



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 16 2008

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Edward J. Markey  
Chairman  
Select Committee on Energy Independence & Global Warming  
U.S. House of Representatives  
Washington, D.C. 20515-6143

Dear Mr. Chairman:

This is in response to the subpoena issued by you on April 3, 2008, which directs the U.S. Environmental Protection Agency (EPA or Agency) to provide the Select Committee with copies of two draft documents related to the Agency's analysis of greenhouse gas emissions under section 202 of the Clean Air Act. Administrator Stephen L. Johnson asked me to respond on his behalf and to thank you for honoring EPA's April 11, 2008 request for additional time to consider our response.

As we noted in our April 11, 2008 letter, EPA has grave concerns relating to the Committee's subpoena. In particular, we are concerned that the release of the deliberative, pre-decisional documents that do not reflect the Agency's final thinking would be injurious to important Executive Branch institutional prerogatives: such release may have a chilling effect on further deliberations in this and other matters; it may create erroneous impressions of the Agency's thinking; and it may raise questions about the Agency having reacted in response to, or having been influenced by, proceedings in a legislative or public forum outside the established administrative process.

Nevertheless, we are optimistic that an accommodation may be possible. Because EPA is currently engaged in the deliberative process of drafting the Advanced Notice of Proposed Rulemaking (ANPR), our willingness to provide an accommodation must take into account the Agency's present need to complete work on finalizing the ANPR consistent with the established administrative process regarding deliberative, pre-decisional materials.

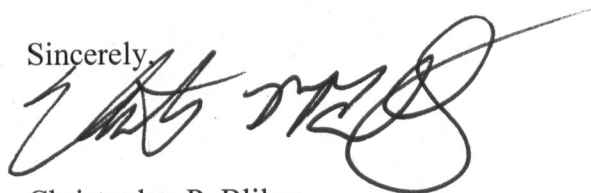
In the hope of achieving a mutually agreeable resolution, one that respects the Executive Branch's deliberative processes while making available to the Select Committee responsive information, we propose the following accommodation. The Agency will make the requested documents available to the Select Committee for review at the time the ANPR is published later this spring or in any event no later than June 21.

However, we request that our staffs be able to work together without the cloud of a subpoena over the Agency, and accordingly request the Select Committee withdraw the subpoena as a condition of reviewing the requested documents.

We acknowledge that our proposed accommodation does not provide Congress (or the Agency) all it seeks in this matter. It would, however, provide the Select Committee responsive information it seeks in a time and a manner that minimizes the potential injury to Executive Branch interests. We hope that the Select Committee is willing to accept our offer of accommodation under this condition so that we can work together to reach a mutually agreeable solution.

If you have any questions, please contact me or have your staff call Tom Dickerson in my office at (202) 564-3638.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Bliley', written over the word 'Sincerely,'.

Christopher P. Bliley  
Associate Administrator

cc: The Honorable F. James Sensenbrenner, Jr.  
Ranking Minority Member