

# WH Guidance on Consideration of Greenhouse Gases During Environmental Reviews

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**OVERVIEW OF THE COUNCIL ON ENVIRONMENTAL QUALITY'S  
REVISED DRAFT GUIDANCE ON CONSIDERATION OF  
GREENHOUSE GAS  
EMISSIONS AND THE EFFECTS OF CLIMATE CHANGE IN  
NATIONAL ENVIRONMENTAL POLICY ACT REVIEWS  
HORST G GRECZMIEL  
ASSOCIATE DIRECTOR FOR NEPA OVERSIGHT  
NARUC PANEL  
15 FEBRUARY 2015**

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# WHERE

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## **NEPA.GOV**

- <https://ceq.doe.gov>
  - “Current Developments”
    - “CEQ Releases Revised Draft Guidance on Greenhouse Gases and Climate Change”

## **WHITEHOUSE.GOV**

- [www.whitehouse.gov/administration/eop/ceq](http://www.whitehouse.gov/administration/eop/ceq)
  - “Initiatives”
    - “Steps to Modernize and Reinvigorate NEPA”
      - “Revised Draft Guidance for GHG Emissions”

## **Federal Register**

- <https://federalregister.gov/a/2014-30035>
- 79 FR 77801 (December 24, 2014)

# WHEN – HOW TO APPROACH THE ANALYSIS

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## Proportionality

- Rely on agency experience and expertise to determine whether an analysis of GHG emissions and climate change impacts would be useful to the decision-maker and the public.
- Apply the “rule of reason” to ensure that the type and level of analysis is commensurate with the anticipated environmental effects of GHG emissions and climate change, and that these effects are deserving of study.

# WHEN – HOW TO APPROACH THE ANALYSIS

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## **Scoping**

- Use the traditional scoping process to ascertain whether consideration of GHG emissions and climate change impacts is relevant to the proposed action and the extent of analysis required.

## **Agency Decision Tools**

- Develop agency practices and guidance based on proportionality and the rule of reason that frame the process by which the appropriate type, level, and extent of analysis of GHG emissions and climate change impacts are determined.
- Provide the rationale for analyzing/not analyzing GHG emissions and climate change impacts in NEPA documentation.

# How

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## GHG Emissions as a Proxy

- Use the projected quantity of GHG emissions and, when appropriate, the potential changes in carbon sequestration and storage, as a proxy for assessing the climate change impacts of a proposed action.

# How

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## Reference Point

- Quantitative analysis of GHG emissions is warranted if  $\geq 25,000$  mt CO<sub>2</sub>-e on an annual basis are expected or quantification is easily accomplished.
- Qualitatively analyze GHG emissions if quantitative analysis is not easily accomplished, and explain why.
- The reference point is not a substitute for a determination of significance under NEPA. Significance is determined by considering the context and intensity factors set forth in 40 C.F.R. § 1508.27.

# How

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## Availability of Tools

- In determining whether a quantitative or qualitative analysis is warranted, quantify when tools and appropriate input data are available.
- Many reliable GHG accounting tools and methods exist today and are widely available.



# How

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## Quantitative vs. Qualitative

- Consider the rule of reason, reference point, and availability of tools and input data when deciding whether a quantitative analysis would be useful for distinguishing between alternatives or mitigation measures.

# EFFECTS

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## Direct – Indirect

- Assess effects caused by the proposed action that occur at the same time and place (“direct”) in addition to those that occur later in time but are reasonably foreseeable (“indirect”).
- Choose reasonable temporal and spatial parameters for the analysis of potential effects that would best inform the decision-making process and the public.

# EFFECTS

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## Upstream – Downstream

Consider emissions from activities that have a reasonably close causal relationship to the proposed action, such as those that may occur as a predicate for the proposed action (“upstream”) and those that may occur as a consequence of the proposed action (“downstream”).

# EFFECTS

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## Control vs. Disclosure

- Disclose the potential impacts of GHG emissions and climate change to the public and decision-makers when helpful for comparing alternatives or mitigation measures so that better, more informed decisions can be made.

# EFFECTS

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## Control vs. Disclosure

- Disclosure goes beyond those actions over which the agency has control or responsibility – it includes effects outside the control of the agency; however, the agency should clearly distinguish those effects.

# EFFECTS

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## Control vs. Disclosure

- The revised draft guidance does not establish regulatory requirements or compel agencies to prohibit or curtail GHG emissions. In conformance with NEPA's basic principles, it does not mandate particular results or insist that agencies select the alternative with the least GHG emissions and climate change effects.

# AFFECTED ENVIRONMENT

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## ➤ Effects of Climate Change – IPCC, USGCRP interagency effort

- Scientific research has shown that a rise in global atmospheric GHG emission concentrations is significantly affecting the Earth's climate.
- Anticipated effects of climate change include more frequent and intense heat waves, more severe wildfires, degraded air quality, more heavy downpours and flooding, increased drought, greater sea-level rise, more intense storms, harm to water resources, harm to agriculture, and harm to wildlife and ecosystems.
- Describe the current and expected future state of the affected environment based on available climate change information, including observations, interpretive assessments, predictive modeling, scenarios, and other empirical evidence, in NEPA documents.

