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Council on Environmental Quality
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Submitted electronically via <https://www.regulations.gov>

RE: BP America Inc. Comments on National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change

BP America Inc.¹ is pleased to submit comments in response to the Council on Environmental Quality's ("CEQ's") interim National Environmental Policy Act ("NEPA") guidance on the consideration of greenhouse gas ("GHG") emissions and climate change ("Guidance").²

About bp

bp has a 150-year history in America and is committed to the United States for the long term. bp has a larger presence in the United States than anywhere else in the world, with every major bp global business represented. Among our more than 67,000 employees in over 60 countries, about 13,000 work in the United States. We have invested more than \$140 billion here since 2005 and bp's business activities support nearly a quarter million American jobs, contributing about \$70 billion to the national economy in 2022. Further, bp is one of America's largest oil and natural gas producers and the largest marketer of natural gas in North America. bp is also a major marketer of electric power in the North American wholesale power market.

bp seeks to help make the world's energy system secure, affordable, and lower carbon—to help address all three prongs of the energy trilemma. bp's purpose is to reimagine energy for people and our planet. Our ambition is to become a net zero company by 2050 or sooner, and to help the world get there, too. As part of our pursuit of this ambition, bp plans to make major investments in lower carbon energy. By 2030, bp is aiming to reach \$7–9 billion per year in investments in transition growth engines, including electric vehicle ("EV") charging, biofuels/renewable natural gas, renewables and power, and hydrogen.³ Among other things,

¹ BP America Inc. is a subsidiary of BP p.l.c. "bp" is used interchangeably herein to refer to BP America Inc., BP p.l.c., and other affiliated entities.

² *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change*, 88 Fed. Reg. 1,196 (Jan. 9, 2023).

³ bp, *bp Integrated Energy Company strategy update: Growing investment, growing value, growing distributions* (Feb. 7, 2023), <https://on.bp.com/3ZeAauN>; bp, *2022 full year and Q4 financial results & update on strategic progress* (Feb. 7, 2023), <https://on.bp.com/41nweco>.

these investments will help bp achieve its aim to reduce the carbon intensity of the products it sells. bp also envisions making many of these investments in the United States.⁴

Achieving a rapid and balanced transition to net zero will require not only investments in lower carbon energy, but also investments that will support reductions in GHG emissions from conventional oil and gas operations. For example, bp has announced aims to achieve net zero across our entire operations by 2050 or sooner; to achieve net zero across the carbon in our upstream oil and gas production by 2050 or sooner; and to install methane measurement at all our existing major oil and gas processing sites by the end of this year, publish the data, and then drive a 50% reduction in methane intensity of our operations.⁵

In addition, bp recognizes that natural gas—increasingly decarbonized over time—will play a key role for decades to come in helping the world get to net zero while maintaining energy security, reliability, and affordability.⁶ Natural gas, for example, supports higher penetration of intermittent renewable resources in the power sector by providing firmer flexible supply and by stabilizing the grid. It also is key to lowering industrial emissions, supporting decarbonization in the transport sector, and delivering the transition to hydrogen. Accordingly, bp is working to integrate its existing natural gas capabilities with what is anticipated to be significant growth in low and zero carbon businesses and markets.

Summary of bp’s Comments on the Interim Guidance

Consistent with bp’s previous comments on CEQ’s Phase 1 NEPA rulemaking, bp believes that NEPA needs to be part of a well-functioning and workable environmental review and permitting regime that helps to facilitate *all facets* of the energy transition. To that end, bp strongly supports the analysis of GHG emissions and climate change impacts as part of NEPA reviews. Such analysis is crucial not only to ensure that policy makers and the public are well-informed about the implications of agency decisions for the energy transition and for climate change, but also to facilitate the permitting of projects that will help the United States, and in so doing help its global allies, address the energy trilemma.

bp further recognizes that the speed at which the United States achieves its climate, energy security, and energy affordability goals is directly tied to the time it takes to complete the environmental review and permitting process. Accordingly, bp also strongly supports CEQ’s and Congress’ efforts to reform the environmental review and permitting process to improve environmental outcomes, encourage efficiency, and provide greater predictability and regulatory certainty.⁷

⁴ For example, bp acquired AMPLY Power, an EV fleet charging and energy management solutions provider in 2021, has a strategic partnership with Equinor in developing offshore wind projects (e.g., Empire Wind 1 and 2 and Beacon Wind 1), and recently acquired Archaea Energy Inc., a leading provider of renewable natural gas.

