience, the rule provides that BLM will protect clean water and wildlife habitat, restore lands and waters that need it, and make informed management decisions based on science, data, and Indigenous Knowledge. The rule recognizes conservation as an essential component of public lands management, on equal footing with other multiple uses of these lands. Under the rule, BLM is working to ensure that forests and woodlands on public lands, including old and mature forests and woodlands, are managed to: promote their continued health and resilience, retain and enhance carbon storage, recruit old-growth forests and characteristics, conserve biodiversity, mitigate the risk of wildfires, enhance climate resilience, enable subsistence and cultural uses, provide outdoor recreation opportunities, and promote sustainable local economic development. Older forests and woodlands, including pinyon and juniper woodlands, which are the BLM's most abundant old forest type, have characteristics that contribute to ecosystem resilience and further the objectives of this rule. The characteristics include providing important wildlife habitat, maintaining intact landscapes, contributing ecosystem services, and harboring significant social and cultural values for human communities. As such, these resources will be considered and evaluated for protection and expansion under multiple provisions of the rule.

These two administrative actions are part of a larger effort by the Administration to conserve and restore the health of America's forests. It is the policy of this Administration, in consultation with State, local, Tribal, and territorial governments, as well as the private sector, nonprofit organizations, labor unions, and the scientific community, to pursue science-based, sustainable forest and land management; conserve America's mature and old-growth forests on Federal lands; invest in forest health and restoration; support Indigenous traditional ecological knowledge and cultural and subsistence practices; honor Tribal treaty rights; and deploy climate-smart forestry practices and other nature-based solutions to improve the resilience of our lands, waters, wildlife, and communities in the face of increasing disturbances and chronic stress arising from climate impacts.

**11. Evidence shows that the Old Growth order is in fact being used to reduce forest management and timber harvests. For instance, in the BLM's FY 2025 Budget Justification, the BLM specifically justifies a whopping 19 percent reduction in timber volume in Western Oregon in order to quote "focus on the protection of mature and old-growth forests." Further reducing timber**

**harvests in an area that is already struggling with extreme wildfire risk due to overgrown conditions is deeply misguided. Is it the Administration's position that drastically reducing timber volume in high-risk areas will help protect old growth forests?**

Mature and old-growth forests offer biological diversity, carbon sequestration, wildlife and fisheries habitat, recreation, soil productivity, water quality and aesthetic beauty. These special forests also reflect diverse Tribal, spiritual, and cultural values. Actively managing mature and old-growth forests can help create a mosaic of conditions across the larger landscape that also promotes economically and socially strong communities and ecological sustainability. Active forest management involves much more than commercial timber harvest – it includes tree planting, prescribed fire, fire suppression, weed control, timber stand improvement, tree thinning, and practices to improve fish and wildlife habitat. The mature and old growth initiative by the U.S. Forest Service and BLM is part of an overarching climate-informed strategy that includes: the [inventory of mature and old growth forests](#), a [preliminary threat assessment report](#), and the [National Old Growth Amendment](#).

These informational tools address the rapidly changing disturbances and conditions that threaten old-growth forests, including wildfire, fire exclusion, insects, disease, extreme weather, climate, temperature, and more. This effort will provide an open, transparent, inclusive, and science-based process for determining the mix of management actions best suited to foster the long-term resilience of old-growth forest conditions and their contributions to ecological integrity. The U.S. Forest Service and BLM have more information on their ongoing work to conserve, steward, and monitor old-growth forests on their websites: <https://www.fs.usda.gov/managing-land/old-growth-forests> and <https://www.blm.gov/old-growth-forests>.

### ***Marine Sanctuaries & Permitting***

**12. Within the proposed Chumash Heritage National Marine Sanctuary there are existing and planned fiber optic networks off the central California coast. These cables have been determined time and again to be environmentally benign and become part of the seabed after they are laid. The US is heavily reliant on subsea fiber optic cables for global connectivity that is imperative to our national and economic security. What is CEQ doing to ensure our nation's environmental laws accommodate our need for the connectivity provided by subsea cables in the designation of national marine sanctuaries?**

On August 16, 2024, the National Oceanic and Atmospheric Administration (NOAA) published a [Notice of Modification in the Federal Register](#) that modified the special use permit (SUP) category for the continued presence of commercial submarine cables on or within a national marine sanctuary's submerged lands to exclude commercial submarine cables in any new sanctuaries designated after

August 16, 2024, for a period of two years. During that time, NOAA will not require special use permits for the continued presence of commercial submarine cables on or within the submerged lands of any new national marine sanctuaries.

In addition, NOAA is seeking public comment regarding potential further updates to or modifications of the SUP category for the continued presence of commercial submarine cables, as well as input on developing an updated policy and permit guidance document for submarine cable projects.

On September 6, 2024, NOAA released the [final environmental impact statement \(FEIS\)](#) for the proposed Chumash Heritage National Marine Sanctuary. The preferred alternative that NOAA outlined in the FEIS would designate 4,543 square miles of ocean waters off the coast of Central California as a National Marine Sanctuary. Pursuant to the Notice of Modification described above, NOAA will not require SUPs for the continued presence of commercial submarine cables on or within the submerged lands of the proposed Sanctuary, if finalized, for a period of at least two years.

NOAA has additional information on submarine cables on its website: <https://www.noaa.gov/submarine-cables>.

### *Pacific Northwest Hydroelectric Issues*

- 13. The Council on Environmental Quality has been implementing radical environmental justice initiatives across the federal government, but then seemingly supports the closure of a hydroelectric dam. How would closing a dam site that does not emit greenhouse gas emissions increase a clean energy future? Also, are hydroelectric plants not considered clean energy?**

When appropriately sited, operated, and mitigated, hydroelectric energy is an important low-emission source of dispatchable power. CEQ supports departments and agencies in determining how to conduct environmental reviews to improve the siting and operation of projects, including hydroelectric energy projects, and the mitigation of any adverse environmental effects.

