

Congress of the United States
Washington, DC 20510

September 9, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

We write to reiterate our requests that your Administration disclose the details, analyses, and calculations used or generated to support the nationally determined contribution (NDC) target as part of the pledge to reduce national greenhouse gas emissions by 50 to 52 percent below 2005 levels by 2030.¹ In a document submitted to the United Nations under the Paris Agreement, the Administration stated that it had “conducted a detailed analysis to underpin this 2030 target, reviewing a range of pathways for each sector of the economy that produces CO₂ and non-CO₂ greenhouse gases: electricity, transportation, buildings, industry, and the land sector.”²

Despite promises of transparency, Administration officials have dodged our continued requests during the past months in hearings, letters, calls, and questions for the record.³ We have yet to be provided with any data or any analysis used or generated to inform the NDC target.

In testimony before the Senate Committee on Environment and Public Works (EPW) and in response to questioning on the Agency’s role in the process, U.S. Environmental Protection Agency (EPA) Administrator Michael Regan stated that “EPA is central to the NDC number that was developed.”⁴ Administrator Regan claimed that EPA “attempted to quantify EPA’s role and its contribution to meeting that NDC” and continued by saying the information generated by EPA “focuses on conceptually where these regulations might land, within a range.”⁵

¹ The White House, *The United States of America Nationally Determined Contribution—Reducing Greenhouse Gases in the United States: A 2030 Emissions Target* (2021), <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/United%20States%20of%20America%20First/United%20States%20NDC%20April%2021%202021%20Final.pdf>.

² *Id.* at 3-5, and 10.

³ See e.g., Letter from Hon. Jim Inhofe to President Joseph R. Biden (May 17, 2021), <https://www.inhofe.senate.gov/newsroom/press-releases/inhofe-urges-biden-to-bring-transparency-to-paris-climate-pledge-process>.

⁴ *Hearing on the Fiscal Year 2022 Proposed Budget for the US Environmental Protection Agency Before the S. Comm. on Environment & Public Works*, 117th Congress (April 28, 2021) (statement of Administrator Regan in response to questions by Ranking Member Capito).

⁵ *Id.*

When asked about the development of the target during a House Committee on Energy and Commerce hearing — and just a day after appearing before the Senate EPW Committee — Administrator Regan acknowledged that the “analysis was done by the White House” and EPA would only be able to provide a separate, previously published “qualitative analysis.”⁶ Despite Administrator Regan’s commitment to provide this information, he has not done so, nor has he offered any explanation for this lack of responsiveness.

This lack of transparency continued in EPA’s recent response to Senator Inhofe’s May 17 letter, in which an EPA official acknowledged the White House’s role in conducting an “analysis that assessed technology availability, current costs, future cost reductions, and the role of enabling infrastructure” and EPA’s consultative role in informing that analysis, but again failed to provide any of the data or analysis.⁷

It is clear that EPA—the agency primarily responsible for emissions regulation—and other agencies throughout the Executive Branch were merely “consulted”⁸ and cannot provide the full analysis used to model emissions reductions to show how the United States would reach the 50 to 52 percent reduction target. Administrator Regan’s comments also confirmed another concerning fact—that you have empowered unaccountable officials like Gina McCarthy and John Kerry, rather than Senate-confirmed officials, with managing your Administration’s environmental agenda. These actions deprive the public and Congress of the transparent process necessary for stakeholder input, oversight, and legislative decision-making.

While your Administration has pledged transparency, it still has not provided any information or analysis explaining the source and impacts of emissions reductions required to meet the NDC targets. While federal agencies seem to know what existing rules and regulations would help meet this target, full information about how these regulatory tools will be used nationally to meet the NDC pledge is necessary for congressional deliberation, and for the public to judge the achievability of the target and the regulatory impact it would have on our country.

In remarks on April 23, 2021, White House Climate Envoy (WHCE) John Kerry called for the U.S. intelligence community to verify the authenticity of pledges by China, Russia, and other countries, stating “I think the President would want to know if something is just baloney, or if a country is misleading.”⁹ And before the House Foreign Affairs Committee, WHCE Kerry made an even stronger statement about the authenticity of the Chinese pledge saying, “Ronald Reagan had a saying, ‘Trust but verify.’ We changed that a little bit and had a saying, ‘Don’t trust, but verify.’ And in this endeavor with China, you’ve got to be eyes wide open.”¹⁰

⁶ *The Fiscal Year 2022 EPA Budget: Hearing Before the Subcomm. on Environment & Climate Change of the H. Comm. on Energy & Commerce*, 117th Cong. (April 29, 2021) (statement of Administrator Regan in response to questions by Rep. Bill Johnson).

