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## Top NEPA Lawyer Renews Call For GHG Guide

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One of the lawyers who petitioned the White House Council on Environmental Quality (CEQ) seeking new rules and guidance to help agencies account for climate change impacts in their National Environmental Policy Act (NEPA) reviews is backing the council's recent decision not to revise its NEPA rules.

But Michael Gerrard, the Columbia University Law professor who helped write the 2008 petition on behalf of the Natural Resources Defense Council (NRDC), is faulting CEQ for failing to issue new NEPA guidance to the agencies on how to assess projects' climate impacts, saying such guidance is needed to ensure consistent analysis.

In an [Aug. 13 blog post](#) Gerrard says CEQ is correct that existing NEPA regulations are broad enough to encompass climate change, but that "guidance would be very useful. Moreover, it should be more specific than that provided in the draft guidance from 2010, which states general principles but furnishes few specifics about just how the analysis should be performed."

Gerrard's comments come after CEQ [Aug. 7 formally rejected](#) environmentalists' 2008 petition seeking both revised NEPA rules and final guidance on how to account for climate change and greenhouse gases (GHGs) in reviews of federal projects. Although CEQ rejected both of environmentalists requests, the council said it continued to consider comments on the 2010 draft guide.

Gerrard represented NRDC, which joined the International Center for Technology Assessment in an April suit seeking to force issuance of the guidance. The Department of Justice in an [Aug. 8 motion](#) to a federal district court seeks to dismiss the suit, saying CEQ's response renders moot advocates' claims of an "unreasonable delay" in responding to the 2008 petition.

In his essay, which ran as a guest blog on NRDC's website, Gerrard cited a 2012 analysis by the Columbia Law School that showed some agencies "were doing an excellent job of considering climate change in their [environmental impact statements (EISs)], while others were doing little or nothing."

"In the absence of official guidance, however, federal agencies were rudderless in exactly how to carry out this analysis," he writes.

Many EISs, Gerrard writes, simply calculate the GHGs emitted by a project and conclude it will have little impact on global emissions. But that "misses the point. Climate change results from the cumulative effect of millions of actions, and all large actions should take climate change into account if we are going to address this massive problem."

A meaningful GHG analysis in a NEPA review, according to Gerrard, would address whether projects are "as energy and water efficient as possible" and whether the project will be resilient to expected climate conditions over the life of the project. For example, he cites reviews conducted by New York City under the state version of NEPA that spurred project modifications to increase their climate resilience.

He also calls for a look at the impact fossil fuel extraction and processing projects would have on the world's "carbon budget," which he defines as the total amount of fossil fuels that can be burned before GHG concentrations are intolerable. CEQ's draft guidance does not address this issue, he writes, but that impact "needs to become a central part of the analysis of such actions as" leasing federal lands for coal or gas extraction, issuing drilling permits and approval of pipelines, ports and rail that transport fuel.

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