September 29, 2023

Council on Environmental Quality
Attn: Amy Coyle
730 Jackson Place, NW
Washington, D.C. 20503
Via regulations.gov

Re: Comments on the Notice of Proposed Rulemaking "Bipartisan Permitting Reform Implementation Rule" [Docket No. CEQ-2023-0003]

In response to the Council on Environmental Quality's (CEQ's) proposed National Environmental Policy Act (NEPA) Implementing Regulations Revisions Phase 2 ("Proposed Rule")[1], the Natural Gas Supply Association (NGSA) and the Center for LNG (CLNG) respectfully offer the following comments.[2] As discussed below, NGSA and CLNG support CEQ's overarching goal of promoting effective environmental reviews and improvements to the NEPA process to permit needed natural gas infrastructure. However, NGSA and CLNG have concerns regarding CEQ's Proposed Rule's potential to diminish regulatory certainty due to the addition of provisions that would make the permitting process less efficient, less predictable, and less timely. Absent modifications, adoption of the Proposed Rule will inhibit the build-out of infrastructure needed not only to maintain reliability in the U.S. power grid and continue to allow the U.S. to be a global leader in reducing greenhouse gas (GHG) emissions, but to also build the necessary infrastructure for new technologies and fuel sources that will accelerate the energy transition.

I. Interest of NGSA and CLNG

Founded in 1965, NGSA represents integrated and independent energy companies that produce, transport and market domestic natural gas and is the only national trade association that

[1] National Environmental Policy Act Implementing Regulations Revisions Phase 2, 88 Fed. Reg. 49924, July 31, 2023 [hereinafter, "Proposed Rule"].
[2] NGSA and CLNG also offer comments as part of a coalition of the larger business community filed in this docket. Additionally, we submitted joint comments on CEQ's NEPA Phase 1 proposed rule and build off those same arguments herein.

solely focuses on producer-marketer issues related to the downstream natural gas industry. NGSA's members trade, transact and invest in the U.S. natural gas market in a range of different manners. NGSA members transport and/or supply billions of cubic feet of natural gas per day on interstate pipelines.

CLNG advocates for public policies that advance the use of liquefied natural gas (LNG) in the United States, and its export internationally. A committee of NGSA, CLNG represents the full LNG value chain, including large-scale LNG export facilities in the United States, shippers, and multinational developers, providing it with unique insight into the ways in which the vast potential of this abundant, clean, and versatile fuel can be fully realized. CEQ's Proposed Rule directly affects CLNG and its members, as LNG export facilities permitted under the Natural Gas Act undergo NEPA analyses, and facility operators are responsible for working with regulators throughout the NEPA process.

II. Comments

A. CEQ Should Not Hinder Development of New Infrastructure Needed for the Energy Transition.

NGSA and CLNG members are leaders in the transition to a reliable and lower-emissions energy future by investing in new technologies and practices to meet energy demand while further reducing GHG emissions. Our member companies are actively developing and implementing projects and technologies such as Carbon Capture, Utilization, and Storage (CCUS), hydrogen and renewable natural gas and power generation, which requires significant new and updated infrastructure.[3] For example, several NGSA and CLNG member companies have developed and launched CCUS techniques and technologies, including hydrogen plants with carbon capture and fuel treatments that reduce emissions from wellhead to end-use. In fact, through members' commitments to the Oil and Gas Climate Initiative, its Climate Investments group has been able to invest billions domestically and across the globe to identify and produce the best CCUS solutions. Our companies are at different phases of hydrogen development, yet

[3] Press Release, NGSA, NGSA Members are Innovating for a Clean Energy Future for All (Fall 2021), https://www.ngsa.org/wp-content/uploads/sites/3/2022/02/NGSA-Members-Are-Innovating-for-a-Clean-Energy-Future-for-All.pdf.
CLNG, Reaching Climate Goals with Natural Gas and LNG, Fall 2021, https://www.lngfacts.org/wp-content/uploads/sites/2/2021/11/CLNG-Climate-Goals-Timeline-Infographic-print-1006.pdf.

all see the fuel as an important part of the energy mix moving forward. Some members are seeking DOE funding for hydrogen hub proposals, are planning hydrogen production facilities, or are already utilizing the fuel in pilot power plants to help reduce CO_2 emissions by four million tons a year.[4] Member companies use various innovative practices to monitor and reduce GHG emissions, such as utilization of electric motors to minimize air emissions, natural gas recycling to reduce flaring, and/or drone technologies to expedite detection and repair of leakage. Member companies are also marketing lower-emission fuels to third parties, such as utilities and LDCs, which will enable them to meet their own sustainability goals. Additionally, they can provide LNG customers with GHG emissions data associated with LNG produced and exported. Finally, some members are investing in wind, solar and battery technologies that will enable greater end-use electrification and require significant new investment in transmission infrastructure. The energy industry's progress depends on a workable NEPA framework to build the infrastructure needed to make these innovations and technological advances feasible.