# AFFECTED ENVIRONMENT

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## Sustainability

- Design alternatives that account for potential climate change effects on a proposed action over the course of its anticipated useful life, especially if it will be located in an area that is considered vulnerable to specific effects such as sea-level rise.
- Examine the impacts of climate change on a proposed action that could affect sensitive populations or environmental resources.



# BASELINE

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## Context: local, regional, international

- Perform meaningful analyses of GHG emissions and climate change impacts.
  - Avoid relying upon boilerplate text or merely comparing the estimated quantity of emissions from a proposed action to calculated quantities of global emissions unless such a comparison truly would assist the public and the decision-maker.
- In addition to employing the rule of reason and conducting analyses that are proportional to anticipated impacts, incorporate agency emissions targets, such as applicable Federal, state, tribal, or local goals for GHG emission reductions, to provide an analytical frame of reference, and discuss whether the expected emissions are consistent with such goals.

# BASELINE

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## Short Term – Long Term

- Consider both the short- and long-term effects and benefits of the proposed action based on the expected life of the project and the duration of the generation of emissions.
- Such consideration is appropriate both in the analysis of alternatives and mitigation measures.

# ADAPTATION/PREPAREDNESS

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## Opportunity with Early Planning

- Analyze potential GHG emissions and climate change effects early in the NEPA process to maximize opportunities to adjust alternatives and mitigations which will ultimately lead to more resilient proposed actions.

# ADAPTATION/PREPAREDNESS

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## ➤ Sustainability – Broader GHG Goals

- Programmatic or landscape level NEPA reviews that support agency decisions affecting broad scales should provide an aggregate analysis of GHG emissions or climate change effects when trends in changing environmental conditions can be determined.
  - Agencies should also discuss broader sustainability and GHG goals such as promoting energy efficiency, avoiding or reducing GHG emissions, reducing the use of petroleum products, and using or developing renewable energy.

# ADAPTATION/PREPAREDNESS

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## Sustainability – Broader GHG Goals

- Tiered documents can incorporate analyses in programmatic NEPA documents by reference and demonstrate how a particular proposed action affects the broader sustainability and GHG goals articulated in the programmatic document.

# COMMENTING LOGISTICS

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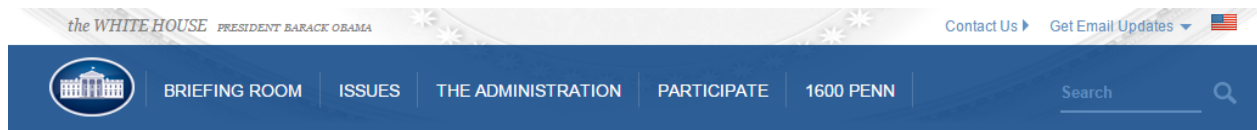
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- CEQ is accepting public comments on the Revised Draft Guidance for 60 days through **February 23, 2015**.
- Comments may be submitted:
  - Online at <http://www.whitehouse.gov/webform/submit-comments-revised-draft-guidance-greenhouse-gas-emissions-and-climate-change-impacts> (see next slide for details)

# Commenting Logistics (continued)

- Via electronic mail to  
[GCC.guidance@ceq.eop.gov](mailto:GCC.guidance@ceq.eop.gov)
- In writing to:  
Council on Environmental Quality,  
ATTN: Horst Greczmiel  
722 Jackson Place, NW  
Washington, DC 20503

# COMMENTING LOGISTICS CONT.



## Submit Comments on the Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts

The comment period for the revised draft guidance for consideration of greenhouse gas emissions and climate change impacts in NEPA reviews will be open for 60 days from the date of publication in the Federal Register. All comments received by CEQ will be publicly posted on the CEQ website. Thank you for your submissions.

<http://www.whitehouse.gov/webform/submit-comments-revised-draft-guidance-greenhouse-gas-emissions-and-climate-change-impacts>

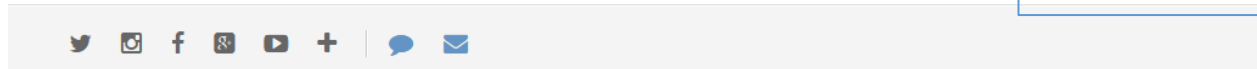
The image shows a web form for submitting comments. It includes several input fields: 'First Name', 'Last Name', 'Organization or Affiliation', 'Email' (with a note 'Will not be shared publicly'), 'City', 'State' (a dropdown menu currently showing '- None -'), and a large text area for 'Your Comment'. There is also an 'Attachment' section with a 'Choose File' button and the text 'No file chosen' and 'Upload a PDF, Word document or Excel file.' At the bottom left is a 'Submit' button. Blue arrows point from text boxes on the right to these various fields.

Provide first & last name, organization or affiliation, and email address

Enter comments

There is also an option to upload a PDF, Word document, or Excel file containing comments

Click "submit" after completing all required fields





# QUESTIONS?



**Marc Spitzer, Attorney**

Steptoe & Johnson