

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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August 3, 2023

Mathew C. Blum  
Chair  
Federal Acquisition Regulatory Council  
725 17<sup>th</sup> St. NW  
Washington, DC 20503

Dear Chair Blum:

The Committee on Oversight and Accountability is conducting oversight of the Federal Acquisition Regulation (FAR) Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk proposed rule (hereinafter, “the Rule”).<sup>1</sup> The Rule, as drafted, would lead to the restriction of conventional fuels available to the federal motor and aviation fleet (hereinafter “federal fleet”), and potentially compromise military readiness, which relies on fossil fuels.<sup>2</sup> In light of these concerns, the Committee requests a staff-level briefing, documents, and information to understand the potential for the Rule to compromise needs of the U.S. military and federal fleet, the Science-Based Targets Initiative (SBTi)’s engagement with the FAR Council concerning the Rule, and other matters concerning the Rule.

Proposed by the Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) (collectively, the “FAR Council”), the Rule extends the Biden Administration’s radical environmental activism into federal government contracting. The Rule would delegate new functions for validating federal contractors’ greenhouse gas (GHG) emissions and setting contractors’ emissions reduction targets to the SBTi, a third-party international organization with unclear funding sources and bias against the fossil fuel industry.<sup>3</sup> SBTi is a partnership between nongovernmental organizations (NGOs) consisting of CDP (formerly the Carbon Disclosure Project), the United Nations Global Compact, World Resources Institute (WRI), and the World Wide Fund for Nature (WWF).<sup>4</sup> The United Nations Global Compact has 12 government contributors, including China, that provide

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<sup>1</sup> *Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk*, 87 Fed. Reg. 78910 (proposed Nov. 14, 2022, extended Dec. 23, 2022) (to be codified at 48 C.F.R. pt. 1, 4, 9, 23, 52).

<sup>2</sup> See DLA Piper US, Thomas E. Daley and Catherine Campbell, *Comments on the FAR Council’s Proposed Disclosure of Greenhouse Gas Emissions and Climate-Related Risk Rule: Majority of Respondents Push Back on Proposed Requirements* (Mar. 2023).

<sup>3</sup> Science Based Targets Initiative, *About Us*, available at <https://sciencebasedtargets.org/about-us#who-we-are> (last visited July 14, 2023); Science Based Targets Initiative, *How We are Funded*, available at <https://sciencebasedtargets.org/about-us/funders> (last visited July 14, 2023).

<sup>4</sup> *Supra*, n. 1.

“generous support” to the Compact’s trust fund.<sup>5</sup> The U.S., however, is not in the Compact’s government group of funders.<sup>6</sup>

Delegating oversight functions to an entity supported by foreign governments, including China, raises serious concerns about the impact the Rule would have on procurement for national security. In addition, the Rule as drafted “would jeopardize the entire federal vehicle fleet from mail delivery trucks, to vehicles operated by civilian agencies, to military vehicles,”<sup>7</sup> due to SBTi’s bias against the fossil fuel industry. For example, although it evaluates science-based targets for GHG emissions in industries including finance, aviation, and power,<sup>8</sup> SBTi claims that it “is unable to accept commitments or validate targets for companies in the [oil and gas] or fossil fuels sectors.”<sup>9</sup> SBTi’s stark opposition to the refining sector would prevent federal contractors from supplying “liquid fuels, such as jet and diesel, to power the military,” including F-16 fighters, military cargo transport, and Black Hawk helicopters.<sup>10</sup> Moreover, “current and projected future ‘zero-emission’ technologies cannot provide the same level of speed, flexibility, or range – qualities which are critical to maintaining military advantage.”<sup>11</sup> It is unclear why this Administration has chosen to propose this Rule, which would give authority over aspects of national security procurement to an entity funded by China.

The Rule also burdens recipients of Federal contracts with substantial and unreasonable costs to assess direct and indirect emissions.<sup>12</sup> Necessary resources would include staff, time, and consultants to assure compliance. Recipients like agriculture producers would need to “reduce funds that would otherwise be available for projects that would directly improve environmental impact.”<sup>13</sup> For example, the Rule would require producers to spend capital hiring staff to track and report emissions instead of crop experts who can implement climate-related best practices for maximizing yield and minimizing prices for consumers.<sup>14</sup> The costs of this Rule will be passed along to consumers, driving food prices, already at record highs due to President Biden’s inflation crisis, even higher.

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<sup>5</sup> United Nations Global Compact, *Funding Sources*, available at <https://unglobalcompact.org/about/finances> (last visited June 28, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> Delek US, *Comments on Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk*, at 3 (FAR Case 2021-015) (Feb. 13, 2023).

