



**National Rural Electric
Cooperative Association**

A Touchstone Energy® Cooperative 

May 24, 2010

The Council on Environmental Quality
Attn: Ted Boling
722 Jackson Place, NW.
Washington, DC 20503

Email: GCC.guidance@ceq.eop.gov

RE: Comments on National Environmental Policy Act (NEPA) Draft Guidance, "Consideration of the Effects of Climate Change and Greenhouse Gas Emissions;" Notice, 75 *Fed. Reg.* 8046 (February 23, 2010)

The National Rural Electric Cooperative Association (NRECA) respectfully submits the following comments in response to the above-referenced notice and request for comment from the Council on Environmental Quality (CEQ). We appreciate the opportunity to submit comments on the draft National Environmental Policy Act (NEPA) guidance on consideration of the effects of climate change and greenhouse gas (GHG) emissions.

NRECA is a not-for-profit national service organization representing more than 930 not-for-profit, customer-owned rural electric cooperatives located in 47 states. NRECA's members serve more than 42 million end-use electric customers. NRECA's membership includes both distribution cooperatives that deliver electricity to the consumer and generation and transmission cooperatives (G&Ts) that generate and transmit electricity to distribution co-ops. All or portions of 2,500 of the nation's 3,141 counties are served by rural electric cooperatives. Collectively, cooperative service areas cover 75 percent of the U.S. landmass.

Rural electric cooperatives differ in size, financial characteristics and other material characteristics when compared to overall electric power industry traits. Electric co-ops are small businesses that provide at-cost electric service. They serve an average of 7 consumers per mile of line and collect annual revenue of approximately \$10,565 per mile of line. This is in contrast to investor-owned utilities that average 35 customers per mile of line and collect \$62,665 per mile of line, and publicly owned utilities, or municipals, that serve an average of 47 customers per mile of line and collect \$86,302 per mile of line. This "small utility" characteristic distinguishes most NRECA members from a majority of the electric power sector. More than 90 percent of NRECA members are small entities under the threshold or definition of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). While these characteristics are not factors for the utility sector's SBREFA threshold, they illustrate the importance of straightforward procedures under NEPA.

NRECA is a member of the Utility Water Act Group (UWAG), a not-for-profit association formed to participate in NEPA and Clean Water Act rulemakings that affect the interests of electric generators, and supports UWAG's comments on CEQ's draft NEPA guidance memorandum.

Rural Utility Service (RUS) approval of financial assistance to rural electric cooperatives is subject to environmental review under NEPA (7 CFR Part 1794). RUS currently follows a process similar to CEQ's draft guidance on GHG emissions.

COMMENTS

We commend CEQ on their pragmatic approach in this draft guidance. The draft guidance notes the importance of Federal agencies including information on GHG emissions that is: (1) based on its “usefulness...to the decisionmaking process, and (2) “subject to reasonable limits based on feasibility and practicality.” It appropriately cautions agencies against attempting to link “specific climatological changes, or the environmental impacts thereof, to [a] particular project” and urges agencies to “consider the uncertainties associated with long-term projections from global and regional climate change models.”¹ Most importantly, CEQ emphasizes that agencies should use NEPA’s “rule of reason” in implementing this guidance.

NRECA has the following specific concerns and comments on the draft guidance.

- ***Reaffirm the Multi-factor Approach to Determining Significance in NEPA Regulations.*** In the draft guidance, CEQ proposes a quantitative reference point as an indicator of a level of GHG emissions for which an agency “should” consider action-specific evaluation of GHG emissions and disclosure of that analysis in NEPA documents. CEQ is careful to note that the suggested reference point is not “an absolute standard of insignificant effects,” or by inference, not a standard for significant effects. The draft goes on to state that “Evaluation of significance under NEPA is done by the action agency based on the categorization of actions in agency NEPA procedures and action-specific analysis of the context and intensity of the environmental impacts.” Further, CEQ requests comment on whether to provide guidance to agencies on determining whether GHG emissions are “significant” for NEPA purposes.