⁵ More information about our aims and our progress in achieving those aims can be found on our website. bp, *Net Zero Ambition Progress Update* (Mar. 2023), <https://on.bp.com/42c610l>.

⁶ The U.S. Energy Information Agency (“EIA”), for example, calculated that between 2005 and 2019, shifts in the fuel mix for electricity generation in the United States have resulted in 905 million metric tons of avoided carbon dioxide emissions, 58% of which were due to the switch from higher-carbon fossil generation to natural gas generation. EIA, *U.S. Energy-Related Carbon Dioxide Emissions, 2021*, p. 11 (Dec. 2022), <https://bit.ly/3lrDbk0>.

⁷ bp, *bp statement supporting permitting reform* (Mar. 20, 2023), <https://on.bp.com/3z65Jel>.

bp applauds CEQ for its contribution to these efforts through issuance of the Guidance and revisions to the NEPA regulations. In many respects, the Guidance should help agencies comply with NEPA, and should help applicants, agency decision-makers, and the public understand the potential GHG emissions increases and/or reductions associated with proposed agency actions and their reasonable alternatives – consistent with CEQ’s stated goals.⁸ So long as the analysis of GHG emissions and climate impacts is properly contextualized in light of the full array of policies being served by a given agency decision, NEPA can be a meaningful tool in enhancing the decision-making process.

There are important respects, however, in which the Guidance falls short of these goals and could be improved. In particular, bp is concerned that the Guidance introduces a number of new, expansive, and inflexible concepts to the NEPA process that could result in confusion, delay, and potentially protracted litigation – undermining CEQ’s objectives. bp offers these comments in the hope that CEQ will take these issues into account and incorporate them into a revised version of the Guidance.

bp’s comments are organized based on its view that the Guidance should be aligned with the following fundamental principles:

1. Encourage robust, accurate, and well-contextualized analysis of GHG emissions and climate change impacts, positive and negative, that will be useful as a practical matter to decision-makers and the public.
2. Enable consistency among agencies where appropriate, thereby providing the predictability that is critical to attracting investment for infrastructure projects that will drive the energy transition.
3. Strive to streamline the environmental review and permitting process by tailoring the scope and depth of review to the circumstances, ensuring an effective but efficient process, and favoring flexibility and the rule of reason over rigid, categorical approaches.

bp’s Specific Comments on the Interim Guidance

1. The Guidance Should Encourage Robust, Accurate, Well-contextualized, and Useful Analysis of GHG Emissions and Climate Change Impacts

bp believes that the NEPA climate analysis should be designed to enable better decision-making to advance an orderly transition to a lower carbon energy system. bp offers the following four recommendations for revisions to the Guidance to help achieve that outcome.

A. Recognize Limits Based on Agency Authority & Reasonable Foreseeability in Defining the Scope of Indirect GHG Emissions Analysis

bp recommends that CEQ revise the Guidance to better clarify the contexts in which assessment of indirect GHG emissions may be appropriate. Consistent with bp’s comments on the Phase 1 NEPA rulemaking, bp supports CEQ’s revision of the definition of “effects” to expressly include the terms “indirect effects” and “cumulative effects.” Further, bp supports NEPA analysis potentially including upstream and/or downstream GHG emissions, in cases where it is appropriate to do so. To this end, it is important that CEQ avoid giving the impression that assessment of all conceivable upstream and downstream indirect GHG emissions must be included in every NEPA review, no

⁸ Guidance at 1,197.

matter the context and timing of the agency decision being made. To best assist agencies, applicants, and the public in understanding NEPA’s requirements, the Guidance should take a more nuanced approach that reflects the significant body of case law on the analysis of indirect GHG emissions under NEPA.

