



Opening Statement of Environment Subcommittee Chairman Max Miller

Joint Subcommittee on Investigations & Oversight and Subcommittee on Environment
Hearing

Missing the Target: CEQ's Meritless Selection of SBTi

November 30, 2023

Thank you, Mr. Chairman.

I'm glad to be up here with you and that today is a joint subcommittee hearing because I share many of the same concerns you raised.

First and foremost, this proposed rule would allow SBTi to function unchecked and without any accountability. In doing so, the most at risk for negative impacts from this rule is our military and combat readiness. That is absolutely unacceptable and downright irresponsible.

By outsourcing quasi-regulatory powers to SBTi, the Administration has placed them out of reach of traditional accountability and transparency laws, as well as potentially denied U.S. business essential to military operations the right to appeal decisions made by this private-sector entity.

Unlike government agencies, SBTi is not subject to the Freedom of Information Act (FOIA), making it impossible for the American people to have any insight how critical decisions and requirements are determined. Congress established FOIA precisely to create transparency in the operation of regulatory agencies, which are funded by the taxpayer, and this proposed regulation seeks to circumvent that.

Because SBTi is a private company, they also do not have to go through the same public process to change their methodologies or notify a change in their scientific analysis that an agency would. Agencies must justify each action and cannot act in the interests of a specific individual or groups. Whereas SBTi can change their methodologies overnight to benefit a donor if they choose to and there's nothing anyone can do to stop it in the moment.

Think of the consequences here: a contractor supplying components of our domestic air defense system could be shut down overnight because SBTi changed how they calculate emissions offsets at the factory and the contractor doesn't meet the new bar of approval. That contractor hasn't changed anything they do, SBTi just decided to tweak how they analyze it. This is entirely hypothetical at this point, but it's mindboggling we can even envision this scenario and want to proceed with this rule.

Transparency procedures were put in place for agencies to safeguard the integrity of the process and remove even the appearance of impropriety. As Chairman of the Environment Subcommittee, I know very well that there is almost nothing the EPA can change about their

scientific processes without notifying Congress and the public. This accountability to the taxpayer is precisely why regulatory authority is not vested in private companies.

Further, because SBTi is a foreign-based company, it's unclear what if any judicial avenues are available for U.S. companies that don't feel they are getting a fair shake. It's always been a fundamental principle in this country that courts can intervene when a government agency is conducting itself in a manner that is arbitrary or overreaching. Again, look at the EPA and the many court cases they have been involved in.

But if SBTi arbitrarily denies a company validation, it's unlikely that a U.S. court would even be able to hear the case, much less provide any sort of relief.

This is not hyperbole: the lives of Americans at home and abroad could be jeopardized because of the political gamesmanship this rule is pushing. I refuse to let that be the case and let this rule move forward without far more details on the proposed structure and execution.

There are many issues at play with this proposed rule, but today we are focusing on one fundamental question: why exactly was SBTi selected as the sole arbiter and validator when its decisions are tied to crucial national defense implications? I hope today's hearing will provide some clarity on that. Thank you and I yield back.