- 14. Breaching the Lower Snake River Dams only decreases clean energy production giving the United States more reliance on our foreign adversaries. Why did you agree that breaching the Lower Snake River Dams was a good idea?**

CEQ has not taken a position on the potential breaching of the Lower Snake River dams. Only Congress, not the Executive Branch, can decide whether to breach any of the Lower Snake River dams.

- 15. In a statement released by the Biden Administration on the restoration of Pacific Northwest salmon you stated “Business as usual will not restore the**

**health and abundance of Pacific Northwest salmon. We need a durable, inclusive, and regionally-crafted long-term strategy for the management of the Columbia River Basin.” The National Marine Fisheries Service released a report in 2022 admitting that there is “uncertainty” on whether breaching the Lower Snake River Dams would provide “direct productivity and survival benefits” for “salmon and steelhead stocks.” As you know, the Department of Commerce has authority over the NMFS, so do you disagree with the National Marine Fisheries Service?**

CEQ defers to the National Marine Fisheries Service for its expertise regarding reaching the goals outlined in its 2022 report entitled *Rebuilding Salmon and Steelhead in the Columbia River Basin*.

### ***Science-Based Targets Initiative***

- 16. Please explain how Science-Based Targets Initiative (SBTi), a “partnership between CDP, the United Nations Global Compact (UNGC), the World Resources Institute (WRI), and the World Wide Fund for Nature (WWF, also known as the World Wildlife Fund)” came to be listed as the primary validation source in the federal rulemaking process for the proposed rule, “Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk,” including the role any employees of CEQ (full time, term, volunteer, or otherwise) had in the development of this rulemaking.**

Executive Order (EO) 14030 of May 20, 2021 (*Climate-Related Financial Risk*) directed the Federal Acquisition Regulatory Council (the FAR Council), in consultation with CEQ and the heads of other agencies as appropriate, to consider amending the Federal Acquisition Regulation (the FAR) to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets. In response to this directive, CEQ engaged with various stakeholders to inform development of a proposed amendment to the FAR (the Proposed Rule).

On December 8, 2021, the Office of Management and Budget (OMB), the Climate Policy Office (CPO), and CEQ released Memorandum M-22-06, on “Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability” (Memorandum M-22-06). Recognizing that the United States has procurement contracts with businesses in a wide variety of industries, M-22-06 recommended the FAR Council leverage third-party standards and systems that are already widely accepted by major companies across industries, *i.e.*, protocols and platforms that Federal contractors are already using to publicly disclose annual climate data to interested parties outside the Federal Government. In particular, M-22-06 recommended that the FAR Council “leverage existing third-party standards and systems including the Task Force on Climate-Related Financial Disclosures (TCFD) Recommendations, CDP reporting system, and Science Based Targets Initiative (SBTi) criteria, or

equivalents, in the development of regulatory amendments to promote contractor attention on reduced carbon emissions and Federal sustainability.”

The recommendations in M-22-06 referenced entities that were the leading standards, were the ones used most widely across industries, and that had a proven track record of working with companies that seek to manage their climate risks and disclose and reduce their greenhouse gas emissions.

Following the publication of M-22-06 and consistent with the direction of EO 14030, CEQ continued to consult with the FAR Council to provide expertise on Federal sustainability to support the development of the Proposed Rule. Pursuant to EO 12866, other Federal agencies with pertinent responsibilities also had the opportunity to provide comment on the Proposed Rule.

The agency members of the Federal Acquisition Regulatory Council—the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration—issued the Proposed Rule on November 10, 2022.

In recognition of the complexity of applying standards across the wide range of Federal procurements, the FAR Council specifically solicited input from the public on the use of third-party standards, as well as potential alternatives, in the Proposed Rule. During the public comment period, which ended on February 13, 2023, over 38,000 members of the public submitted their views.

The public comments are available at <https://www.regulations.gov/docket/FAR-2021-0015>.

**17. SBTi is not based in the United States. Why didn't CEQ select a U.S. based non-profit to vet the emissions standards set by contractors?**

As noted above, M-22-06 recommended that the FAR Council incorporate TCFD, CDP, and SBTi or their equivalents in the Proposed Rule. The recommendations referenced these entities because—based on information available at the time M-22-06 was developed—they were the leading standards, were the ones used most widely across industries, and that had a proven track record of working with companies that seek to manage their climate risks and disclose and reduce their greenhouse gas emissions.

Using third-party standards is a common and effective governmental and commercial practice. It aligns with the National Technology Transfer and Advancement Act of 1995 and OMB Circular A-119, which directs Federal agencies to use non-governmental private sector standards to meet policy and procurement objectives. Reliance on third-party standards can promote efficient government operations by avoiding the effort and expense of developing new, government standards; moreover, it can reduce compliance costs by avoiding the need for the private sector to adapt to a new set of standards.

The Proposed Rule seeks comment from the public on the use of these or other third-party standards. The Administration welcomes the input of the Members of this Committee in the rulemaking process.

**18. If this rule is adopted, who will conduct oversight of SBTi to ensure they are producing accurate scientific estimates?**

As noted above, using third-party standards is a common and effective governmental and commercial practice. It aligns with the National Technology Transfer and Advancement Act of 1995 and OMB Circular A-119, which directs Federal agencies to use non-governmental private sector standards to meet policy and procurement objectives.

Third-party standards already play an important role in the U.S. Government's existing procurement practices. For example, the government and Federal suppliers use the Electronic Product Environmental Assessment Tool (EPEAT), an internationally recognized third-party ecolabel standard, when purchasing and disposing of electronics. The Environmental Protection Agency (EPA) estimates that in 2021 alone, the Federal Government saved taxpayers around \$2 billion in current and future energy costs by purchasing EPEAT-registered electronics. Further, these EPEAT-certified purchases reduced the Federal Government supply chain's carbon emissions by an amount equivalent to the annual carbon emissions of four million households.