The Guidance currently does not—but should—instruct agencies to carefully consider the principles established in case law, including that the scope of NEPA impact analysis is properly restrained by the extent of agency authority and the reasonable foreseeability of the impacts.⁹ Further, consistent with case law, the concept of “reasonable foreseeability” should include consideration of both the likelihood of the impacts and the availability of reliable information about the impacts.¹⁰ CEQ’s failure to acknowledge these principles risks bogging down agencies in resource-intensive analysis that is ultimately uninformative and potentially misleading to the public and decision-makers, and unnecessarily delays development of projects that will be critical to achieving the energy transition.

To ensure that information provided to the public and agencies is useful and meaningfully advances (rather than impedes) the decision-making process, determinations about the scope of GHG emissions and climate change impacts analysis should be focused on the stage of the proposed action under consideration (as discussed below in Section 3.A), the nature of the agency’s authority, and the reasonable foreseeability of the effects. Regarding reasonable foreseeability, for example, where an agency approves a biofuels refining project, applicants can generally provide sufficient information to estimate the upstream and downstream emissions benefits associated with the renewable fuel being produced, utilizing reliable quantification tools (e.g., the GREET model). However, reliable sources of such information may not be available for all projects.

B. Recommend Quantification of Indirect GHG Emissions Only Where Necessary and Helpful to Decision-making

⁹ Courts have held that, under appropriate circumstances, downstream emissions may be included in NEPA analysis for fossil fuel extraction projects, at the appropriate decision-making phase. *See, e.g., Ctr. for Biological Diversity v. Bernhardt*, 982 F.3d 723, 736–40 (9th Cir. 2020) (oil and gas production; environmental impact statement (“EIS”) should have analyzed downstream GHG emissions from foreign oil consumption because emissions were “reasonably foreseeable” and agency had “authority” to act); *WildEarth Guardians v. Zinke*, 368 F. Supp. 3d 41, 71–74 (D.D.C. 2019) (same); *Food & Water Watch v. FERC*, 28 F.4th 277, 287–88 (D.C. Cir. 2022) (natural gas pipeline; downstream GHG emissions were “reasonably foreseeable” because information about the destination and end use were known). On the other hand, courts have held that analysis of upstream and/or downstream emissions are *not* appropriate where, for example, the emissions are not reasonably foreseeable or sufficiently casually connected to the proposed action. *See, e.g., Del. Riverkeeper Network v. FERC*, 45 F.4th 104, 109–10 (D.C. Cir. 2022) (natural gas pipeline; upstream GHG emissions were not “reasonably foreseeable” because, among other things, information about the “additional wells that would be drilled” was unknown); *Birckhead v. FERC*, 925 F.3d 510, 516–21 (D.C. Cir. 2019) (natural gas compression facility; upstream and downstream GHG emissions were not “reasonably foreseeable” because information about the “additional wells that would be drilled” and the “destination and end use of the gas” were not known); *Sierra Club v. FERC*, 827 F.3d 36, 46–49 (D.C. Cir. 2016) (natural gas shipping terminal; downstream GHG emissions need not be considered because agency had no authority to act based on the emissions); *see generally Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 767–68 (2004) (requiring courts to consider the “usefulness of any new potential information to the decisionmaking process” in determining whether an agency must consider the information in its NEPA analyses).

¹⁰ *See, e.g., Del. Riverkeeper Network*, 45 F.4th at 109–10; *Birckhead*, 925 F.3d at 516–21.

bp recommends further clarifying the contexts in which quantification of indirect GHG emissions is appropriate. We are concerned that the Guidance could be construed as requiring agencies to quantify all direct and indirect GHG emissions in all circumstances.¹¹ A categorical rule to quantify indirect emissions is inconsistent with case law and fails to account for the real limitations that can make quantification infeasible or misleading for decision-makers and the public in some circumstances.¹² bp encourages CEQ to revise the Guidance to ensure consistency with these precedents.

bp also encourages CEQ to require quantification only where it can be performed with reasonable certainty and will be useful to decision-makers and the public in understanding potential impacts. For example, contrary to what is suggested in the Guidance, providing broad ranges of GHG estimates developed through reliance on highly conservative “worst case scenario” assumptions are not helpful to decision-makers or the public and, in fact, may be affirmatively misleading and skew the perception of a project’s adverse and beneficial impacts.¹³ For similar reasons, CEQ should revise the Guidance to modify or eliminate the recommendation that agencies always utilize “full burn” assumptions when project-specific estimates of GHG emissions are not ascertainable.¹⁴

We support CEQ’s helpful clarification that, in recognition of the time and cost associated with quantification where readily available models cannot be used, agencies should apply a “rule of reason” and have the flexibility to conduct a “less detailed analysis.”¹⁵ However, CEQ should go further and expand on the types of situations where qualitative analysis of GHG emissions and climate impacts may be sufficient (as discussed below in Section 3.C).

