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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Opening Statement of
Chairman Rob Bishop
Committee on Natural Resources
On Wednesday, May 13, 2015

1324 Longworth House Office Building

**Oversight Hearing on “The Obama Administration’s CEQ Recently Revised Draft
Guidance for GHG Emissions and the Effects of Climate Change”**

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This is the first of a series of oversight hearings this Committee will undertake on policies involving the National Environmental Policy Act, a law enacted 45 years ago. The focus of today’s hearing is the White House Council on Environmental Quality’s sweeping draft guidance on greenhouse gas emissions.

On its face, the draft guidance acknowledges it is “not legally enforceable.” Many would view it as unlawful. Despite not being “legally enforceable,” curiously, CEQ claims the guidance “will facilitate compliance” and “improve efficiency and consistency” of existing NEPA legal requirements and reviews impacting literally thousands of actions annually with a federal nexus.

CEQ states: “Overall, this guidance is designed to provide for better and more informed Federal decisions regarding greenhouse gas emissions and effects of climate change consistent with existing NEPA principles.” Based upon the federal government’s track record on NEPA, I am highly dubious, and will listen closely to the testimony today for evidence whether or not that is the case.

This draft guidance sets the stage for potentially sweeping federal overreach by pushing agencies to examine greenhouse gas emissions that are beyond their ability to control or regulate the impacts, including the vast array of all upstream and downstream impacts.

The draft guidance is overly broad and expansive, and goes outside the scope of NEPA. For NEPA to work correctly, federal agencies must be able to affect the outcome of the proposed project. But, the draft guidance on its face goes far beyond what an agency can control. The result will force more delays, more costs onto economic and energy-related activities nationwide, and uncertainty for those that want to balance needs important to all Americans with protecting the environment. The draft guidance would even frustrate the Administration’s other goals, such as modernizing the nation’s electric grid to improve energy reliability and resiliency.

The trend for this Administration seems to be that the end justifies the means, regardless of whether the law allows it. This draft guidance is the latest case in point.

CEQ states as fact that “many agency NEPA analyses have concluded that greenhouse gas emissions from an individual agency action will have small, if any, potential climate change effects. Government action occurs incrementally, program-by-program and step-by-step, and climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, including decisions made by the government.”

Yet, CEQ concludes that being a small impact is not a good enough reason not to consider *everything* that could possibly impact climate change in a NEPA analysis. But, federal agencies have jurisdictional limits, and cannot possibly consider the entire range of climate impacts of things outside their jurisdiction under NEPA.

CEQ itself acknowledges the limits of the guidance when it says: “This guidance is not a rule or regulation...[it] does not change or substitute for any law, regulation, or other legally binding requirement, and is not legally enforceable, and does not establish legally binding requirements in and of itself.”

Which begs the question, “Why do it?” Clearly, for an Administration that advocates climate change polices as more pressing than national security threats, the answer is that, regardless of its enforceability, the end justifies the means. They could not get cap and trade passed by the Congress, so now they will address climate change by forcing it through the NEPA process by an unlawful guidance.

CEQ is bound by the statute, its own regulations, and case law precedent. Therefore, any environmental review conducted by an agency is bound to the statutorily prescribed mission and jurisdictional limits of the permitting agency set by Congress and the statutory and regulatory interpretations of the courts.

In the absence of Congressional action to expand the scope of the environmental reviews for federal agencies by expanding their substantive jurisdiction, agencies, including CEQ, are stuck with the recognition that greenhouse gas emissions from an individual federal agency action will have small, if any, potential climate change effects. Numerous and exhaustive NEPA analyses agree, and imposing hugely costly and lengthy new analyses will not change that.

With that, I look forward to hearing from our witnesses today and with any hope, a recognition from the Obama Administration, that this guidance should be withdrawn.