

NEPA and Climate Change on Federal Lands



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National Environmental Policy Act

- “To declare a national policy which will....promote efforts which will prevent or eliminate damage to the environment and biosphere...”
- “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.”

“All agencies of the federal government shall...

- Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking...
- Include in every recommendation or report on...major federal actions significantly affecting the quality of the human environment, a detailed statement on...[environmental impact, unavoidable adverse environmental effects, alternatives, relationship between short term uses and long term productivity, and irreversible and irretrievable commitments of resources]
- Recognize the worldwide and long-range character of environmental problems...[and lend support to programs] designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment....”

NEPA Regulations

- Accommodate scientific uncertainty
- Address cumulative impacts
- Require consideration of “reasonably foreseeable” effects (which include changes to the environment caused by climate change, and contributions to climate change by the proposed action and alternatives)

Climate change is not a new issue under NEPA

- 1997 CEQ draft guidelines for considering climate change in NEPA documents --
Emphasized consideration of climate change in agencies' "programmatic" environmental impact statements.
- Climate change in existing EISs

Outer Continental Shelf Oil & Gas Leasing Program: 2007-2012

Final Environmental Impact Statement
April 2007

Volume I

MMS –Final EIS (2007)

IV. ENVIRONMENTAL CONSEQUENCES

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Consultants and Municipalities are also on top of this

Addressing Climate Change in NEPA and CEQA Documents

Updated August 2007




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Impacts of Climate Change on Municipal Water Supplies in Washington

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 UNIVERSITY OF WASHINGTON

October 2005 • King County

Recent NEPA-Climate Case Law

Center for Biological Diversity v. National Highway Traffic Safety Administration (9th Cir. November 15, 2007)
(NEPA requires agency to consider climate change when deciding not to set certain CAFE standards)

- “The cumulative impacts regulation specifically provides that the agency must assess the ‘impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.’ 40 CFR 1508.7”
-
- “The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct.”

State recognition in “little” NEPAs

California Litigation under State’s CEQA

- e.g., *Center for Biological Diversity and State v. San Bernardino County* (Cal. Super. 8/21/2007) (county comp plan)
- *NRDC v. State Reclamation Board* (Cal. Super. 4/27/2007) (water encroachment permits)

King County, Washington,

- Executive Order requiring county officials to consider climate change impacts in the environmental review of new projects under SEPA.

Managers Must Consider

- IMPACTS OF CLIMATE CHANGE UNDER DIFFERENT LAND MANAGEMENT SCENARIOS
- IMPACTS OF DIFFERENT LAND MANAGEMENT SCENARIOS ON CLIMATE CHANGE

IMPACTS OF CLIMATE CHANGE

- WATER SUPPLY
- FOREST HEALTH
- FIRE
- RANGELAND HEALTH
- INVASIVE SPECIES
- SEA LEVEL/COASTAL
- SPECIES RANGE AND DIVERSITY
- RECREATION

WILDLIFE HABITAT POLICY RESEARCH PROGRAM – NATIONAL COUNCIL FOR SCIENCE AND THE ENVIRONMENT

[Analysis of Potential Impacts of Climate Change on Wildlife Habitat in the United States](#)

Linda Joyce & Curtis Flather, USDA Forest Service –
Rocky Mountain Research Station; and NatureServe.

ABSTRACT: The complex feedbacks between climate, land use, land cover, and biodiversity have foiled any general prediction of how wildlife and fish may respond to some future climate regime. This project will develop and apply an index of risk considering climate stress, habitat area shifts, changes in habitat quality (via productivity estimates), wildlife movement constraints, and proportions of the terrestrial vertebrates that are considered to be of greatest conservation concern. This risk index is used to rank all states from high to low biodiversity risk.

IMPACTS OF ACTIVITIES ON CLIMATE

- Oil & gas, coal, oil shale development
- Energy demands - Induced impacts - travel, construction, energy demands
- Carbon releases (forest harvests, uses of soil)
- Availability/unavailability of carbon sink
- Alternative energy opportunities foregone
- Albedo effects (reflectivity)

NEPA IS UP TO THE TASK

- Need for Guidance to Federal Agencies
- Best Practices Should be Identified & Disseminated
- Training for Officials on Dealing Meaningfully with Uncertainty
- Evaluating Climate Concerns at Project Level
- Use of Adaptive Management Techniques

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CLIMATE CHANGE

Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources



Dept. of Interior Proposed Rules

73 Fed. Reg. 126 (Jan. 2, 2008)

- Proposed NEPA Rules Address Adaptive Management. Proposed 43 CFR 46.145:
“The NEPA analysis conducted in support of a bureau’s decision to adopt an adaptive management approach should identify the range of management options that may be taken in response to the results of monitoring and should analyze the effect of such options. The environmental effects of any adaptive management strategy must be evaluated in this or subsequent NEPA analysis.”

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