C. Ensure Alternatives Analysis Appropriately Integrates the Applicant’s Goals

bp recommends that CEQ clarify that agencies must consider applicants’ goals when determining whether an alternative is “reasonable” and therefore appropriately included in the NEPA analysis. In the Guidance, CEQ encourages agencies to evaluate “reasonable alternatives” that “would reduce GHG emissions relative to baseline conditions” and mitigation measures that would avoid, minimize, or compensate for GHG emissions and climate change impacts.¹⁶ Notably, the Guidance also states that those alternatives could include “technically and economically feasible clean energy alternatives to proposed fossil fuel-related projects.”¹⁷ In bp’s comments on the Phase 1 NEPA rulemaking, bp supported CEQ’s proposal to remove the requirement that reasonable alternatives must “meet the goals of the applicant.” However, bp strongly supported agencies continuing to consider applicants’ goals among other factors when identifying reasonable alternatives – consistent with case law.¹⁸ CEQ itself acknowledged that applicants’

¹¹ See, e.g., Guidance at 1,201.

¹² *Bernhardt*, 982 F.3d at 739.

¹³ Guidance at 1,205; see, e.g., *Del. Riverkeeper Network*, 45 F.4th at 110 (rejecting the need for “full-burn” analysis where GHG emissions are determined not to be “reasonably foreseeable” based on a lack of information).

¹⁴ Guidance at 1,205.

¹⁵ *Id.* at 1,201–02, 1,204–05.

¹⁶ *Id.* at 1,201; see also *id.* at 1,197, 1,204.

¹⁷ *Id.* at 1,204.

¹⁸ See, e.g., *Protect Our Cmty's Found. v. Jewell*, 825 F.3d 571, 579 (9th Cir. 2016) (“[W]here the agency is tasked with deciding whether to issue a permit or license, the statement of purpose and need may include private goals alongside statutory policy objectives.”) (internal quotation marks omitted); *Butte Env't Council v. U.S. Army Corps of Engineers*, 620 F.3d 936, 946 (9th Cir. 2010) (“The Corps has a duty to consider the applicant’s purpose where . . . that purpose is genuine and legitimate.”) (internal quotation marks and

goals are an “important factor” in the response to comments on the Phase 1 NEPA rulemaking.¹⁹ Yet, the Guidance does not directly address this important issue, and its recommendation to consider clean energy alternatives to fossil fuel-related projects could be interpreted to encourage agencies to disregard applicants’ goals. Doing so would be inconsistent with case law and CEQ’s own interpretation of its regulations and would add unnecessary time and cost to the NEPA process related to analyzing alternatives that will not (or cannot) be implemented.

D. Encourage Agencies to Exercise their Discretion in Using the SC-GHG and, if Utilized, Properly Explain the SC-GHG to Avoid Misleading the Public and Decision-makers

bp welcomes the opportunity, in another context, to engage with CEQ and other members of the Interagency Working Group on Social Cost of Greenhouse Gases (“SC-GHG”). bp recognizes that the comment period on the Guidance is not the appropriate forum for expressing our views on the SC-GHG, however, and so is not commenting on the substance of the metric here.

Regarding the use of the SC-GHG in NEPA analysis, bp strongly encourages CEQ to modify its recommendation that the SC-GHG be used in “most circumstances” and provide additional clarification as to when the metric may or may not be appropriate in the context of a given case.²⁰ bp does not believe it is necessary or fruitful to include the SC-GHG in every NEPA review for every agency decision. In cases where an agency does use the metric in a NEPA analysis, bp strongly recommends that CEQ ensure that: (1) doing so does not impede timely completion of the NEPA process; and (2) agencies provide sufficient explanation and context to avoid misleading decision-makers and the public about the relevance of the metric.