M-22-06 recommended that the FAR Council incorporate TCFD, CDP, and SBTi or their equivalents in the Proposed Rule. The recommendations referenced these entities because—based on information available at the time M-22-06 was developed—they were the leading standards and the ones used most widely across industries, with a proven track record of working with companies that seek to manage their climate risks and disclose and reduce their greenhouse gas emissions.

The Proposed Rule seeks comment from the public on the use of these or other third-party standards. The Administration welcomes the input of the Members of this Committee in the rulemaking process.

**19. If this rule is adopted, who will conduct oversight of SBTi to ensure that they are not allowing donations from private actors influence their decision making?**

This question about the content of the Proposed Rule is better directed to the FAR Council, which issued the Proposed Rule.

It is worth noting, however, that the Proposed Rule is clear that, if finalized, it would not delegate regulatory authority to SBTi or any other third-party organization; the U.S. Government would always retain the authority to determine whether or not to

contract with a supplier. The Proposed Rule also would provide various exceptions to the requirements, including for contractors that fail to comply due to circumstances beyond their control; contractors that provide documentation showing they have made substantial efforts to comply; and contractors that make public commitments online to comply within one calendar year.

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**Questions from Rep. Lamborn for The Hon. Brenda Mallory, Chair, White House Council on Environmental Quality**

- 1. Much of your testimony focused on the oversight CEQ is doing with the NEPA process, specifically touting that you are speeding up the permitting process. Typically mines in the hardrock mineral space can take decades to begin production. And this is unacceptable. Many of the most critical minerals listed on USGS critical minerals list are ones the US is beholden to China to mine and refine. FAST-41 was created to speed up the NEPA permitting process. Mineral mining was added to the FAST-41 only a few years ago. Have there been any concerns that mining companies have been taking advantage of this accelerated process outside of the intent of the law?**

The Biden-Harris Administration agrees that a strong and sustainable domestic critical mineral supply chain is critical to secure a clean energy economy. The Administration also recognizes that reducing the time required to go from initial investigation and exploration to mineral production is essential for a clean energy transition. As the Administration works with Congress to strengthen our critical mineral supply chain, we must remember that, while NEPA is an important step in that process, much of the work to bring a hardrock mine to production occurs outside of the NEPA process. As the Government Accountability Office noted in its 2016 report on hardrock mining, the leading cause of delay in completing the Federal Government's review of a hardrock mine plan of operations was incomplete or vague mine plans that required additional information before the review process could continue.<sup>1</sup> The third most common cause of delay involved operator-initiated changes in key portions of the mine plan that occurred after the initial submission. The second most common cause of delay involved inadequate agency resources to complete the review.

The Biden-Harris Administration is committed to strengthening the domestic critical mineral supply chain, including shortening the time required to bring critical

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<sup>1</sup> U.S. Gov't Accountability Office Report to the Chairman, Committee on Natural Resources, House of Representatives, *HARDROCK MINING BLM and Forest Service Have Taken Some Actions to Expedite the Mine Plan Review Process but Could Do More*, GAO-16-165, p.22 (Jan. 2016).

minerals to production. This commitment is reflected in multiple Administration efforts:

- *E.O. 14017, America's Supply Chains*, ordered a review of the critical mineral supply chain;
- The *Biden-Harris Administration's Fundamental Principles for Domestic Mining Reform* direct that "As the Biden-Harris Administration advances its critical minerals strategy, including expanding domestic production in a timely manner, we must ensure that our actions are conducted with strong environmental, sustainability, safety, Tribal consultation and community engagement standards";
- The *Biden-Harris Administration's Permitting Action Plan to Rebuild America's Infrastructure, Accelerate the Clean Energy Transition, Revitalize Communities, and Create Jobs*, strengthens and accelerates Federal permitting and environmental reviews, fully leveraging the permitting provisions in the Bipartisan Infrastructure Law;
- The Administration's *100-Day Supply Chain Report*, recommends creating 21st century standards for extraction and processing of critical minerals; and
- The Interagency Working Group's *Recommendations to Improve Mining on Public Lands*, includes 65 recommendations to accelerate mineral development, provide a fair return to American taxpayers, protect the quality of the air we breathe and water we drink, and ensure meaningful engagement with communities that are likely to be impacted by mineral development.

In the past 18 months, the Biden-Harris Administration has also invested more than \$20 billion through the Department of Defense and Department of Energy for critical minerals processing, manufacturing, and recycling. And the Department of the Interior has also authorized 38 new mine plans or mine plan expansions since 2021.

These efforts are a non-exhaustive list of the Biden-Harris Administration's efforts to build a strong and sustainable domestic critical mineral supply chain that extends beyond NEPA and FAST-41 to all aspects of government.

- 2. FAST-41 was downgraded to only minerals listed on the Critical Minerals list made by the USGS, which is required to be updated every 3 years. A Mine might be approved under FAST-41, and before entering production, already be ineligible for continuing in that project. Would you concur that many of the green energies the Administration is prioritizing uses these hardrock minerals, such as Nickle and Copper in electric vehicles?**

In the past 18 months, the Biden-Harris Administration has invested more than \$20 billion through the Department of Defense and Department of Energy for critical minerals processing, manufacturing, and recycling. And, the Department of the Interior has also authorized 38 new mine plans or mine plan expansions since 2021. From wind turbines to solar panels, electric vehicle batteries to microprocessors,

critical minerals are an essential building block for creating the technologies that will transform infrastructure for generations to come.

The FAST-41 process is intended to improve coordination and expedite the processing of certain projects. Once a project is permitted, if the sector to which that project belongs ceases to be a covered sector under FAST-41, that change would have no effect on the project.

- 3. You specifically mention that your work with the NEPA Phase II rule is in part to bolster energy security. How do you rectify the Bipartisan Permitting Reform Implementation Rule's focus on green energies at the expense of our reliable and affordable producing energies when Americans are paying the cost at the pump and to maintain their homes?**

The Bipartisan Permitting Reform Implementation Rule does not favor any energy sector over any other. Rather, it emphasizes effectiveness, efficiency, predictability, informed decision making, and transparency for all project types.