Moreover, the natural gas industry is helping reduce GHG emissions on a global scale by exporting U.S. LNG. As countries choose to increase their use of natural gas for power generation, not only will they reduce their GHG emissions through fuel switching from coal to natural gas, they also will gain the opportunity to increase their use of renewable energy, thus reducing emissions even further.

The energy crisis in Europe has shown the importance of the U.S. LNG industry and a robust global LNG market. The United States has been the European Union's largest supplier of LNG throughout their energy crisis, and their situation would be far worse without U.S. LNG. Further, having a robust supply of LNG on the global market is critical to helping developing nations reduce their GHG emissions. Because natural gas's ability to generate dependable, consistent power, it can be used as base load power replacing traditional higher carbon dioxide emitting options. However, without a sufficient supply of LNG on the global market, it becomes more difficult for developing countries to create an effective decarbonization strategy.[5]

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[4] *Id.*

[5] An example of how an insufficient amount of global LNG can negatively affect a developing nation's plans for decarbonization is in Pakistan's reversal to coal-fired generation because of insufficient LNG supplies. Gibran Naiyyar Peshimam, *Pakistan plans to quadruple domestic coal-fired power, move away from gas,* Reuters. February 14, 2023, https://www.reuters.com/business/energy/pakistan-plans-quadruple-domestic-coal-fired-power-move-away-gas-2023-02-13/.

Regulatory certainty for U.S. natural gas infrastructure is essential and sends a positive signal to our allies and trading partners that the United States is serious about energy security and climate leadership.

The buildout of CCUS, hydrogen and CO_2 pipelines, electric transmission, and LNG pipelines and export facilities will require investment and development of significant new infrastructure. We are concerned that the Proposed Rule will implement hurdles too high to permit the infrastructure needed. This conflicts with the goals of the Biden Administration, which allocated over $12 billion in investments in next-generation carbon capture, direct air capture, integrated CCUS demonstrations, and industrial emissions reduction demonstration projects, as well as CO_2 transport and storage infrastructure in its Infrastructure Investment and Jobs Act.[6] We strongly urge CEQ to consider the impact the proposed provisions will have on permitting the infrastructure needed to accelerate the energy transition.

B. The Proposed Rule Creates Regulatory Uncertainty and Departs from the Intent of the Fiscal Responsibility Act.

NGSA and CLNG support efforts to improve NEPA regulations to address the lengthy and complicated environmental review process. In the Proposed Rule, CEQ states, "CEQ proposes the revisions to provide for an effective environmental review process that promotes better decision making; …[and] provide for an efficient process and regulatory certainty." However, NGSA and CLNG are concerned that as written, the Proposed Rule does not achieve this stated goal. Instead of providing transparent guidelines and predictable timelines for the application and scope of NEPA, the Proposed Rule seeks to make environmental reviews a more complex process. Creating unnecessary hurdles for proposed projects will greatly increase the duration of reviews and impede the pace and progress of the energy transition. This contradicts the intent and requirements directed at CEQ in the Fiscal Responsibility Act (FRA), which amended NEPA to address permitting delays.

The energy industry relies on regulatory certainty from Federal agencies. When companies consider investing in expensive, long-lived energy infrastructure, they need well-

[6] See FACT SHEET: President Biden to Catalyze Global Climate Action through the Major Economies Forum on Energy and Climate, April 20, 2023, linked here.

thought-out regulations and guidance that recognizes the complexity and interconnected nature of the energy industry. Allocating capital for significant expenditures and securing customer commitments can take years and billions of dollars; having a reliable regulatory structure – one that does not change from Administration to Administration – is crucial. We fear the sharp departure from previous guidance and implementing regulations leaves CEQ's final rule rife with opportunities for protracted litigation, further diminishing regulatory certainty.

Furthermore, CEQ should not overlook the importance of having sufficient natural gas infrastructure in place to provide the reliability consumers depend on for home use and for electricity. As society transitions to a lower carbon energy future, greater end-use electrification and greater reliance on more intermittent electricity generating resources, the ability to maintain grid reliability will be affected. Many of those intermittent resources are dependent on having a flexible, fast-ramping resource, such as natural gas generation plants, to provide back-up generation and frequency stability. Creating a higher threshold or implementing additional hurdles to permitting energy infrastructure, including natural gas infrastructure, is counterintuitive to the energy transition because it will impede reliability, and CEQ should avoid creating a situation where customers are choosing between emissions reduction and grid reliability.

III. Conclusion

NGSA and CLNG urge CEQ to recognize that the energy transition will require the buildout of energy infrastructure, including natural gas pipelines and LNG terminals that can help meet the nation's climate goals without sacrificing reliability and energy security for energy consumers in the United States and around the world. We support modifying the Proposed Rule

to focus on improvements to the NEPA process, aligned with the FRA, to make environmental reviews more efficient and provide industry with better regulatory certainty.

Sincerely,

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