



## Memorandum

Environment Committee

Lands Committee

Coal Policy Task Force

Minerals Policy Task Force

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CEQ Withdraws NEPA GHG Guidance

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The Council on Environmental Quality (CEQ) last week formally [withdrew](#) its 2023 interim National Environmental Policy Act (NEPA) [guidance](#) on consideration of greenhouse gas (GHG) emissions and climate change. The withdrawal went into effect on May 28, 2025. As the basis for the withdrawal, CEQ cites [Executive Order 14154](#), *Unleashing American Energy*, as well as an Office of Information and Regulatory Affairs (OIRA) May 5, 2025 [guidance](#) on implementation of Section 6 of the EO regarding "prioritizing accuracy in environmental analyses."

## Background

The National Mining Association (NMA) submitted [comments](#) expressing concerns that the expanded scope of the required NEPA analysis would lead to greater uncertainty and delays in permitting. Additionally, the NMA's comments stressed the importance of limiting the scope of NEPA to actions within the scope of the agency's statutory authority, especially when considering the reasonably foreseeable effects of the action. The 2023 interim guidance went into effect immediately. The Biden administration did not respond to comments or revise the interim guidance further.

## CEQ Withdrawal

In withdrawing the 2023 interim guidance, CEQ concluded that it is inconsistent with the policy objectives in EO 14154 related to: (1) protecting the United States' economic and national security by ensuring abundant, reliable, and accessible energy; (2) ensuring "all regulatory requirements related to energy are grounded in clearly applicable law"; and (3) distinguishing between global effects of a rule and domestic costs and benefits.

CEQ relies heavily on Section 6 of EO 14154. As we [previously informed](#) you, this section requires all agencies to "adhere to only the relevant legislated requirements for environmental considerations" and not use methodologies that are "arbitrary" or "ideologically motivated." According to the EO, "[t]he calculation of the 'social cost of carbon' is marked by logical deficiencies, a poor basis in empirical science, politicization, and the absence of a foundation in legislation." In direct conflict, the 2024 interim guidance recommended that agencies quantify and monetize GHG emissions using social cost of carbon estimates, as well as relied on previous administration EOs related to environmental justice and climate policies that President Trump withdrew by executive action. Accordingly, CEQ has withdrawn the guidance and "will address in a separate notice any new or revised guidance that may be appropriate."

OIRA's guidance implementing Section 6 provides additional instructions to agencies. OIRA directs agencies to "review their existing policies, guidance, regulations, and governing statutes to determine whether the consideration of [GHGs] emissions is required, and in what manner, in agency regulatory and permitting decisionmaking." OIRA advises agencies to "limit their analysis and consideration of [GHG] emissions only to that plainly required in their governing statutes." OIRA opines that "the circumstances where agencies will need to engage in monetized [GHG] emission analysis will be few to none." When statutes require the consideration of GHG emissions, OIRA instructs agencies to "limit their analysis to the minimum consideration required to meet such a statutory requirement," as well as "[limit analyses] to domestic effects, unless an analysis of extraterritorial impacts is required[.]"

Furthermore, OIRA also asserts that no U.S. Supreme Court case law "provides that [GHG] emissions must be quantified or that agencies must monetize the impact of such quantifications in connection with any particular statutory regime or as a general manner." If federal circuit court precedent "conclude[s] that such quantifications/monetized impact calculations are required by statute," agencies must consult with the Department of Justice "to consider the agency's options under the nonacquiescence doctrine." OIRA

also directs agencies not to monetize the impacts from GHG emissions when quantifying emissions in response to federal circuit court precedent, emphasizing the great uncertainties in this practice.

### **Next Steps**

The NMA will continue to monitor any developments regarding this matter. If you have any questions in the meantime, please contact Tawny Bridgeford at [tbridgeford@nma.org](mailto:tbridgeford@nma.org).

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