
White House Updates Guidance on Climate Change Impact Analysis

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On December 18, the White House Council on Environmental Quality (CEQ) released updated draft guidance on how and when federal agencies should account for the effects of greenhouse gas (GHG) emissions and climate change impacts under the National Environmental Policy Act (NEPA). The guidance is available [here](#).

Of particular note, the guidance:

- Characterizes climate change as a global issue exacerbated by a series of small decisions. The guidance uses projected GHG emissions as a proxy for assessing a proposed action's potential climate change impacts.
- Acknowledges that climate change science is "evolving" and calls for agencies to use existing information and science when analyzing climate change impacts of proposed actions. The guidance outlines currently available tools and methodologies for conducting such analyses.
- Establishes 25,000 tons per year as a reference point under which a GHG emissions quantitative analysis is not warranted "unless quantification below that reference point is easily accomplished." The guidance states that the reference point relates to the disclosure of impacts, not to the determination of the significance of those impacts. The guidance notes that NEPA requires agencies to consider "the potential significance of the climate change impacts of their proposed actions, [based on] both context and intensity, as they do for all other impacts."
- Reminds agencies that they are required to consider the direct, indirect and cumulative effects of the GHG emissions from an action, and take into account the effects of "connected" actions.
- Would apply to all federal actions, including federal land and resource management actions that were excluded from previous CEQ guidance.
- Calls for consideration of the sequestration potential of proposed actions, which may offset potential GHG emissions. Particularly for federal land management activities such as vegetation management, the guidance states that NEPA analysis should account for GHG emissions (biogenic and fossil), carbon sequestration potential, and the net change in

carbon stocks under relevant timeframes.

Background

NEPA requires federal agencies to analyze the environmental impacts of proposed federal actions and alternatives to those actions. NEPA assigns CEQ the task of ensuring that federal agencies meet their NEPA obligations, which can be done through the preparation of either an environmental impact statement (EIS), environmental assessment, or categorical exclusion. An EIS is the most detailed analysis and generally is required for proposed actions that are determined to have significant prospective environmental impacts.

In 2010, CEQ issued draft guidance on consideration of GHG emissions and climate change impacts in NEPA reviews, and called for comments on the draft guidance. That guidance was never finalized. In November 2014, the State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience (established in November 2013 by Executive Order 13653) recommended that CEQ finalize the guidance. According to CEQ, the updated draft guidance addresses a broad range of comments on the earlier draft guidance. The guidance is also part of an ongoing effort to modernize the implementation of NEPA to improve transparency, public involvement, and efficiency of environmental reviews.

Timing and Implications

The guidance is non-binding, but once it is finalized, it will be relied upon by federal agencies (as well as other interested stakeholders) as they review proposed actions. CEQ is accepting public comments on the updated draft guidance for 60 days (i.e., until February 16, 2015). CEQ has not provided a timeline for finalizing the guidance.

The guidance places GHG emissions into the mix of impacts (e.g., water quality, endangered species, etc.) that NEPA analyses traditionally consider. Like other impacts, the guidance emphasizes that federal agencies should consider direct, indirect, cumulative, short-term and long-term effects, and account for "connected" actions-subject to limits based on feasibility and practicality. The guidance provides that GHG impact analysis should include upstream and downstream emissions, but it creates questions about how far upstream and downstream the scope of analysis should extend. The guidance states that agencies must consider "reasonably foreseeable" components of a proposed action and impacts with a "reasonably close causal relationship" to the proposed action. Those standards inevitably will lead to disputes about what is reasonable.

The guidance states that it will no longer be acceptable for NEPA purposes to dismiss a proposed action's climate change impacts as a mere fraction of a global problem. While the guidance states that the cumulative impact of a proposed action's GHG emissions-in and of itself-is not expected to provide a basis for requiring an EIS, it recommends that agencies account for a proposed action's "reasonably foreseeable incremental addition of emissions" when deciding whether to prepare an EIS. And the guidance calls for climate change impacts to be analyzed using a level of effort that is "reasonably proportionate" to a proposed action. Those standards also are bound to lead to

disputes.

In many cases, the guidance will increase the burden on project proponents regarding mitigation and project design. The guidance identifies several methods for mitigating climate change impacts, such as energy efficiency improvements and offsets, and will increase the expectation that project proponents propose and implement such mitigation. In addition, the guidance notes that certain areas-such as coastal regions-are especially vulnerable to climate change impacts. As a result, the guidance calls for agencies to consider alternatives that would be more resilient in the face of such impacts, and to account for such impacts when assessing the "projected life" of alternatives.

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