



2. CEQ: Sutley wants senior agency officials more involved in NEPA process

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Noelle Straub, E&E reporter

The heads of federal environmental and resource agencies should have a greater focus on National Environmental Policy Act implementation, the chairwoman of the White House Council on Environmental Quality said yesterday.

Nancy Sutley told the House Interior Appropriations Subcommittee that higher-level policymakers are not always involved with NEPA and that one of her goals is to ensure they focus on the key environmental law before problems arise.

"Sometimes we don't hear about things before they're very far down the road," she said. "One of the things I'd like to see happen more at a NEPA level is to get issues elevated to the policymakers within the agencies quicker, so it doesn't start 17 layers down in an agency and it takes until you're well into the process, until you're well along before there's identification of a problem."

She vowed to "try to have at a higher level within the agencies people paying attention to this, so we can flag these issues early and get them resolved before it turns into many years of litigation or uncertainty."

The economic stimulus package reaffirmed NEPA's central role of making public policy, Sutley said, adding that CEQ will oversee NEPA compliance for federal projects funded in the package. She said there are tools within NEPA that will allow stimulus projects to proceed quickly.

When debating the stimulus, the Senate rejected a GOP attempt to speed up or waive NEPA reviews for projects funded in the economic stimulus bill. Instead, senators approved a competing proposal from Environment and Public Works Chairwoman Barbara Boxer (D-Calif.) to ensure that NEPA reviews for stimulus projects are completed "on an expeditious basis." The amendment also requires that adequate resources within the stimulus be devoted to environmental reviews under NEPA and that the administration report to Congress every 90 days on the status and progress of stimulus projects and activities with respect to NEPA compliance.

Sutley has already met with each federal agency that received stimulus funding to ensure they understand NEPA requirements, has issued guidance for agencies to use as they award project grants, and made clear CEQ is available to identify and address questions about NEPA requirements and stimulus funding, she said. Her staff has had follow-up meetings to discuss guidance on expediting the NEPA process and worked closely with individual departments to provide tailored programs to meet specific funding categories, she added.

Rep. Ken Calvert (R-Calif.) suggested that states whose environmental regulations exceed the requirements of NEPA should be granted an accelerated process or waiver for stimulus projects. Sutley responded that she hopes most of the "shovel ready" projects are far along in the NEPA process, but that she would be willing to consider the possibility. "We'll have to take a look at that," she said.

'Do we need a CEQ?'

Sutley also defended the CEQ's purpose and budget and promised a quick resolution to a dispute between two federal agencies over mountaintop mining.

Subcommittee ranking member Mike Simpson (R-Idaho) questioned why CEQ exists and asked whether it is just another layer of bureaucracy among the "flood" of federal agencies that oversee environmental issues. Nearly all federal natural resource decisions face lawsuits, he said, which usually challenge the process used rather than the actual decision.

"Do we need a CEQ?" Simpson asked, later saying he does not disagree with having the CEQ or other environmental agencies but wants to ensure it is efficient.

Sutley pointed out that Congress created CEQ in order to coordinate and streamline government functions and resolve jurisdictional disputes. "Sometimes it's difficult for one agency to tell another, you know, don't work on forests because we work on forests," she said.

Although CEQ's formal process to resolve conflicts under NEPA has been used sparingly, she said, the agency works "all the time" on an informal basis to work out differences between agencies.

Sutley plans to ensure the agency has a more significant role than it had under the Bush administration, she said. "Over the past two months, I have begun the effort to reinvigorate CEQ to pursue environmental policies that will help the nation respond to a

changing environment under considerably challenging economic conditions.

"It will take time and dedication to get CEQ back to playing the leadership role, provided for in NEPA, which it has played in the past," she added, noting that CEQ will take a leadership role in examining how climate change affects natural and "human systems."

CEQ is funded through the Interior spending bill, and while past budgets have approved 24 full-time employees for CEQ, the agency's budget has not provided enough money to reach that level, Sutley said. With the transition between administrations, there are currently 12 unfilled positions.

Sutley hopes Congress will fund at least the 24 positions but could not be more specific until the official administration budget request comes out next month. Likewise, Subcommittee Chairman Norm Dicks (D-Wash.) said he would anticipate an increase in the CEQ budget but will have to wait for the Obama budget.

Mountaintop mining

On another matter, Sutley said CEQ will come out "very soon" with a resolution of a conflict between U.S. EPA and the Army Corps of Engineers over mountaintop mining.

A federal appeals court ruled last month that the Army Corps can issue permits for mountaintop coal mining without requiring more extensive environmental reviews (*E&ENews PM*, Feb. 13). But EPA does not want to move ahead with permitting, Rep. Ben Chandler (D-Ky.) said.

Sutley said CEQ is arbitrating the dispute. "We are aware of the urgency and trying to get to a resolution very quickly," she said.

She also said her staff has been meeting with EPA, the Army Corps, the Justice Department and the Office of Surface Mining in the wake of the court's ruling to discuss the permits involved, so they can focus on the ones with the most significant environmental impacts and how to address those impacts if the projects are allowed to proceed.

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