

February 25, 2022

Brenda Mallory, Chair
White House Council on Environmental Quality
730 Jackson Place NW
Washington, DC 20503

Re: Request for Extension of Comment Period on the Council for Environmental Quality’s “Carbon Capture, Utilization, and Sequestration Guidance,” 87 Federal Register 8808 (February 16, 2022), Docket CEQ–2022–0001

Submitted via regulations.gov and email to Brenda.Mallory@ceq.eop.gov

Dear Ms. Mallory:

The White House Council on Environmental Quality (“CEQ”) announced its goals to “incorporate the input of communities and reflect the best available science” by providing 30 days for public comment on its Carbon Capture, Utilization, and Sequestration Guidance, 87 Federal Register 8808 (February 16, 2022) (“Proposed CCUS Guidance,” or “the Guidance”).¹ Yet 30 days is simply not enough time to achieve these goals. On behalf of our collective millions of members and supporters nationwide, the over 100 undersigned organizations request that you extend the period for public comment on the Proposed CCUS Guidance to at least 60 days in order to allow for review of CEQ’s complex proposal, particularly by communities that stand to be most directly impacted by CCUS projects.

An extension of the comment period on the Proposed CCUS Guidance is warranted given (1) the novelty of CCUS at scale and broad scope of issues raised by the proposal; (2) the risks to public safety, health, and the environment posed by CCUS; and (3) the tremendous public interest in this topic.

(1) The novelty of CCUS at scale and broad scope of issues raised in the Proposed CCUS Guidance warrant an extension of time for public comment

Thirty days is not enough time for the public to comment on guidance for an array of technologies, some novel and all unproven at scale, that are being proposed for massive deployment around the country. As noted in the CEQ Press Release, federal agencies are preparing to spend more than \$12 billion in CCUS investments provided by the Bipartisan Infrastructure Law, and even this investment figure fails to capture the magnitude of the

¹ The White House, “CEQ Issues New Guidance to Responsibly Develop Carbon Capture, Utilization, and Sequestration” (Feb. 15, 2022), <https://www.whitehouse.gov/ceq/news-updates/2022/02/15/ceq-issues-new-guidance-to-responsibly-develop-carbon-capture-utilization-and-sequestration/> (“CEQ Press Release”).

approaching wave of CCUS projects and infrastructure proposed nationwide.² One proposal cited in CEQ’s Report to Congress on Carbon Capture, Utilization, and Sequestration noted that CCUS on a large scale could require a pipeline network of up to 110,000 kilometers (over 65,000 miles).³ Other proposals have calculated networks of similar scale, ranging from 29,000⁴ to 120,000 miles.⁵

Many members of the public have never encountered a permit or other federal action meant to enable CCUS before, and CEQ has never issued guidance on CCUS. It is therefore imperative that the public be given adequate time to educate themselves on what CCUS entails—including its risks to public safety, health, and environment—and then consider how the Proposed CCUS Guidance could impact them and the activities of federal agencies for the foreseeable future. This education and consideration of the Guidance cannot be completed within a mere 30 days.

The Proposed CCUS Guidance also asks the public to consider a broad range of issues and types of CCUS. For example, the Guidance covers point-source carbon dioxide removal (“CDR”), direct air capture (“DAC”), as well as bioenergy with carbon capture and sequestration (“BECCS”).⁶ Each of these technological approaches carry their own distinct risks to public health, safety, and environment, as well as their own permitting and legal compliance requirements and complexities.⁷ CEQ’s own CCUS report lists ten categories of permits and permissions that may be required for a CCUS project, all of which could implicate the Proposed CCUS Guidance,⁸ and the Guidance itself lists fifteen statutes that may be triggered by CCUS projects with a federal nexus.⁹ The complexity of CCUS permitting and the role of CEQ’s Guidance require more than 30 days for the public to parse and carefully consider.

² See, e.g., Council on Environmental Quality, “Report to Congress on Carbon Capture, Utilization, and Sequestration” (June 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/06/CEQ-CCUS-Permitting-Report.pdf> (noting that there are approximately 45 CCUS facilities in operation or development in the U.S. and over 5,000 miles of dedicated carbon dioxide pipelines) (hereinafter, “CEQ CCUS Report”); see also EPA, “Table of Class VI Wells Permitted by EPA”, <https://www.epa.gov/uic/class-vi-wells-permitted-epa> (listing nine pending Class VI wells as of February 15, 2022).

³ Eric Larson et al., Princeton University, Net-Zero America 219 (2021), <https://netzeroamerica.princeton.edu/the-report>.

⁴ Elizabeth Abramson, Dane McFarlane & Jeff Brown, Transport Infrastructure for Carbon Capture and Storage v (2020), https://www.betterenergy.org/wp-content/uploads/2020/06/GPI_RegionalCO2Whitepaper.pdf.