- 4. If the Biden administration is serious about a transition to an electric future, they must be aware of the amount of copper alone that is needed. As many as six new large copper mines must be brought online annually over the next several decades. About 40% of the production from new mines will be required for electric vehicle-related grid upgrades. With all this in mind how does the Biden Administration rectify the fact that we will need to bring on a minimum of 6 new copper mines a year in order to meet this demand, but they are also committed to locking up 30% of working federal lands by 2030?**

Consistent with the President's direction to secure a sustainable domestic mineral supply chain, the Department of the Interior has authorized 38 new mines or mine expansions since 2021. President Biden has also prioritized the responsible development of critical mineral supply chains, in furtherance of which the Administration has catalyzed billions of dollars in investments, including in lithium, antimony, and cobalt mines in the United States. The Biden-Harris Administration is taking significant steps to provide a strong and sustainable domestic supply chain of minerals used in the energy transition, including preparing the *Interagency Working Group's Recommendations to Improve Mining on Public Lands*, which include 65 recommendations to accelerate mineral development, provide a fair return to American taxpayers, protect the quality of the air we breathe and water we drink, and ensure meaningful engagement with communities that are likely to be impacted by mineral development.

- 5. In the first 3 years of the Trump administration the Department held 11 oil and gas lease sales, leasing 221,000 acres, bringing in \$8.8 million in revenue to the state and federal government. In the first 3 years under your control, the Department has held 1 lease sale in Colorado, leasing one 290 acre parcel,**

**bringing in \$1.2 million in revenue to the State and federal government. How are western states and communities supposed to provide essential services to their constituents when the Administration is locking up lands and failing to hold regular lease sales?**

The Biden-Harris Administration has worked hard to ensure that Western States and communities are receiving a fair return for Federal onshore oil and gas development. Data from the Office of Natural Resources Revenue's website shows that the vast majority of funds from Federal onshore oil and gas development (over 90 percent) come from royalties and not rentals or bonus bids. Record high oil production from Federal lands is currently helping to drive record high revenue collection as well.

Under section 50262(a) of the Inflation Reduction Act, Congress directed the Department of the Interior to increase the royalty rate for oil and gas produced from onshore Federal lands. Subsection (b) similarly increased the minimum bid for Federal oil and gas leases, while subsection (c) increased fossil fuel rental rates, subsection (d) increased the fee for expressions of interest in Federal oil and gas leases, and subsection (e) eliminated the practice of noncompetitive leasing. These changes, which are implemented by the Bureau of Land Management's (BLM) final Fluid Mineral Leases and Leasing Process rule, will further increase returns to the public, including residents of the States where production occurs, and disincentivize speculators and irresponsible actors.

- 6. BLM has one upcoming lease sale in Colorado for a small parcel of 120 acres. This lease sale along with the only other lease sale held by this administration neglects the Western Slope. Will your organization commit to supporting a lease sale on the Western Slope this year?**

In 2019 and 2020, after a court found the analysis in a governing land use plan was invalid, in part for not analyzing a sufficient range of alternatives to assess lands open to oil and gas leasing and inadequate analysis of greenhouse gas emissions, the BLM settled with multiple plaintiffs and committed to complete supplemental analysis for Grand Junction and Colorado River Valley Field Office plans. The BLM is currently finalizing the analysis and resource management plan amendments. Once these amendments are completed, BLM Colorado will be able to process any expressions of interest and begin moving towards additional oil and gas lease sales on Colorado's Western Slope.

For additional information, please reach out to the BLM.

- 7. Some of what you have mentioned in your testimony focuses on the attention to "Old growth" or "mature forests." Currently, the definition of mature forests is nebulous, and as such 63% of all USFS lands - 91 million acres -**

**would be classified as such. Additionally, the Forest Service has stated that “Thinned forests are healthy forests.” Through what processes does CEQ intend to oversee the effort to protect and harden our forests through wildfire mitigation of wildfire fuel?**

The Biden-Harris Administration remains intensely focused on limiting the damage wildfires have on communities this fire season – and will use all available resources to protect homes, our economy, and the environment from climate-induced natural hazards. Wildfires and extreme weather events, such as the Canadian wildfires that led to air quality issues across the East Coast last year, are growing in frequency and ferocity, engulfing communities across the country and costing lives, homes, and money.

Additionally, America’s forests are a key climate solution, absorbing carbon dioxide equivalent to more than 10% of U.S. annual greenhouse gas emissions. Federal lands are home to many of the nation’s mature and old-growth forests, which serve as critical carbon sinks, cherished landscapes, and unique habitats. However, these magnificent ecosystems are threatened by the climate impacts that are already here, with intensifying wildfires demanding urgent action to protect our forests and the economies that depend on them.

The mature and old growth initiative by the U.S. Forest Service and BLM, which includes the [inventory of mature and old growth forests](#), a [preliminary threat assessment report](#), and the [National Old Growth Amendment](#), will address the rapidly changing disturbances and conditions that threaten old-growth forests, including wildfire, fire exclusion, insects, disease, extreme weather, climate, temperature, and more. This effort will provide an open, transparent, inclusive, and science-based process for determining the mix of management actions best suited to foster the long-term resilience of old-growth forest conditions and their contributions to ecological integrity.

Additionally, effective wildland fire response requires a workforce that is fairly compensated and fully supported. The pay supplements introduced by President Biden in 2021, and continued through the Bipartisan Infrastructure Law and subsequent appropriations, provided the first meaningful pay increase for Federal and Tribal wildland firefighters in decades. The President’s proposed fiscal year (FY) 2025 budget builds on the Administration’s historic investments in the wildland fire workforce by: (1) supporting permanent, comprehensive pay reform; (2) enhancing health and wellbeing services; (3) hiring additional permanent and temporary wildland firefighters to increase capacity; and (4) improving access to housing. These investments will help address long-standing recruitment and retention challenges, increase the Departments’ capacity to complete critical risk

mitigation work, and further the Administration's commitment to build a more robust and resilient wildland fire workforce.

