

SUMMARY

EPN Objects to CEQ Draft Guidance on Addressing Greenhouse Gas Emissions under NEPA

August 9, 2019

On August 9, 2019, EPN submitted comments raising serious concerns about the [draft guidance](#) issued by the Council on Environmental Quality (CEQ) to assist federal agencies in considering greenhouse gas (GHG) emissions when they evaluate federal actions under the National Environmental Policy Act (NEPA). Signed in 1970, NEPA requires federal agencies to assess the environmental impacts of their proposed actions before making decisions on such matters as permit applications, federal land management and the commitment of federal funds for construction of highways and other publicly-owned facilities. If finalized, the new guidance will replace the final guidance on the consideration of GHG emissions and the effects of climate change under NEPA issued by the previous administration in August 2016. That guidance was withdrawn pursuant to a March 2017 [Executive Order](#) that directs federal agencies to review existing regulations related to domestically produced energy resources and “suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest of otherwise comply with the law.”

In its comments, EPN emphasized that instead of guiding federal agencies on how best to address GHG emissions, the guidance is a litany of possible excuses that agencies could use to avoid their consideration. The guidance fails to address the facts that GHG emissions contribute to climate change, and that climate change affects proposed actions, especially infrastructure projects. Incredibly, the phrase “climate change” has been completely removed from the proposed guidance, and there is no recognition that not only do infrastructure projects and the built environment contribute to climate change, they must also be planned and constructed for resiliency to withstand its impacts. Climate extremes must be considered—now and in the future—or lives will be lost, funding will be wasted, and harmony between nature and the human environment will be threatened.

EPN raised concerns that the draft guidance:

- Fails to ensure that federal agencies quantify direct and indirect greenhouse gas emissions, and suggests that such calculations may be excused if “speculative” or “impractical,” despite readily available analytic tools.
- Ignores the fact that numerous activities contribute to the GHG problem and individually modest projects collectively can contribute significantly. The fact that a single project will not cause or fix climate change is not a basis to evade NEPA’s obligation to rigorously consider its contribution.
- Emphasizes that NEPA does not require mitigation when GHG emissions are identified. The guidance trivializes federal responsibilities under NEPA by merely quantifying emissions, but not proposing and considering actions to ameliorate them through consideration of alternatives to avoid and mitigation to address potentially significant adverse impacts.
- Fails to address the need to build resilience and adaptation to extreme weather into the design and plans for federally-funded and supported projects.

EPN urges CEQ to develop guidance that will ensure federal agencies meet their obligations under NEPA and to the American people, and cautions that failure to do so risks delays when courts continue to find their compliance with NEPA to be inadequate when addressing climate change. EPN also urges CEQ to consider reinstating the previous guidance until an adequate substitute can be developed.