

API's Vision for American Energy Leadership: Recommendations for the Council on Environmental Quality

The oil and gas industry is poised to unleash a new era of American energy leadership. U.S. energy production benefits every region of the country, spanning private lands, federal lands, and offshore waters.

While CEQ itself does not directly regulate oil and gas, it reviews environmental processes for industry operations and ensures compliance with the National Environmental Policy Act (NEPA). This responsibility helps promote agency alignment in pursuit of the Administration's goal of U.S. energy dominance. With America's abundant natural resources, CEQ can foster policies that secure our nation's energy future, enhance energy reliability, and lower costs for consumers.

API has submitted comments on several relevant regulations, which we encourage the transition team to review for additional insights and recommendations.

Included below are the following priorities:

- National Environmental Policy Act (NEPA) Regulations
- Interim Greenhouse Gas Guidance
- Consideration of Social Cost of Greenhouse Gas Estimates (SC-GHG) in NEPA Reviews
- Army Corps of Engineers: Renewal of Nationwide Permit 12

Key Issues:

- **National Environmental Policy Act Regulations**

API Ask: Repeal the NEPA Phase 1 and Phase 2 rulemakings and replace with guidance or an iteration of the 2020 NEPA rule.

Context: NEPA was enacted in 1969 and requires federal agencies to evaluate the environmental impacts of proposed federal agency actions, including permitting. The law is meant to ensure that agencies are informed about environmental impacts when making permitting decisions. NEPA is a procedural statute and does not determine the permitting decisions the agency should make. Despite this, NEPA has become a major bureaucratic hurdle for timely permitting of energy projects. In 2020, CEQ attempted to streamline and reform the process, but under a new Administration in 2022 the Council reversed those important regulatory reforms.

- **Interim Greenhouse Gas (GHG) Guidance**

API Ask: Repeal the interim guidance and advise agencies that its consideration is no longer permissible in the development of environmental documents or for determining final federal action.

Context: The previous administration issued interim guidance to assist agencies in analyzing GHG and climate effects of their proposed actions under NEPA. The guidance impermissibly advised agencies to use NEPA to advance climate policies and GHG goals regardless of whether they were relevant to the proposed action being reviewed. It urged agencies to consider alternatives that are infeasible, out of agency jurisdiction, or

wholly unrelated to the purpose and need for the project. Repealing this guidance will help preclude agencies from operating outside their statutory authority.

- **Consideration of Social Cost of Greenhouse Gas Estimates (SC-GHG) in NEPA Reviews**

API Ask: Clarify that consideration of Social Cost of Carbon analysis is not appropriate and should not be used in the development of environmental documents under NEPA.

Context: CEQ has advised agencies to use the Interagency Working Group's (IWG) estimates for the social cost of GHG emissions (SG-GHG) that are ill-suited and not developed for NEPA reviews. While contained as a recommendation in the Interim GHG Guidance, individual agencies have struggled with the role SC-GHG plays in environmental reviews and federal action decisions. CEQ should clarify that this process is inappropriate for agency use.

Other Related Issues:

- **Army Corps of Engineers: Renewal of Nationwide Permit 12**

API Ask: Ensure the ongoing existence of Nationwide Permit (NWP) 12 and extend the period of re-issuance from five to ten years.

Context: NWP 12 is issued under the Clean Water Act and provides permits for oil and gas projects that have minimal environmental impacts through their discharge dredged or fill material into "waters of the United States." These projects can avoid the burdensome process of obtaining individual permits for every water crossing and instead get one permit covering all crossings. NWP 12 is typically renewed every five years and must be renewed in 2025. To bolster U.S. energy infrastructure investment, NWP 12 should be renewed for a period of 10 years so permits for new oil and gas pipelines can be issued in a timely and efficient manner.