⁵ JJ Dooley, et al., Comparing Existing Pipeline Networks with the Potential Scale of Future U.S. CO2 Pipeline Networks 7 (2008), https://www.pnnl.gov/main/publications/external/technical_reports/PNNL-17381.pdf.

⁶ 87 Fed. Reg. 8808, 8809 (February 16, 2022).

⁷ *Id.*

⁸ CEQ CCUS Report at 30, Table 1.

⁹ 87 Fed. Reg. 8809.

(2) The risks to public safety, health, and the environment posed by CCUS warrant an extension of time for public comment

CEQ acknowledges that CCUS deployment “understandably raises concerns about public health and environmental impacts, as well as questions about who stands to benefit from the deployment of these systems.”¹⁰ CEQ goes on to note that, “[r]esponsible CCUS projects should engage communities and Tribes in co-development of projects and approaches; protect communities from pollution; and incorporate environmental justice and equity considerations, especially in communities that are already exposed to multiple pollution sources.”¹¹ The Proposed CCUS Guidance also recommends a number of actions for federal agencies to take in order to “facilitate . . . meaningful public engagement” and “prioritize the development and application of environmental justice best practices” for CCUS projects.¹²

Black, Brown, and Indigenous communities already overburdened by polluting industries and the harms from the climate crisis are being targeted for CCUS infrastructure. CEQ cannot both allude to the importance of meaningful public engagement and consideration of environmental justice concerns while offering only 30 days for public comment on its Guidance that could shape the future of CCUS permitting in this country.

CCUS projects threaten the local environment and public health of frontline communities in areas where CCS infrastructure and storage facilities are located. The capture, compression, transportation, injection, and storage of carbon dioxide pose significant environmental, health, and safety risks that are not adequately assessed or addressed under existing regulations. Those risks are heightened in areas where geological formations, aquifer structures, weather patterns, and climate conditions increase the likelihood of leakage, rupture, and contamination due to subsidence, erosion, salinization, and other factors affecting the interaction of ground and surface waters and soils. The public—and particularly, frontline communities to CCUS deployment—must be given more time to share their concerns and perspectives with CEQ, as well as the best available science on these risks.

Moreover, CCUS projects have consistently failed to meet their carbon dioxide capture promises. One Stanford study calculated the lifecycle emissions associated with CCS projects used with energy production from fossil fuels and found that “the equipment captured the equivalent of only 10-11 percent of the emissions they produced, averaged over 20 years.”¹³ The 28 CCS facilities currently operating globally have capacity to capture only 0.1 percent of fossil fuel emissions, or 37 megatons of CO₂ annually. Of that capacity, just 19 percent, or 7 megatons, is

¹⁰ *Id.* at 8810-11.

¹¹ *Id.* at 8811.

¹² *Id.*

¹³ Mark Z. Jacobson, *The health and climate impacts of carbon capture and direct air capture*, 12 *Energy Env't. Sci.* (Aug. 24, 2019), <https://pubs.rsc.org/en/content/articlelanding/2019/ee/c9ee02709b/unauth#!divAbstract>.

being captured for actual geological sequestration.¹⁴ The vast majority is being used to produce more oil, therefore calling into serious question promises of CCUS being a climate solution. By transitioning the transportation, industry, and building sectors to 100 percent clean, renewable energy through rapid electrification and the phasing out of fossil fuels and enhancing natural carbon sequestration through improved land management and restoration, it is possible to keep warming at or below 1.5° C *without* CCUS. Given the disagreement over whether CCUS is effective and to what extent it is necessary, the public needs time to meaningfully consider how the Proposed CCUS Guidance addresses—or fails to address—the uncertainties and failed promises of CCUS.

(3) The significant public interest in this topic warrants an extension of time for public comment

There is significant public interest in CCUS, including widespread opposition to the technology due to its failure as a climate solution and risks to public safety, health, and the environment. Examples of this interest in and concern about CCUS include:

- A January 2021 shared position statement adopted by the 1,500 member-organizations of Climate Action Network (“CAN”) International, stating that the members “do[] not consider currently envisioned CCS applications as proven sustainable climate solutions.”¹⁵ The organizations warned that CCS “risks distracting from the need to take concerted action across multiple sectors in the near-term to dramatically reduce emissions.”¹⁶ CAN urged that “[a]ll government subsidies, loans, grants, tax credit, incentives, and financial support for fossil fuels and technologies that use or otherwise support the continued use of fossil fuels, including CCS, should be phased out as soon as possible.”¹⁷
- The White House Environmental Justice Advisory Council’s May 2021 Interim Final Recommendations on Justice 40 stating that “carbon capture and storage (CCS) or carbon capture, utilization, and storage (CCUS)” are examples of projects that will not benefit a community;¹⁸
- A July 2021 letter signed by over 500 international, U.S., and Canadian organizations calling on lawmakers to reject CCS.¹⁹ The letter referred to CCS as a “dangerous

¹⁴ S. Garcia Freitas & C. Jones, Tyndall Centre, *A Review of the Role of Fossil Fuel-Based Carbon Capture and Storage in the Energy System* (2021), at 12.

