

November 19, 2021

Hon. Brenda Mallory, Chair
Council on Environmental Quality
Docket CEQ-2021-0002
730 Jackson Place, NW
Washington, DC 20503

Dear Madam Chair,

RE: Council on Environmental Quality (CEQ) Notice Titled "National Environmental Policy Act Implementing Regulations Revisions," Docket No. CEQ-2021-0002, 86 Fed. Reg. 55757 (October 7, 2021)

On behalf of the 450 companies employing over 650,000 energy workers, manufacturers and innovators represented by the Energy Workforce & Technology Council we respectfully submit comments in response to the Council on Environmental Quality's proposed rulemaking titled "National Environmental Policy Act Implementing Regulations Revisions."

Energy Workforce & Technology Council Member Companies are at the forefront of meeting global energy demand through the development of technologies and processes to make the energy supply chain cleaner and more efficient. The Energy Workforce & Technology Council strongly recommends any changes to the National Environmental Policy Act (NEPA) address and limit unnecessary bureaucracy in the Federal permitting process, and utilize any regulatory changes to bolster investment and growth of important clean energy technologies. With the shared goal of decarbonization, we believe a change to the NEPA rules as outlined in CEQ's proposed rulemaking, will only inhibit the energy transition process and disincentivize investment in new technologies that are reducing carbon emissions.

Many facets of clean energy technologies involve federal permits and review under NEPA. As noted in CEQ's 2021 report to Congress, to reach the Biden Administration's goal of achieving net-zero emissions by 2050, the U.S. "will likely have to capture, transport, and permanently sequester significant quantities of carbon dioxide."ⁱ There are presently approximately 45 carbon capture, utilization, and storage ("CCUS") facilities in operation or under development in the U.S., with more facilities planned and proposed than in any other country.ⁱⁱ An individual project may require a pre-construction permit under the Environmental Protection Act's Clean Air New Source Review program, an operating permit under the Clean Air Act Title V program, an Underground Injection Control permit, and possibly a National Pollutant Discharge Elimination System permit. Projects either sited or requiring rights-of-way on federal lands or waters will need additional approvals from the respective government agencies, including any requisite consultations under the Endangered Species Act and National Historic Preservation Act. All of these federal actions are subject to NEPA.

With approximately 90% of the geothermal resources in the U.S. located on federally managed lands, multiple analyses pursuant to NEPA are commonly required for the development of utility-scale geothermal projects. A single project can trigger NEPA review as many as six times over a seven-to-10-year project development time frame.ⁱⁱⁱ Although the average time to complete an Environmental Impact Statement ("EIS") for geothermal energy is two years, the analysis for certain projects have taken as many as four years to complete. Relatively less complex Environmental Assessments ("EA") can also take a considerable amount of time to complete—an average 10 months to as long as 2.5 years. Uncertainty and protracted timeframes deter new investment.

Low-carbon hydrogen will also play a critical role in the energy transition and U.S. efforts to meet its commitments under the Paris Agreement. Hydrogen is a versatile fuel that can reduce emissions in hard-to-abate sectors such as steel manufacturing and cement production. Multiple federal agencies have authority applicable to the production, distribution, and use of hydrogen; however, there is no comprehensive regulatory regime in the U.S. In this regard, the NEPA process using a One Federal Decision framework provides an opportunity to coordinate the review of hydrogen projects subject to approval by multiple agencies. Given some of the inherent safety considerations with hydrogen, a well-coordinated and efficient NEPA process is essential for expanding its use.

The ability to secure Federal permits and partnerships for clean energy technology is vital to our shared mission of maintaining a strong workforce, strong economy, and sustainable environment. For these reasons, it is critical that CEQ continue to promote an efficient, predictable permitting process that is also sound, science-based, and inclusive. We urge you to consider all of these factors, limit unnecessary bureaucracy in the Federal permitting process, and utilize any regulatory changes to bolster investment and growth of important clean energy technologies.

Sincerely,



Tim Tarpley
Senior Vice President Government Affairs
The Energy Workforce & Technology Council

ⁱ Council on Environmental Quality Report to Congress on Carbon Capture, Utilization, and Sequestration. June 2021. At 6.

ⁱⁱ *Ibid.*

ⁱⁱⁱ Young, K.R., Witherbee, K., Levine, A., Keller, A., Balu, J., and M. Bennett. 2014. Geothermal Permitting and NEPA Timelines. GRC Transactions 38:893-904