August 2, 2010

The Council on Environmental Quality
Attn: Leslie Gillespie-Marthaler
722 Jackson Place, NW
Washington, DC 20503

Re: **Comments on Council on Environmental Quality Draft Guidance, "Federal Greenhouse Gas Accounting and Reporting"**

Dear Ms. Gillespie-Marthaler:

On July 16, 2010, the Council on Environmental Quality ("CEQ") published a Notice of Availability[1] of Draft Guidance on "Federal Greenhouse Gas Accounting and Reporting" ("Draft Guidance")[2] to announce that CEQ was providing draft materials for public review and comment "to enhance the quality of public involvement in governmental decisions relating to the environment." These comments on the Draft Guidance are submitted on behalf of Public Employees for Environmental Responsibility (PEER)..

The Notice of Availability for the Draft Guidance noted that "a detailed approach to accepted and peer-reviewed life cycle methodologies is beyond the scope of the current version of this guidance document," and that the "Federal Government … may request comment on inclusion of life cycle methodologies in future versions of this Guidance Document." The Draft Guidance itself, in discussing why the Guidance Document utilizes a phased approach to accounting for scope 3 (indirect) emissions, also notes that, "as data quality and methodologies improve and emerge, further guidance that specifically addresses scope 3 may be provided."

CEQ issued the draft greenhouse gas accounting guidelines pursuant to a directive issued by President Barack Obama in Executive Order 13514: Federal Leadership in Environmental, Energy, and Economic Performance.[3] The Executive Order highlighted the opportunity to leverage the federal government's significant purchasing power to reduce scope 3 greenhouse gas emissions, yet the Draft Guidance fails to require any accounting of indirect emissions beyond a few initial categories. Significantly, the Draft Guidance omits any requirement to report emissions associated with vendor and contractor services – thus leaving out the entirety of the significant quantities of products and materials that federal agencies purchase.[4]

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[1] Notice of Availability, Draft Guidance: Federal Greenhouse Gas Accounting and Reporting, 75 Fed. Reg. 41,452 (July 16, 2010).

[2] COUNCIL ON ENVTAL. QUALITY, DRAFT FEDERAL GREENHOUSE GAS ACCOUNTING AND REPORTING GUIDANCE (2010), *available at* http://whitehouse.gov/sites/default/files/microsites/ceq/Draft-GHG-Accounting-and-Reporting-Guidance-6-30-10.pdf.

[3] Exec. Order No. 13,514, 74 Fed. Reg. 52,117 (Oct. 8, 2009).

[4] Regarding Scope 3 emissions – indirect emissions from federal activities -- the Draft Guidance states, "Initial efforts focus on accounting for scope 3 emission categories for which reliable and accessible data are available for estimating emissions, and for which more detailed calculation methodologies have been established … [o]ver time, new methodologies and procedures will be included … to improve the Federal Government's ability to account for

The Draft Guidance is ambiguous as to whether CEQ will in the future issue additional guidance addressing significant scope 3 emissions sources that are not addressed in the current Draft Guidance – such as emissions associated with contract services and the federal supply chain. PEER is submitting these comments today to (1) address the need to provide more specific guidance to federal agencies on scope 3 emissions from vendor and contractor services, as well as to (2) refine acceptable methodologies for voluntary reporting of non-mandatory scope 3 emissions.

Critically, PEER is also urging reassessment of outdated federal purchasing guidelines that mandate federal procurement of greenhouse gas intensive coal combustion fly ash cement and concrete products. The outdated affirmative procurement policies for coal fly ash cement and concrete products undercut the greenhouse gas and environmental leadership goals of Executive Order 13514.

CEQ Guidance Should Account for Full Lifecycle Emissions

PEER is concerned about the conflict between Executive Order 13514's integrated strategy for federal environmental leadership and the continuation of the decades-old federal procurement guideline recommending use of coal combustion fly ash in cement and concrete. The procurement guidelines for fly ash may actually be increasing indirect federal greenhouse gas emissions by providing a federal market subsidy to the greenhouse gas intensive coal industry.

In addition, the social, environmental, and economic costs of continued coal mining and burning are too high – as evidenced by everything from mountaintop removal coal mining to polluting coal fired power plants to the devastating spill of coal ash at TVA's Kingston facility – to continue encouraging federal procurement of coal fly ash.

PEER urges that in evaluating any methodology proposed by an agency that chooses to voluntarily report a non-mandatory category of scope 3 emissions, CEQ consider the full product lifecycle, including both indirect "upstream" emissions and "downstream" end-of-life impacts. Unaccounted for upstream emissions related to fly ash may come from methane released during mining, emissions associated with processing and transportation of coal to utilities, and releases during combustion or ash-processing. Downstream impacts could include lost recycling opportunities or higher waste management impacts due to presence of toxic contaminants in federally-procured cement or concrete products containing coal combustion wastes. Accounting for full life cycle emissions when evaluating sufficiency of agency voluntary reporting methodologies will help ensure meaningful implementation of the Executive Order and Draft Guidance in accounting for and reducing scope 3 greenhouse gas emissions from vendor and contractor products and services.

Accounting for broader impacts will also help ensure the adequacy of the greenhouse gas inventories as part of the integrated federal environmental leadership strategy envisioned in Executive Order 13514. In Section 1 of Executive Order 13514, President Obama outlined an overarching national policy for Federal Government leadership in creating a clean energy economy *and* safeguarding the health of the environment.[5] Executive Order 13514 established as *national policy*, among other priorities, the reduction of federal agency direct and indirect

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and report GHG emissions … [e]xamples of areas to be added over time include emissions from … [v]endors, contractors and supply chain." Draft Guidance at 11.