As CEQ is aware, the SC-GHG reflects a complex calculation that attempts to assign a rough monetary estimate to the value of society of avoiding incremental increases in GHG emissions. It is not intended, and cannot be used, to assign specific causal effects to any particular project or activity. CEQ has previously noted the difficulties inherent in isolating the global climate impacts of any individual agency decision, and has helpfully explained that quantification of GHG emissions may be viewed as a “proxy for assessing potential climate change effects.”²¹ CEQ should repeat that principle in this Guidance, and should further emphasize that the SC-GHG metric is solely a method to provide additional context for an agency’s quantification of GHG emissions.²² Indeed, the limited utility of the SC-GHG tool in the NEPA context is well-illustrated by the vast ranges of estimates it produces, given the many uncertainties regarding discount rates and other inputs into the model.

citation omitted); *Colo. Envtl. Coal. v. Dombeck*, 185 F.3d 1162, 1175 (10th Cir. 1999) (“Agencies . . . are precluded from completely ignoring a private applicant’s objectives.”); *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991) (“[T]he agency should take into account the needs and goals of the parties involved in the application.”).

¹⁹ CEQ, *National Environmental Policy Act Implementing Regulations Revision, Phase 1 Response to Comments*, pp. 33–35 (Apr. 19, 2022), <https://bit.ly/3Fj5YGU> (“The goals of the applicant also are an *important* factor in developing a purpose and need statement for a variety [of] reasons, including helping to identify reasonable alternatives that are technically and economically feasible.”) (emphasis added).

²⁰ Guidance at 1,202.

²¹ CEQ, *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews*, pp. 4, 10 (Aug. 1, 2016), <https://bit.ly/2KpTpvD>.

²² Guidance at 1,202–03. For example, bp does not understand CEQ to be suggesting that the SC-GHG metric is any way relevant to a NEPA review’s analysis of mitigation. CEQ should express about this limitation in its Guidance.

Accordingly, we recommend that CEQ provide clear guidance to agencies to carefully weigh whether the use of the metric may be inappropriate or misleading in particular cases. If the SC-GHG metric is used, CEQ should: (1) clarify that agencies and project proponents are not required to update and revise their NEPA analysis every time an adjustment is made to the metric; and (2) encourage agencies to help decision-makers and the public understand its limitations and its narrow purpose of contextualizing the agency's quantification of GHG emissions.

2. The Guidance Should Enable Consistency Among Agencies and Predictability for Project Proponents

To attract the investment necessary to achieve the energy transition, project proponents need predictability with respect to the time and cost necessary to complete the federal review process and achieve finality in permitting. bp recommends two revisions to the Guidance to enable agencies to more consistently and defensibly apply the Guidance.

A. Further Explain How Agencies May Demonstrate Consistency with Climate Goals and Commitments

bp recommends that CEQ revise the language directing agencies to explain how a proposed action would “help meet or detract from achieving relevant climate action goals and commitments.”²³ CEQ does not provide sufficient guidance to enable agencies to determine which climate action goals and commitments are “relevant,” or how an individual project may be consistent with a economy-wide (or global) climate goal or commitment.²⁴ In light of the need to achieve an orderly transition and ensure energy security, and the fact that a full range of energy resources must be available for decades to come in most Paris-consistent and net zero scenarios, such an analysis is more complex than merely characterizing projects with net GHG emissions increases as “inconsistent” with such goals or commitments.

In addition, bp recommends that the Guidance acknowledge the critical importance of viewing GHG emissions reduction goals in the context of overall environmental, energy, and national security policies and objectives. NEPA analysis should enable agency decision-makers and the public to make a balanced judgment about the impacts of a project.²⁵ For example, the federal government has set goals and established incentives for companies to build-out infrastructure and produce products that enable the energy transition. It has articulated policies to decrease reliance on coal-fired generation in favor of cleaner-burning natural gas, along with zero-emitting sources. And it has also established policies to realize environmental goals while meeting energy demand and ensuring the nation's energy security needs.²⁶ Accordingly, when CEQ instructs agencies to assess consistency with GHG emissions reduction goals, agencies should be cautioned

²³ Guidance at 1,203.