⁷ Letter from Dep’y Assoc. Admin. Radha Adhar, US EPA, to Hon. Jim Inhofe (Aug. 26, 2021).

⁸ *Id.*

⁹ Rick Weber, *Kerry Urges U.S. Intelligence Officials To Verify Countries’ Climate Pledges*, INSIDEEPA (Apr. 26, 2021), <https://insideepa.com/climate-news/kerry-urges-us-intelligence-officials-verify-countries-climate-pledges?s=na>.

¹⁰ *Driving a Global, Whole-of-Society Response to Climate Action: Hearing Before H. Comm. on Foreign Affairs*, 117th Cong. (May 12, 2021); see also Doug Obey, *Kerry Vows To Toughen Others’ GHG Goals, Seeks Clean*

Your Administration knows the importance of international accountability and it is essential that you hold it accountable to the same standard. The lack of accountability and transparency to date is even more concerning as the NDC target and regulatory actions to meet this target will be the focus at the upcoming 26th United Nations Climate Change Conference of the Parties (COP26) in Glasgow.

The magnitude, pace, and potential impact of NDC-related policies on everyday Americans requires a more transparent, accountable posture by your Administration. To allow for transparency of the development of the NDC targets, we request that you identify and provide the following information no later than September 23, 2021:

1. All information provided to the White House from each federal agency used to quantify their contributions to meeting the NDC, including but not limited to the role of each agency, information on regulatory or voluntary programs considered, qualitative analysis or approaches used or considered,¹¹ and any specific modeling, studies, and other relevant analysis.
2. All documents and communications from members of the National Climate Task Force and the White House Office of Domestic Climate Policy related to and developed in support of the NDC target, including but not limited to the cited “techno-economic analysis,”¹² sector-specific pathways, modeling, and planned regulatory analyses¹³—all of which have been referenced by Administration officials and White House staff, but not yet disclosed to the public.
3. All documents and communications relating to the development and support of the detailed bottom-up analysis for the NDC target, including how standards, incentives, programs, and support for innovation were weighed in such an analysis.¹⁴

In addition to the information above, we request a detailed briefing by September 23, 2021. Thank you for your consideration and we look forward to your reply.

Energy Boost, INSIDE EPA (May 12, 2021), <https://insideepa.com/climate-news/kerry-vows-toughen-others-ghg-goals-seeks-clean-energy-boost>.

¹¹ In response to Questions for the Record following the April 28 Senate EPW Committee hearing, Administrator Regan stated, “As part of this process, EPA provided qualitative information about our regulatory and voluntary programs and discussed approaches to quantitative analysis.”

¹² The White House, *supra* note 1.

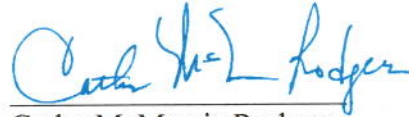
¹³ *E.g.*, Rachel Frazin, *US seeks to lead on climate while finalizing details on plan*, THE HILL (Apr. 27, 2021), <https://thehill.com/policy/energy-environment/550583-us-seeks-to-lead-on-climate-while-finalizing-details-on-plan>.

¹⁴ In response to Questions for the Record following the April 29 House Energy and Commerce Committee hearing, Administrator Regan stated, “The NDC was developed by the National Climate Task Force using a whole-of-government approach, relying on a detailed bottom-up analysis that reviewed technology availability, current costs, and future cost reductions, as well as the role of enabling infrastructure. Standards, incentives, programs, and support for innovation were all weighed in the analysis. The National Climate Task Force is developing this into a national climate strategy to be issued later this year.”

Sincerely,



Shelley Moore Capito
United States Senator
Ranking Member
Committee on Environment and Public Works



Cathy McMorris Rodgers
Member of Congress
Ranking Member
Committee on Energy and Commerce



James M. Inhofe
United States Senator
Ranking Member
Committee on Environment and Public Works
Subcommittee on Clean Air, Climate,
and Nuclear Safety



David B. McKinley
Member of Congress
Ranking Member
Committee on Energy and Commerce
Subcommittee on Environment and
Climate Change

cc: The Hon. Gina McCarthy, White House Climate Advisor
The Hon. John Kerry, Special Presidential Envoy for Climate
The Hon. Michael S. Regan, Administrator, US EPA