NRECA urges CEQ to reaffirm in this guidance the multi-factor approach to determining significance in NEPA regulations. Further, CEQ should affirm in the introduction of the guidance that (1) the level of GHG emissions is only one factor, among other criteria, that should be considered within the existing NEPA framework and (2) evaluation of significance under NEPA is done by the action agency based on the categorization of actions in agency NEPA procedures and action-specific analysis of the context and intensity of the environmental impacts as set forth in 40 CFR Part 1508.27. Within the existing NEPA framework, it would be inappropriate in a guidance memorandum to establish a single factor—a level of GHG emissions—that would be considered to have significant effects, thereby automatically triggering the preparation of an environmental impact statement without regard to other criteria laid out in CEQ’s NEPA regulations.² However, NRECA believes that it is appropriate for the guidance memorandum to propose a quantitative reference point as an indicator of a level of GHG emissions for which an agency may consider action-specific evaluation of GHG emissions and disclosure of that analysis in NEPA documents.

- ***Harmonize the Indicator of a Minimum Level of GHG Emissions with the Final Tailoring Rule under the Clean Air Act.*** The draft guidance, dated February 18, 2010, proposes 25,000 metric tons or more of CO₂-equivalent (CO₂-e) GHG on an annual basis as an indicator of a level of GHG emissions for which an agency may consider action-specific evaluation of GHG emissions and disclosure of that analysis in NEPA documents. The rationale provided for this threshold was that it has been used and proposed in rulemakings

¹ *Climate Models: An Assessment of Strengths and Limitations.*
(<http://www.globalchange.gov/publications/reports/scientific-assessments/saps/sap3-1>).

² For additional discussion, see the comments of UWAG.

under the Clean Air Act (CAA), specifically referencing the Environmental Protection Agency's (EPA) Mandatory Reporting of Greenhouse Gases Final Rule (40 CFR Parts 86, 87, 89, *et al.*). Subsequently, EPA finalized the "Tailoring Rule," establishing GHG emissions thresholds for certain CAA permitting programs for stationary sources (40 CFR Parts 51, 52, 70, and 71, May 13, 2010). EPA set the initial threshold for CAA permitting requirements for GHG emissions to 75,000 tons per year on a CO₂-e basis. Then, beginning in July 2011, the triggering threshold is raised to 100,000 CO₂-e tons per year for new sources but remains at 75,000 CO₂-e tons per year for existing sources undergoing modifications.

Since the Tailoring Rule establishes GHG emissions thresholds for CAA permitting programs, NRECA believes that these thresholds are more appropriate indicators of the levels of GHG emissions for which an agency may consider action-specific evaluation of GHG emissions under NEPA, than thresholds in CAA reporting program requirements. Therefore, NRECA urges CEQ to bring the indicator level of GHG emissions in the guidance memorandum in line with the thresholds in EPA's final Tailoring Rule, establishing the indicator at 75,000 or 100,000 CO₂-e tons per year.

CLOSING

NRECA appreciates the opportunity to provide comments on this draft guidance.

Broadly speaking, we cannot emphasize enough the need for agencies to incorporate meaningful information on GHG emissions into NEPA analyses and avoid useless documentation. This means keeping the focus on issues that are useful to agency decisions regarding the federal action.

In addition, NRECA believes it is important for CEQ in the guidance memorandum to:

- Reaffirm the multi-factor approach to determining significance in NEPA regulations, and
- Harmonize the indicator of a minimum level of GHG emissions with the final Tailoring Rule under the CAA .

If you have any questions regarding our comments or we can otherwise be of additional assistance, please contact me at (703) 907-5790 or carol.whitman@nreca.coop.

Sincerely,



Carol E. Whitman, Ph.D.
Senior Legislative Principal
Energy and Environmental Policy