²⁴ Regarding relevance, bp recommends CEQ clarify how agencies should adapt to changes in climate action goals and commitments during the course of the NEPA process. Consistent with our comments on use of the SC-GHG, it is unreasonable to expect agencies to be perpetually monitoring and revising the NEPA analysis in response to changes in policy positions.

²⁵ 42 U.S.C. § 4332 (requiring a “systematic, interdisciplinary approach”); see, e.g., *Calvert Cliffs' Coordinating Comm., Inc. v. U.S. Atomic Energy Comm'n*, 449 F.2d 1109, 1113–14 (D.C. Cir. 1971) (EIS is intended to “[t]o ensure that the balancing process is carried out and given full effect.”).

²⁶ See, e.g., U.S. Mission to Int'l Orgs. in Geneva, *Remarks by President Biden at the 27th Conference of the Parties to the Framework Convention on Climate Change (COP27)* (Nov. 11, 2022), <https://bit.ly/41i8JBD> (“From my first days in office, my administration has led with a bold agenda to address the climate crisis and increase energy security at home and around the world.”); The White House, *Remarks by President Biden on Actions to Strengthen Energy Security and Lower Costs* (Oct. 19, 2022), <https://bit.ly/3YUWqJM>.

against viewing these goals in isolation; they must consider the larger umbrella of environmental, energy, and national security policies that place these goals in proper context.²⁷ To be clear, this is not to suggest any less rapid of a transition – our point is that, for the transition to be successful and to maintain the necessary public support, it needs to be orderly and balanced as well as rapid, and we believe it is important for NEPA analysis to take this into account.

B. Encourage Consistent Use of Environmental Justice Best Practices

bp recommends that CEQ provide further direction on how agencies can most effectively address the nexus between climate change impacts and environmental justice. bp appreciates CEQ’s focus on the climate change burdens that communities of color, low-income communities, and Tribal nations and Indigenous communities may be experiencing.²⁸ bp also supports CEQ’s acknowledgement of the cumulative nature of both climate change and environmental justice, and accordingly the importance of the NEPA process—through its cumulative impact assessment—in understanding and addressing these challenges.²⁹ So that agencies can do so effectively and consistently when analyzing projects that affect the same communities, CEQ should provide further guidance on best practices and reliable information sources for conducting the environmental and climate justice analyses recommended in the Guidance.³⁰ bp also encourages CEQ to clarify how the Climate and Economic Justice Screening Tool (“CEJST”) that was updated in November 2022 can enhance this analysis.

3. The Guidance Should Ensure Effective and Efficient Reviews of Projects Necessary to Achieve the Energy Transition

In the interest of advancing our shared goals of achieving rapid decarbonization in support of the goals of the Paris Agreement, bp makes three recommendations that could enable more efficient GHG emissions and climate change impacts analysis without diminishing their utility.

A. Clarify that the Scope of the Analysis Should be Tailored to the Stage of the Decision-making Process

bp encourages CEQ to clarify how the Guidance should be applied in the context of multi-staged decision-making. CEQ seems to recommend that early stage decisions should include highly-speculative projections of GHG emissions, even where such impacts may be more appropriately analyzed at later stages of decision-making.³¹ This recommendation is arguably inconsistent with case law directing agencies to confine their review to the “critical stage of a decision” and could require unnecessary, resource-intensive analyses that may be more reliably undertaken at later

²⁷ For example, the Biden administration has committed to increased exports of liquified natural gas (“LNG”) in the interest of reducing global dependency on Russian energy exports. The White House, *Fact Sheet: United States and European Commission Announce Task Force to Reduce Europe’s Dependence on Russian Fossil Fuels* (Mar. 25, 2022), <https://bit.ly/405irpg>.

²⁸ Guidance at 1,200, 1,206, 1,209, 1,211.

²⁹ *Id.* at 1,205–06.

³⁰ *Id.* at 1,206.