<sup>8</sup> Science Based Targets Initiative, available at <https://sciencebasedtargets.org/> (last visited June 23, 2023).

<sup>9</sup> Science Based Targets Initiative, *Guidance for the oil and gas sector*, available at <https://sciencebasedtargets.org/sectors/oil-and-gas#what-is-the-sb-tis-policy-on-fossil-fuel-companies> (last visited June 28, 2023).

<sup>10</sup> Valero, *Proposed Rule: Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk Docket ID No. FAR-2021-0015*, at 10 (Feb. 13, 2023).

<sup>11</sup> *Id.*

<sup>12</sup> Nat’l Council of Farmer Cooperatives, *Comments Regarding the DoD, GSA, and NASA proposed rule to implement certain GHG and climate-related financial disclosures; Docket ID#: FAR Case 2021-015, Docket No. FAR-2021-0015, Sequence No. 1.*, at 2 (FAR Case 2021-015) (Feb. 11, 2023).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

The cost analysis for the Rule “needs significant review.”<sup>15</sup> The FAR Council relies in part on the Securities and Exchange Commission’s (SEC) analysis<sup>16</sup>—which multiple commenters identified as inaccurate<sup>17</sup>—for costs under the SEC’s proposed climate disclosure rule. “The Enhancement and Standardization of Climate-Related Disclosures for Investors” proposed rule (hereinafter “SEC Rule”) also demands Scope 1, Scope 2, and Scope 3 emissions tracking and reporting from U.S. companies.<sup>18</sup> Even if the SEC’s analysis were accurate, the FAR Council fails to explain adequately its departures from the SEC’s estimate for issues such as auditing costs.<sup>19</sup>

The Committee seeks to understand the FAR Council’s consideration of SBTi’s role under the proposed Rule, the potential for the Rule to compromise needs of the U.S. military and federal fleet, and issues related to the Rule’s costs and proposed delegation of governmental functions to SBTi. To assist the Committee, please provide the following documents and information, covering the time period January 20, 2021, to the present, no later than August 17, 2023:

1. All documents and communications between the FAR Council and DoD related to the SBTi, military readiness, operation of the federal fleet, and costs under the Rule;
2. All documents and communications between the FAR Council and GSA related to the SBTi, military readiness, operation of the federal fleet, and costs under the Rule;
3. All documents and communications between the FAR Council and NASA related to the SBTi, military readiness, operation of the federal fleet, and costs under the Rule;
4. All documents and communications between the FAR Council and the SEC related to the Rule and the SEC Rule;
5. All documents and communications between the FAR Council and the SBTi concerning the Rule or topics addressed by the Rule;
6. All documents and communications related to the FAR Council’s consideration of whether to delegate governmental functions to the SBTi, including the setting of emission reduction targets and monitoring of compliance with such targets; and

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<sup>15</sup> Nucor Corp., *FAR Case 2021-015, Docket No. FAR-2021-0015: Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk*, at 4 (Feb. 3, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> Consumers’ Research, *FAR Case 2021-015, Federal Acquisition Regulation: Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk* (Feb. 13, 2023); *See e.g.*, Nat’l Ocean Industries Ass’n, *Comments of the National Ocean Industries Association, Proposed Rule, “The Enhancement and Standardization of Climate-Related Disclosures for Investors,” RIN 3235-AM87* (June 17, 2022).

<sup>18</sup> *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, 87 Fed. Reg. 21334 (proposed Mar. 21, 2022) (to be codified at 17 C.F.R. pt. 210, 229, 232, 239, & 249).

<sup>19</sup> *Supra*, n. 16.

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7. All documents concerning the FAR Council's analysis of the estimated costs and benefits of the Rule, including impacts on military readiness, operation of the federal fleet, and potential increases to fuel costs paid by the U.S. Armed Forces or federal agencies.

Additionally, please provide a staff-level briefing on this matter as soon as possible, but no later than August 10, 2023.

To schedule the briefing, arrange for the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability Majority Staff at (202) 225-5074. Attached are instructions for producing the documents and information to the Committee. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X. Thank you for your attention to this important matter.

Sincerely,



James Comer  
Chairman  
Committee on Oversight and Accountability



Pat Fallon  
Chairman  
Subcommittee on Economic Growth,  
Energy Policy, and Regulatory  
Affairs

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

The Honorable Cori Bush, Ranking Member  
Subcommittee on Economic Growth, Energy Policy, and Regulatory Affairs

The Honorable Lloyd J. Austin III  
Secretary  
U.S. Department of Defense

John M. Tenaglia  
Principal Director, Defense Pricing and Contracting  
Department of Defense

Robin Carnahan  
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