¹⁵ CAN Position: Carbon Capture, Storage, and Utilization, Climate Action Network Int’l at 6 (2021), <https://climatenetwork.org/resource/can-position-carbon-capture-storage-and-utilisation/>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ White House Environmental Justice Advisory Council, *Interim Final Recommendations* at 57-58 (May 13, 2021), https://www.epa.gov/sites/default/files/2021-05/documents/whejac_interim_final_recommendations_0.pdf.

¹⁹ Center for International Environmental Law, “Carbon capture is not a climate solution” (July 19, 2021), https://www.ciel.org/wp-content/uploads/2021/07/CCS-Letter_FINAL_US-1.pdf.

distracted” that “delays the needed transition away from fossil fuels and other combustible energy sources, and poses significant new environmental, health, and safety risks, particularly to Black, Brown, and Indigenous communities already overburdened by industrial pollution, dispossession, and the impacts of climate change.”²⁰

These are but a few examples of the groundswell of public interest in CCUS, and the significant concerns and questions communities have regarding its deployment. If CEQ is going to achieve its goal of “incorporat[ing] the input of communities and reflect[ing] the best available science,” it must extend the comment period on the Guidance to at least sixty days.

We appreciate your consideration of our request, and we urge you to act quickly to extend the deadline to ensure the public has a full and fair opportunity to comment on these important issues.

Please contact Victoria Bogdan Tejada, Staff Attorney at the Center for Biological Diversity (vbogdantejada@biologicaldiversity.org), or Ka’sha Bernard, Staff Attorney/Legal Organizer at the Center for International Environmental Law (kbernard@ciel.org), if you have any questions regarding this request.

Respectfully submitted,

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350 Seattle

350 Triangle

Animals Are Sentient Beings, Inc.

Beaver County (PA) Marcellus Awareness Community (BCMAC)

Berks Gas Truth

Beyond Extreme Energy

Biofuelwatch

Bold Alliance

Breathe Easy Susquehanna County

Breathe Project

Center for Biological Diversity

Center for International Environmental Law

Center for Progressive Reform

Central California Asthma Collaborative

Central California Environmental Justice Network

Central Valley Air Quality Coalition

Clean Air Council

Clean and Healthy New York

Clean Energy Action

Climate Justice Alliance

²⁰ *Id.*

Climate Reality Project: Susquehanna Valley PA Chapter
Concerned Health Professionals of New York
Concerned Health Professionals of Pennsylvania
Dakota Resource Council
Dakota Rural Action
Deep South Center for Environmental Justice
Delaware Riverkeeper Network
Earth Action, Inc.
Earth Care
Elders Climate Action
Empower Our Future - Colorado
Engineering Social Justice and Peace
Environmental Concerns Committee
Environmental Justice Health Alliance for Chemical Policy Reform
Environmental Protection Information Center
Fairbanks Climate Action Coalition
Farmworker Association of Florida
Food & Water Watch
FracTracker Alliance
FreshWater Accountability Project
Friends of the Earth
Grassroots Global Justice Alliance
Green Amendments For The Generations
Greenpeace USA
Gulf Coast Center for Law & Policy
Home Privet
Hometown Organizing Project
In the Shadow of the Wolf
Indian Point Safe Energy Coalition
Indigenous Environmental Network
Indivisible Colorado
Institute for Agriculture and Trade Policy
Institute for Policy Studies Climate Policy Program
International Marine Mammal Project of Earth Island Institute
John Muir Project
Just Transition Alliance
Little Manila Rising
Locust Point Community Garden
Loudoun Climate Project
LWVPA

Native Movement
NC Council of Churches
NC Interfaith Power & Light
New York Lawyers for the Public Interest
NTS Group
Ocean Conservation Research
Organized Uplifting Resources and Strategies
Our Common Wealth 670
Partnership for Policy Integrity
Pennsylvania Interfaith Power and Light
Physicians for Social Responsibility Pennsylvania
Power Shift Network
Property Rights and Pipeline Center
Protect Northern PA
Protect PT
Pueblo Action Alliance
River Valley Organizing
Save Our Illinois Land
Science and Environmental Health Network
Sierra Club
Southern Oregon Climate Action Now
Stand.earth
Sunflower Alliance
Sunrise Movement
Terra Advocati
Texas Campaign for the Environment
The Future Left
Thrive At Life: Working Solutions
Western Organization of Resource Councils
White Rabbit Grove RDNA
Women's Voices for the Earth
Zero Hour