³¹ Specifically, CEQ states that “NEPA reviews for proposed resource extraction and development projects typically should address the reasonably foreseeable effects of other closely related agency actions that authorize separate phases or aspects of development.” Guidance at 1,205. CEQ further states that “[s]ome proposed actions and reasonable alternatives will require consideration of effects from different stages of the action [. . .].” *Id.* at 1,206.

stages.³² bp encourages CEQ to clarify that the NEPA GHG emissions analysis should be tailored to the nature and stage of the decision-making process in question. As an illustrative example, CEQ could explain that, in the multi-stage Outer Continental Shelf Lands Act leasing context, quantification and analysis of the potential indirect GHG emissions resulting from the development of a leased area will generally not be appropriate until there is a proposed action that is sufficiently well-defined to avoid reliance on overly speculative information.

B. Further Encourage Streamlined Impacts Analysis

bp recommends that CEQ encourage agencies to streamline reviews of all projects that will advance an orderly energy transition, broadly defined. In the Guidance, CEQ states that agencies should be guided by the rule of reason and should not, for example, conduct a detailed analysis of lifetime GHG emissions for projects with relatively minor and short-term GHG emissions.³³ bp supports this position. However, as explained above, achieving the energy transition in an orderly manner will require investments in many other kinds of infrastructure. Indeed, the Biden Administration has ambitious targets for investments in a wide range of infrastructure projects through funding provided under the Infrastructure Investment and Jobs Act and the Inflation Reduction Act.³⁴

bp encourages CEQ to clarify that measures to streamline GHG emissions and climate change impacts analysis should not be limited to only the small selection of projects identified in the Guidance.³⁵ Rather, bp strongly supports CEQ clarifying that all efforts should be taken to streamline the review of a wide range of energy infrastructure projects, including not only onshore and offshore wind projects, but also green and blue hydrogen, biofuels/sustainable aviation fuel, carbon capture, utilization, and sequestration (“CCUS”), as well as the siting and permitting of pipelines, LNG terminals, transmission lines, energy storage, electric charging, and other infrastructure necessary to bring lower carbon energy systems to market. Moreover, CEQ should also encourage agencies to take full account of the indirect, long-term GHG *benefits* of these infrastructure projects in accelerating the energy transition and/or avoiding GHG emissions on a life-cycle basis.

C. Provide More Specific Guidance on Measures to Effectively Streamline Analyses, Including Through Programmatic NEPA Reviews

bp recommends that CEQ provide more specific guidance about the measures that can be taken to effectively streamline reviews, including by expanding the list of projects that may benefit from programmatic analysis. The Guidance states that “less detailed” analysis may be appropriate in such cases but does not provide direction or examples of how that “less detailed” analysis can be performed.³⁶ CEQ should explain the circumstances in which agencies may rely on qualitative assessment of indirect emissions or on reported emissions from analogous facilities.

bp is encouraged that CEQ identifies programmatic reviews as a tool for increasing the efficiency of GHG emissions analyses.³⁷ Consistent with our comments on CEQ’s CCUS Guidance, bp

³² *Friends of the Earth v. Haaland*, 583 F. Supp. 3d 113, 130 (D.D.C. 2022) (quoting *Ctr. for Biological Diversity v. U.S. Dep’t of the Interior*, 563 F.3d 466, 480 (D.C. Cir. 2009)).

³³ Guidance at 1,201–02, 1,204–05.

³⁴ See, e.g., The White House, *Fact Sheet: The Bipartisan Infrastructure Deal* (Nov. 6, 2021), <https://bit.ly/3IOPsk2>.

³⁵ Guidance at 1,211.

³⁶ *Id.* at 1,202.

³⁷ *Id.* at 1,211.

strongly supports the use of programmatic analysis. We encourage CEQ to expand the list of projects that could benefit from programmatic analysis to specifically include offshore wind and also include regional CCUS projects, hydrogen hubs, and pipelines that support those projects. In addition, bp encourages CEQ to issue guidance on how to most effectively conduct programmatic analysis, consistent with the guiding principles bp raised in its comments on CEQ's CCUS Guidance.

Conclusion

bp appreciates the opportunity to provide these comments to CEQ, and we look forward to sharing further insights on future rulemakings – including the Phase 2 NEPA rulemaking. Should you have additional questions or would like to discuss, please email me at faye.gerard@bp.com.

Sincerely,

/s/ Dr. Faye Gerard

Dr. Faye Gerard
Policy Advocacy and Federal Government Affairs, US