[5] Exec. Order No. 13,514, 74 Fed. Reg. 52,117 (Oct. 8, 2009).

greenhouse gas emissions, conservation of water resources, recycling, waste elimination, pollution prevention, and the leveraging of agency acquisitions to foster markets for environmentally preferable materials.[6] Further, Executive Order 13514 Section 1 also established as policy of the United States that agencies should prioritize actions based on a "full accounting of both economic and social benefits and costs." Section 2 of Executive Order 13514 established goals for agencies "in implementing the policy set forth in section 1 of [the] order," including goals for greenhouse gas accounting and reporting.

CEQ Guidance Should Provide Additional Criteria for Agencies Choosing to Voluntarily Report Additional Scope 3 Emissions

In discussing procedures that agencies should adhere to when reporting voluntary scope 3 emissions, the Draft Guidance states that agencies "should use methodologies that are commonly accepted and can be replicated … [to] ensure consistent calculations if those emission categories are required for reporting in future years."[7] The Draft Guidance directs that, in the event that "no commonly accepted methodology is available," agencies choosing to voluntarily report additional scope 3 emissions should document and submit the calculation methodologies used as part of the annual inventory.

PEER supports genuine efforts to ensure that federal greenhouse gas emissions reports use "consistent" and "replicable" methodologies. To facilitate consistency in adherence to "commonly accepted" methodologies, PEER suggests that CEQ provide more specific guidelines as to how agencies would determine that scope 3 greenhouse gas accounting methodologies are "commonly accepted" by entities with appropriate environmental procurement expertise and not just industry-driven. PEER also urges CEQ to ensure, to the extent possible, that any methods that agencies propose are in fact consistent with available lifecycle approaches and with the overall direction of integrated sustainability goals under Executive Order 13514.

CEQ Should Ensure that Agencies Voluntarily Reporting Additional Scope 3 Emissions Are not Making False Claims About Alleged Greenhouse Gas Emissions or Reductions from Use of Coal Fly Ash

The spirit of Executive Order 13514 is to promote an integrated strategy of federal environmental leadership that avoids the pitfalls of older purchasing approaches that prioritized only one attribute at a time – e.g. stand alone incentives for recycled content despite toxic constituents. Executive Order 13514 provides an opportunity to remedy unintended consequences by updating counterproductive and outdated strategies – starting with the environmentally-disastrous affirmative procurement policy for coal combustion byproducts.

CEQ should not accept from agencies any greenhouse gas accounting methodology that assumes or assigns lower greenhouse gas emissions from procurement of fly ash containing cement or concrete. Nearly three decades ago, the U.S. Environmental Protection Agency ("EPA") published procurement guidelines designating cement and concrete items containing coal combustion fly ash for affirmative procurement by purchasing agencies.[8] The fly ash cement and concrete designation is based on a goal to increase materials reuse and was developed before consideration of negative greenhouse gas impacts and without concern for cross-media transfers of toxic materials. Any data that the EPA could have used to evaluate environmental safety of fly

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[6] *Id*.
[7] Draft Guidance at 13.
[8] Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash, 48 Fed. Reg. 4230 (Jan. 28, 1983).

ash cement and concrete would also predate recent implementation of air pollution control technologies designed to remove more toxics from coal fired power plant emissions. At the time, the fly ash guideline was developed in explicit recognition of the impending construction of additional coal burning power plants, and the resulting need to deal with the negative effect of ash disposal practices on water quality, air quality, land use, noise, and aesthetic value.[9] We can no longer subsidize the expansion of the coal industry.

Despite growing recognition of environmental problems – including greenhouse gas emissions – associated with coal power, the federal procurement guideline for coal fly ash cement and concrete products continues to encourage procurement of coal fly ash in federal projects. Increased use of coal combustion wastes has also been facilitated by endorsement by the Coal Combustion Products Partnership ("C^2P^2"), a joint government-industry voluntary partnership program established under a previous administration's EPA. C^2P^2 promotes reuse of coal combustion wastes, citing varying claims of greenhouse gas reductions that allegedly result from reusing coal combustion wastes in a variety of consumer and construction applications. PEER has challenged the inaccurate and varied greenhouse gas reduction claims promoted by C^2P^2.[10] While this type of unsupported greenhouse gas claim should obviously not be accepted as an accurate agency submission to CEQ, it does highlight the need for broader realignment of federal procurement policy for cement products with goals for reducing greenhouse gas emissions and decreasing toxic content of products in the home and workplace. Incredibly, the C^2P^2 program goal to increase recycling of coal ash in products creates a perverse incentive to increase production of coal combustion waste; the coal ash reuse goal also ignores full lifecycle impacts of coal burning, as well as threats of toxic releases from coal ash products during manufacture and at end of life.

Halting affirmative procurement of coal ash will also discourage governmental inefficiency that results from trying to solve particular problems for industries – such as helping the coal utility industry save waste management costs associated with the 136 million tons of toxic coal combustion waste generated in the United States each year – by creating other environmental problems. Outdated federal procurement guidelines for coal combustion wastes should not continue to use the federal government's substantial purchasing power to subsidize the dirty, dangerous, greenhouse gas-intensive coal industry.

Thank you for your consideration of these comments. PEER looks forward to CEQ's continued efforts to develop federal policy in a transparent manner and which provides meaningful opportunity for public participation.

Cordially,

Jeff Ruch
Executive Director

[9] *Id.*
[10] http://www.peer.org/news/news_id.php?row_id=1368.