CEQ will continue to work with the U.S. Forest Service and the BLM and support them in their efforts to responsibly steward mature and old-growth forests and mitigate wildfires, such as those described in the November 8, 2023, interagency [Memorandum of Understanding on Wildland Fire and Air Quality Coordination](#). Additional questions regarding mature and old-growth forest management are best directed to the U.S. Forest Service and BLM.

**8. In the average forest, how is salvage material spread throughout verdant or otherwise healthy portions of the forest?**

Please direct questions on specific silviculture practices to the U.S. Forest Service or the BLM.

**9. What do you think are the largest factors holding back contractors from fulfilling more contracts?**

It would be helpful to have additional context in responding to this question. If you would contact Alyssa Roberts, Senior Director for External Affairs, at [Alyssa.A.Roberts@ceq.eop.gov](mailto:Alyssa.A.Roberts@ceq.eop.gov) to clarify the question, CEQ staff would be happy to follow up with you.

**Committee on Natural Resources**  
**Oversight Hearing**  
**1324 Longworth House Office Building**  
**May 16, 2024**  
**10:00AM**

*"Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters. "*

**Questions from Rep. Graves (LA) for The Hon. Brenda Mallory, Chair, White House Council on Environmental Quality**

- 1. The NEPA Phase II guidance requires agencies to identify the "environmentally preferable alternative" even if that alternative is outside of the scope of the agency's expertise or authority. Is CEQ, in effect, telling agencies such as the Federal Energy Regulatory Commission (FERC), which is a long-standing technology and fuel neutral agency, that they have to disregard that impartiality to pursue the administration's policy agenda? If these alternatives can be outside of the agency's authority, would this guidance justify an agency denying an energy infrastructure project in favor of a purely hypothetical project that has not even been proposed? In other words, are you saying FERC should deny a needed pipeline in favor of a wind farm that no one plans to build?**

CEQ's regulations have always required agencies to identify the "environmentally preferable alternative" in the record of decision that follows the preparation of an environmental impact statement (EIS). The Bipartisan Permitting Reform Implementation Rule simply requires the agency to identify the environmentally preferable alternative earlier in the process, at the draft EIS stage, to provide for transparency, provide the public more information to succinctly distinguish between alternatives, and allow the public to comment on the environmentally preferable alternative. The rule explains that the "environmentally preferable alternative will best promote the national environmental policy expressed in section 101 of NEPA." *See* 40 CFR § 1502.14(f) (2024); CEQ, National Environmental Policy Act Implementing Regulations Revisions Phase 2; Final Rule ("Phase 2 Final Rule"), 89 Fed. Reg. 35442, 35565 (May 1, 2024). Consistent with longstanding practice, the rule also explains that "[t]he environmentally preferable alternative may be the proposed action, the no action alternative, or a reasonable alternative," § 1502.14(f), clarifying that agencies need not look beyond the reasonable range of alternatives to identify an environmentally preferable alternative. *See* Phase 2 Final Rule, 89 Fed. Reg. at 35541. The rule does not require agencies to choose a particular alternative, including the environmentally preferable alternative.

While the final rule clarifies that agencies may analyze reasonable alternatives not within the jurisdiction of the lead agency, the rule does not require agencies to do so. The final rule provides that agencies do not need to consider every conceivable alternative to a proposed action; rather, agencies must consider a reasonable range of alternatives that will foster informed decision making. The rule also defines reasonable alternatives as “a reasonable range of alternatives that are technically and economically feasible, and meet the purpose and need for the proposed action.” 40 C.F.R. § 1508.1(hh).

- 2. It is clear from CEQ’s NEPA Phase 2 guidance that the agency is focused on ensuring that the projects and energy sources you favor get built, while making it more burdensome to build projects such as natural gas pipelines. Would CEQ agree that natural gas is a critical energy resource to support intermittent generation resources? If so, how does CEQ justify effectively creating a dual track for review where the projects that the current administration favors are subject to significantly less review under NEPA than projects that deliver reliable energy like natural gas pipelines?**

CEQ’s regulations are procedural, and do not create a “dual track” or favor any particular type of project or sector over another. NEPA—including the amendments to NEPA from the Fiscal Responsibility Act of 2023—makes clear that projects and decisions that lack the potential for significant environmental effects should require less analysis and review than those that may have significant effects on the environment and nearby communities.

The final rule requires agencies to consider the reasonably foreseeable effects of proposed actions and whether or not those effects are significant; it does not establish specific environmental goals or outcomes. The rule focuses on effectiveness, efficiency, and predictability of the environmental review process, informed decision making, and transparency for all project types. It does not prescribe what an agency’s decision must be.

**Committee on Natural Resources**  
**Oversight Hearing**  
**1324 Longworth House Office Building**  
**May 16, 2024**  
**10:00AM**

*"Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters. "*

**Questions from Rep. Radewagen for The Hon. Brenda Mallory, Chair, White House Council on Environmental Quality**

- 1. On February 20 during a meeting at the Marriot hotel with Governor Lemanu and Congresswoman Radewagen, Assistant Secretary Bavishi agreed there was an “unusual process here” as to the rapidity of this PRIMNM/Sanctuary designation process being conducted; do you agree with the Assistant Secretary’s observation that this PRIMNM Sanctuary designation has been an “unusual process here”?**

In his March, 2023 *Memorandum on Conserving the Natural and Cultural Heritage of the Pacific Remote Islands*, President Biden spoke to the extraordinary cultural, historic, and ecological resources of the areas around Howland and Baker Islands, Palmyra Atoll, and Kingman Reef, and directed the Secretary of Commerce to consider initiating the designation process for a proposed national marine sanctuary in the Pacific Remote Islands area.

