



U.S. CHAMBER OF COMMERCE

January 6, 2014

Mabel Echols
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10202
725 17th Street, NW
Washington, DC 20503

RE: Request for Extension of Comment Period – Technical Support Document:
Social Cost of Carbon (Docket ID: OMB-2013-0007)

Dear Ms. Echols,

The American Forest and Paper Association, American Fuel and Petrochemical Manufacturers, National Association of Home Builders, National Association of Manufacturers, National Mining Association, Portland Cement Association, and the United States Chamber of Commerce are writing to respectfully request that the Office of Management and Budget (“OMB”) extend the comment period associated with the *Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866* (“TSD”).¹ There are two compelling reasons for why such an extension is necessary to ensure full and adequate opportunity for public participation and input into this highly technical and complex issue. First, given the extraordinary complexity of the TSD, which is the work product of a multi-agency effort over more than five years, a 60-day comment period is clearly insufficient to allow adequate assessment, analysis, and informed comment on the highly technical issues raised in the TSD. Second, despite opening the TSD to public comment, the government has departed from well established procedures and requirements regarding transparency by failing to provide the full record and other information needed to properly analyze the TSD and the government’s

¹ See 78 *Federal Register* 70586 (November 26, 2013). Note the electronic docket in this published notice, OMB-OMB-2013-0007, does not exist. On December 13, 2013, Docket ID OMB-2013-0007 was opened. This new Docket ID is similar to the electronic docket number in the notice, but it is not the same. This will cause confusion as stakeholders use regulations.gov to submit comments.

assessment and use of the Social Cost of Carbon (“SCC”) in future rulemaking. Without making such critical information available, providing an opportunity for public comment effectively is an empty gesture as the public lacks actual relevant information to understand, assess, and critique the underpinnings of the government’s analysis. We address each of these issues in more detail below and we respectfully request that OMB extend the comment deadline to 90 days from the date that the federal government responds to the Freedom of Information Act (“FOIA”) requests described below and posts the full scope of relevant materials that should be part of the record in support of the TSD.

This TSD has broad and far reaching significance given OMB’s stated intent that government agencies will adopt the SCC estimates in a wide range of future rulemakings. To arrive at the SCC estimates, technical experts from almost a dozen federal agencies have been working on monetizing the SCC since 2007. Over this period, complex computer models were developed, revised, and run using various assumptions and technical methodologies that have not been posted to the docket or otherwise provided to the public. It is a fundamental tenet of both this Administration’s public policy and administrative law that the public have the full and fair opportunity to understand the full basis for government decisions and actions, and the opportunity to assess, analyze, comment and critique both the outcome of the decision and the underpinning rationale.² This is particularly true in the present situation where the public is at a significant information gap compared to the numerous federal agencies working on this issue for more than five years. Thus, in order to ensure full and fair opportunity for public comment, the government must provide an adequate public comment period once such information is made available. Under no measure is 60 days adequate to assess the multiyear work product of a dozen government agencies.

Accordingly, the government must post the information it relied upon in revising the SCC estimates, including the Integrated Assessment Models used for synthesizing the SCC estimates, the factual assumptions underlying the various model inputs, underlying technical data, and the comments provided during the development of the TSD to the public docket. Once uploaded to the docket, the government must provide adequate time to enable both the lay public and technical experts to study and respond to this technical information and the prospects for its use in driving future rulemakings. It is well established that when the government relies on computer models the public has the right to understand the methodologies and to test the assumptions underlying the model and its inputs.³ Such comment period must be adequate to provide the public a fair

² See Memorandum from Barack Obama to Heads of Executive Departments and Agencies (Jan. 21, 2009) at 1 (“My Administration is committed to creating an unprecedented level of openness in Government . . . My Administration will take appropriate action, consistent with law and policy, to disclose information rapidly in forms that the public can readily find and use.”); Memorandum from Peter R. Orszag, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, “Open Government Directive” (Dec. 8, 2009) at 1 (“Transparency promotes accountability by providing the public with information about what the Government is doing. Participation allows members of the public to contribute ideas and expertise so that their government can make policies with the benefit of information that is widely dispersed in society.”).

³ The *Federal Register* notice of availability indicates that the SCC estimate was developed with input from the public. Informal involvement by a select group of interested parties is an unlawful substitute for a formal comment

opportunity to understand the government’s rationale and to be able to fully respond to it.

Although an extension would be warranted even if the government had made the full record available, there is no debate that the relevant agencies have yet to provide such necessary information at this time. On August 23, 2013, acting through its counsel, the American Fuel and Petrochemical Manufacturers (“AFPM”) filed multiple FOIA requests with the agencies that participated in the Interagency Working Group on Social Cost of Carbon.⁴ These requests are overdue, further demonstrating the government has yet to provide the necessary record information for the TSD. OMB has indicated that they are reviewing between 2,500 and 5,000 pages of documents and will produce documents in three phases. AFPM has made several inquiries with each of the other federal agencies and notes that the Environmental Protection Agency, Office of Science and Technology Policy, Council on Environmental Quality, and Department of Energy acknowledged the FOIA requests, but have not yet provided a schedule for producing the responsive documents. The Department of Transportation, Department of Treasury, and Department of Commerce have not responded to repeated attempts to contact them in connection with the FOIA requests. The documents responsive to the AFPM FOIA requests are both necessary and critical to fully understanding the development of the TSD and the inability to review them will impede AFPM and other affected parties’ ability to provide informed comment on the TSD.

To provide the public with only 60 days to study, understand and address for the first time the years of detailed internal analysis is clearly insufficient, particularly when there is no statutory deadline associated with this federal initiative. In order to comply with the Administration’s procedures for transparency and requirements in administrative law, the undersigned respectfully request that the comment period be extended to 90 days from the date that the 11 agencies respond to our pending FOIA requests or when all relevant information is otherwise posted to the docket.

If you have any questions concerning this request, please contact Richard Moskowitz at (202) 552-8474. Thank you for your consideration.

Respectfully submitted,

American Forest and Paper Association

American Fuel and Petrochemical Manufacturers

National Association of Home Builders

period under the Administrative Procedure Act and is inapposite to this Administration’s stated commitments to improve transparency in the rulemaking process.

⁴ FOIA requests were filed with the Department of Agriculture, Council on Environmental Quality, Department of Commerce, Department of Energy, Department of Transportation, Department of Treasury, Environmental Protection Agency, Office of Management and Budget, and Office of Science and Technology Policy.

National Association of Manufacturers

National Mining Association

Portland Cement Association

United States Chamber of Commerce