On April 17, 2023, National Oceanic and Atmospheric Administration’s (NOAA’s) Office of National Marine Sanctuaries issued a Notice of Intent to Conduct Scoping and to Prepare an Environmental Impact Statement for the Proposed Designation of a National Marine Sanctuary for the Pacific Remote Islands. In May 2023, NOAA held public scoping meetings in Hawai’i, Guam, the Northern Mariana Islands, American Samoa, and online. A total of 360 people attended the 7 in-person meetings, while 179 participated virtually.

For further information on the national marine sanctuary designation process, I would refer you to NOAA’s webpage:

<https://sanctuaries.noaa.gov/management/designations.html> and  
<https://sanctuaries.noaa.gov/pacific-remote-islands/>

- 2. Members of The Pacific Remote Islands Coalition stated in meetings March 7 with my Congressional staff that their clear goal is to kill all purse seine fishing and shutdown the cannery in American Samoa in pushing for the PRIMNM/Sanctuary designation they have been lead sponsor for, do you**

**agree with the Pacific Remote Islands Coalitions sponsors goals to shut down our cannery in American Samoa?**

The Administration strongly supports American fisheries and U.S. seafood workers, and the Administration's goals for conserving the cultural, historic, and marine resources in the Pacific Remote Islands are clearly stated in President Biden's *Memorandum on Conserving the Natural and Cultural Heritage of the Pacific Remote Islands*.

Pursuant to that memorandum, NOAA has initiated a public process to consider a proposed national marine sanctuary designation process, and to hear from a wide range of communities and stakeholders about their vision, needs, and priorities for a potential national marine sanctuary. During the scoping process for the proposed sanctuary, NOAA specifically requested comments on the potential sanctuary boundaries as well as the potential socioeconomic, cultural, and biological impacts of sanctuary designation, among other issues.

- 3. The CEQ, under the Executive Office of the President is the policy agency for environmental impact statements which drive most decisions made by the Executive branch. I understand the 2nd draft EIS for the PRI Sanctuary has been written and is being reviewed by NMFS and other agencies. When will the draft be made public and does it include options for commercial fishing?**

NOAA's Office of National Marine Sanctuaries, which is the agency responsible for implementing the National Marine Sanctuaries Act, is responsible for preparing the environmental impact statement (EIS) for the proposed sanctuary. On April 17, 2023, NOAA's Office of National Marine Sanctuaries issued a Notice of Intent to Conduct Scoping and to Prepare an Environmental Impact Statement for the Proposed Designation of a National Marine Sanctuary for the Pacific Remote Islands. NOAA is currently considering the comments it received during scoping.

- 4. The proposed monument expansion could devastate the economy of American Samoa, where 80% of all private sector jobs are related to fishing in the region.**
- a. Prior to issuance of this decision, what analysis, if any, was made of the harm expanding the Marine National Monument will have on my Territory's economy and my constituents?**
  - b. Can you provide the Committee with a copy of any such analysis?**
  - c. What measures or strategies have been implemented or are contemplated to be implemented -- to mitigate these potential harms and ensure the sustainable growth of both the marine monument and the fishing industry in the region?**

NOAA, which is the agency responsible for making a decision on the proposal, has not made or issued any decision regarding the proposed sanctuary. NOAA is

currently conducting scoping to prepare a draft EIS and draft designation documents (draft management plan, proposed regulations) for the proposed designation of a national marine sanctuary for the Pacific Remote Islands. During scoping, NOAA specifically requested comments on the potential sanctuary boundaries as well as the potential socioeconomic, cultural, and biological impacts of sanctuary designation, among other issues.

If NOAA proceeds with the designation of the proposed sanctuary, it would not affect the size of the existing Pacific Remote Islands National Monument (PRIMNM), though part of the sanctuary could overlay the monument.

As noted above, NOAA is the agency that is best positioned to speak to the public process that is under way.

- 5. Our fisheries must compete with foreign operations which are often subsidized, and which do not have to meet the stringent environmental, labor, and other regulatory requirements imposed by the federal government. It's been reported that China is the world's largest subsidizer of its fishing fleet.**
  - a. Has CEQ analyzed the benefits Chinese and other foreign fishing fleets will reap once the National Marine Monument is expanded as is proposed by President Biden?**
  - b. Has CEQ conducted any analysis of the environmental impacts that could occur, should foreign fisheries supplant the U.S. fisheries in the region?**

The President has not proposed to expand the Pacific Remote Islands National Monument. Rather, in March 2023, the President directed the Secretary of Commerce to consider initiating the designation process for a proposed national marine sanctuary in the Pacific Remote Islands area.

NOAA's Office of National Marine Sanctuaries is leading the process to consider the effects of designating such a sanctuary, including potential ecological, aesthetic, historic, cultural, economic, social, and health effects.

If NOAA determines to designate such a sanctuary, it would lie wholly within the United States' Exclusive Economic Zone (EEZ).

**Committee on Natural Resources**  
**Oversight Hearing**  
**1324 Longworth House Office Building**  
**May 16, 2024**  
**10:00AM**

*“Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters.”*

**Questions from Rep. Mike Levin (CA-49) for The Hon. Brenda Mallory, Chair,  
White House Council on Environmental Quality**

- 1. As we look to rapidly build out clean energy and transmission infrastructure to support a more resilient grid and reduce energy costs for consumers, based on your experience, what are the most significant hurdles to the timely processing of federal permits?**

Multiple factors can delay infrastructure development, many of which—like project planning, permit application preparation, acquisition of financing and insurance, as well as state and local land use and environmental permitting—are beyond Federal control. The Biden-Harris Administration is working diligently to address factors within its control such as hiring, training, and retaining a skilled workforce to complete Federal permitting and environmental review processes; streamlining permitting processes; ensuring an effective and efficient environmental review process; and providing technical assistance to applicants in navigating permitting where possible. The Administration is also hard at work to facilitate early engagement between Federal agencies, applicants, and stakeholders because earlier issue identification leads to more efficient impact avoidance, minimization, and mitigation which in turn results in faster, better, and more durable decisions. Additionally, the Administration is taking significant steps to improve coordination between agencies and across levels of government in order to promote consistent analyses and requirements, and to minimize duplication of efforts. Together, this comprehensive approach will produce not just faster decisions, but decisions that better address our nation’s diverse needs.

Moreover, in order to address the urgency of the climate crisis on all fronts, President Biden’s Investing in America agenda is making once-in-a-generation investments in America’s infrastructure and our clean energy future that are creating well-paying and union jobs, establishing and growing new industries in the United States, tackling the climate crisis, and helping lower costs for families.

To deploy these investments, the Biden-Harris Administration has taken aggressive action to accelerate project permitting and environmental reviews. The Administration has:

- Developed a Permitting Action Plan, which it is currently executing;
- Secured \$1 billion from the Inflation Reduction Act to improve permitting;
- Secured important reforms in the 2023 Fiscal Responsibility Act that made commonsense changes to the environmental review process, including setting deadlines for completion of reviews and making documents more readable by limiting their length; and
- Taken a number of administrative actions to simplify and accelerate the permitting process.

**2. How will the Council on Environmental Quality’s “Bipartisan Permitting Reform Implementation Rule” help to address existing hurdles on permitting reform?**

CEQ’s Bipartisan Permitting Reform Implementation Rule is a core element of this Administration’s effort to improve the efficiency and effectiveness of Federal permitting processes. Examples of the changes that will help provide for efficient processes include:

- Requiring the lead agency conducting an environmental review to develop schedules for environmental assessments and environmental impact statements, in consultation with participating agencies and applicants, that include specific milestones;
- Clarifying the roles and responsibilities for lead, joint lead, and cooperating agencies to reduce duplication and improve coordination across the Federal Government and with Tribal, State, and local agencies;
- Expanding and clarifying avenues for Federal agencies to establish new categorical exclusions;
- Enabling agencies to adopt and apply categorical exclusions listed in another agency’s NEPA procedures to a proposed action or a category of proposed actions;
- Modernizing the long-standing approach for how Federal agencies determine the significance of effects, to ensure agencies conduct the proper level of NEPA review and that reviews focus on the important effects;
- Expanding the use of programmatic environmental documents and tiering; and
- Clarifying the requirements regarding Federal agencies’ role in preparing environmental documents.

The time to complete the most extensive form of environmental review is already coming down: agencies are completing a higher proportion of environmental impact statements in under two years than under the previous Administration.

**3. Given the considerable work from Congress through the Fiscal Responsibility Act, and this Administration through the “Bipartisan Permitting Reform Implementation Rule” to address permitting reform, do**

**you believe additional legislative action is needed, and if so, what actions should we consider taking to responsibly speed up permitting while ensuring adequate protections for impacted communities and our environment?**

The Biden-Harris Administration has taken aggressive action, on multiple fronts, to accelerate project permitting and environmental reviews. The Administration has developed a [Permitting Action Plan](#), which it is currently executing; secured \$1 billion from the Inflation Reduction Act to improve permitting; passed important reforms in the 2023 Fiscal Responsibility Act that made commonsense changes to the environmental review process; and taken a number of administrative actions to simplify and accelerate the permitting process. By taking these actions, the Administration is ensuring that industry can move forward with key investments and projects, including building out clean energy and transmission, while also being responsible stewards of the environment and protecting communities. The Administration has also outlined a series of legislative priorities for permitting reform, which can be [found here](#).

**4. To what extent might additional resources across the federal government help with permit processing times?**

The almost \$1 billion investment in permitting as part of the Inflation Reduction Act is helping to build staff and technology capacity across the Federal Government, contributing to improvements in permit processing times. The time to complete the most extensive form of environmental review is already coming down: agencies are completing a higher proportion of environmental impact statements in under two years than under the previous Administration. Agencies are also currently completing environmental assessments for projects faster than the previous Administration. For example, data from the Department of Transportation show that in the first 3 years, the Biden-Harris Administration completed environmental assessments in an average of 9.6 months, compared to 15.4 months for the same number of projects during the previous Administration.

Continued support for staffing, training, and technology improvements—both for NEPA reviews as well as other environmental compliance requirements, such as consultation processes under the Endangered Species Act and the National Historic Preservation Act—will help keep this permitting progress going. In addition, continued support for non-Federal governments that participate in environmental reviews, including State, Tribal, and local governments, will help ensure that Federal permitting processes are effective and efficient. Continued support and investment in the people and agencies who are tasked with doing this important work, as set forth in the President’s budget proposal, is essential to our success.

**5. I appreciate this Administration’s focus on improving opportunities for public engagement and increasing transparency in the agency decision-making process. Can you compare the projects that have successfully gone through the permitting process with those that have struggled due to**

**community opposition? Specifically, is there a correlation between how actively project sponsors engage with interested or impacted communities early on or prior to the permitting process and positive project outcomes? Is there a correlation between a lack of stakeholder engagement and project delays or even cancellations?**

Public engagement is a critical component of the environmental review process. Engagement with the public fosters community support, helps identify potential problems earlier in the process when they can be resolved most efficiently, and improves projects overall. It is important for agencies to engage the public as early as possible, so that public buy-in occurs early, to prevent problems as the review progresses and also to facilitate resolution of potential problems as early as possible.

CEQ's final NEPA rule helps ensure projects are built "smart from the start" by promoting early and meaningful engagement with communities, fostering community buy-in, reducing or avoiding conflict, and improving project design. Getting this public input early on helps projects move faster by helping to identify and resolve conflict early, avoid litigation, and ensure projects respond to the needs and priorities of communities. Successful public engagement in one project can ultimately also facilitate successful public engagement for subsequent projects.

Here are some examples of the real-world benefits of early public engagement:

- BLM held a workshop and comment period that helped developers of the Ten West Link Transmission Project, a 125-mile transmission project running across Arizona and California, to identify an alternative route that avoided a national wildlife refuge and Tribal land. As a result, local and national groups that were originally opposed to the project—and that might have otherwise tried to slow or stop the project—provided letters of support.
- USDA's Rural Utility Service encouraged early input from Tribal, State, and local officials on the Skeleton Creek Project in Oklahoma, which is a solar array and battery storage system project. The early and prompt engagement helped build support for the project, and enabled it to move faster to create well-paying construction jobs and support local economies in Major, Alfalfa, and Garfield Counties.
- When faced with environmental stakeholder concerns about the proposed Vineyard Wind Offshore Wind Project's potential impacts on birds, Federal agencies and the developer engaged early and directly with communities in Massachusetts and other stakeholders to develop innovative surveying and monitoring programs. With the help of this kind of early engagement and problem-solving, construction began on the Vineyard Wind project in 2021 and is now nearing completion—a momentous success for offshore wind development. Moreover, the project's approach to wildlife protection is now the standard for all Atlantic offshore wind projects.

**Committee on Natural Resources**  
**Oversight Hearing**  
**1324 Longworth House Office Building**  
**May 16, 2024**  
**10:00AM**

*"Examining the Council on Environmental Quality Fiscal Year 2025 Budget Request and Related Policy Matters. "*

**Questions from Rep. Dingell for The Hon. Brenda Mallory, Chair, White House Council on Environmental Quality**

- 1. What were some of the key provisions of the Trump administration's 2020 NEPA rule that the NEPA Phase 2 rule reverses? For example, how did the Trump provisions impact public input and litigation risks?**

The 2020 rule placed burdens on public commenters and imposed barriers on public participation by setting needlessly onerous requirements for the specificity and detail of public comments. Limiting public input and judicial review, as the 2020 NEPA regulations attempted to do, reduces agencies' opportunities to identify and address potential conflicts and concerns early in a project, raising the risk that agencies will have to engage in more time-consuming additional analysis or project redesign later on. As a result, these provisions were themselves the focus of litigation challenging the 2020 rule and were likely to generate further litigation. The Bipartisan Permitting Reform Implementation Rule removes the exhaustion and remedies provisions from the 2020 rule because NEPA does not impose a statutory exhaustion requirement, and the determination of whether a particular plaintiff may go forward with a particular claim is a matter for the judiciary.

The final rule also restores a number of provisions from the 1978 regulations that the 2020 regulations had removed. For example, the 2020 regulations removed the "context and intensity" factors that agencies use to determine the significance of effects, which informs the appropriate level of NEPA review. CEQ has restored the long-standing approach of relying on context and intensity factors, but has updated the list of factors that agencies must consider. These revisions create certainty and predictability for agencies, stakeholders, and industry alike.

CEQ did retain several changes from the 2020 rule where those changes codified longstanding practices or guidance or enhanced the efficiency and effectiveness of the NEPA process. For example, the 2020 regulations strengthened the regulations' recognition of Tribal interests, which the final rule retains and expands. The 2020 regulations also reorganized and modernized certain provisions that helped make the regulations easier to understand and follow.

**2. In what ways does the Phase 2 rule protect public health and ensure better environmental outcomes compared to the Trump 2020 NEPA rule?**

The final rule modernizes the Federal environmental review process under NEPA and makes changes that will help ensure that the Federal environmental review process is effective, efficient, and transparent; guided by science and high-quality information; and informed by early and meaningful public engagement. The rule requires an agency preparing an environmental impact statement to discuss reasonably foreseeable climate change-related effects of the proposed action and relevant risk reduction, resiliency, or adaptation measures. Likewise, the rule requires an agency that bases its environmental analysis on the implementation of mitigation measures to take steps to ensure that its assumptions about mitigation are correct through preparation of a monitoring and compliance plan. Furthermore, it encourages, but does not require, agencies to adopt mitigation measures that address or ameliorate significant adverse human health and environmental effects that disproportionately and adversely affect communities with environmental justice concerns.

The rule also clarifies that projects without significant adverse effects, such as certain environmental restoration activities, do not require preparation of environmental impact statements, allowing agencies to analyze these beneficial activities more efficiently.

Finally, the rule adds new examples to the definition of “effects,” to clarify that the term includes disproportionate and adverse effects on communities with environmental justice concerns, climate change-related effects, and effects on Tribal resources, among other types of effects.

**3. The Biden administration has taken steps to secure critical minerals supply chains by joining the Sustainable Critical Minerals Alliance alongside allied nations. President Biden also directed federal agencies to strengthen critical mineral and advanced battery supply chains with Executive Order 14017. How is CEQ supporting these efforts to secure our critical mineral supply chains WITHOUT gutting environmental protections, like some of my Republican colleagues have proposed?**

In Executive Order 14017 of February 24, 2021 (*America’s Supply Chains*), the President directed the Administration to undertake a 100-day review of supply chain risks and to report on critical sectors, including high-capacity batteries, such as electric-vehicle batteries, and critical minerals and materials, such as rare earth elements.

In 2022, the President invoked the Defense Production Act to authorize Federal investment in the domestic production of critical materials for battery and mineral

storage, including lithium, nickel, cobalt, graphite, and manganese from both sustainable mining and processing and unconventional sources such as mine waste and geothermal brine.

Last year, the Administration's Interagency Working Group on Mining Laws, Regulations, and Permitting (IWG) issued a report containing 65 recommendations to improve mining on public lands, including promoting critical mineral development without undercutting environmental, labor, Tribal and community protections. The IWG's recommendations included increasing and improving consultation with Tribal Nations, investing in better data and information, modernizing our mining laws, simplifying and standardizing processes across the mining permitting process, and strengthening the workforce needed to both design and operate the mines of the future and to efficiently complete the coordinated analyses necessary to permit critical mineral development.

The Administration is committed to investing in the technologies of the future and has catalyzed unprecedented investments of billions of dollars in critical minerals and materials, including investments in lithium, antimony, and cobalt mines here in the United States. The Administration has also invested in Tribal communities to provide funding that supports government-to-government Tribal consultations and Tribal engagement, so that Tribes have strong working relationships with Federal agencies and receive the information they need to make informed decisions.