

Climate Change Regulation and Water Supply

19th Annual Oregon Water Law Conference
Wednesday, November 3, 2010

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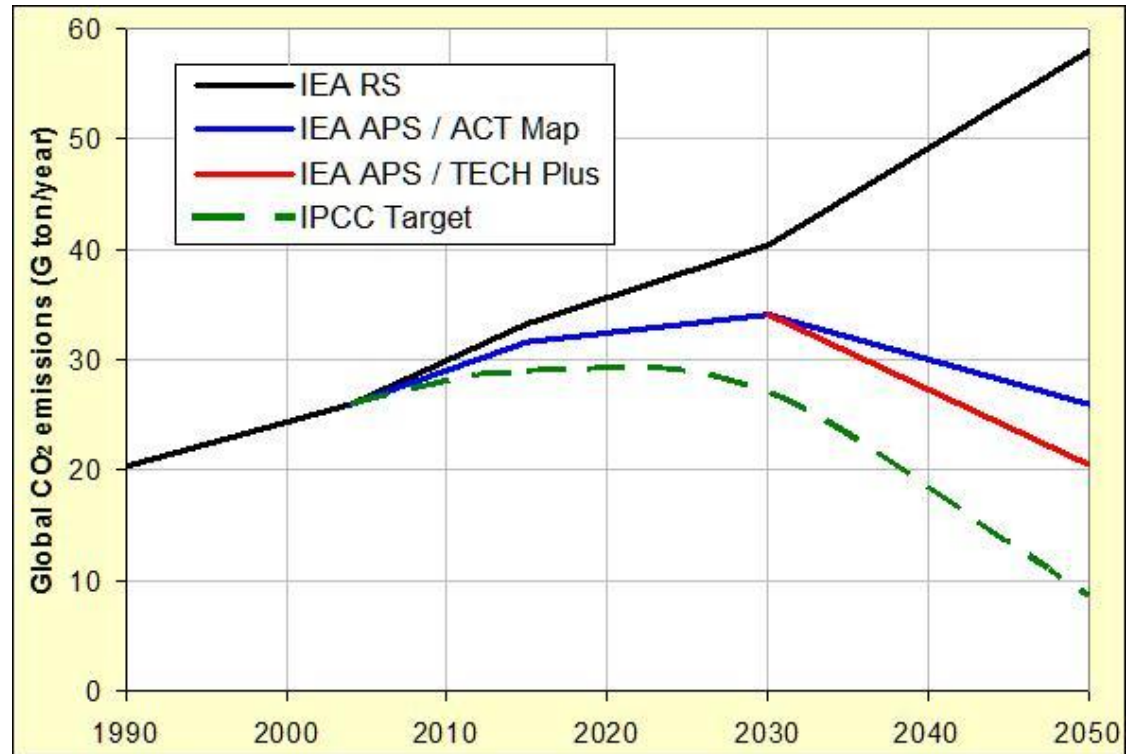


Agenda

Federal Climate Change Legislation

- SEC Climate Change Guidance
- CEQ's NEPA Guidance
- Ecology's SEPA Guidance

Context



Federal Legislation

- Waxman-Markey (H.R. 2454) passed the House on June 26, 2009
- Kerry-Boxer (S. 1733) reported by the Senate Environment and Public Works Committee on November 5, 2009
- After Senator Graham backed out, Senators Kerry and Lieberman released their draft bill on May 12, 2010
- With Republicans taking over the House, cap and trade now off the table for at least two years

SEC Guidance

- Guidance Regarding Disclosure Related to Climate Change, 17 C.F.R. parts 211, 231 and 241
- Required disclosures include:
 - Impact of future climate regulation
 - Effect of water supply changes, rising sea levels, changing weather patterns, etc. on the company and its supply chain
 - Effect of climate change on demand for the company's products or services

NEPA Overview

- National Environmental Policy Act (NEPA): requires assessment of environmental impacts of “major Federal actions significantly affecting the quality of the human environment”
- Administered by White House Council on Environmental Quality (CEQ)
- CEQ has issued draft guidance on analyzing climate change-related impacts under NEPA

NEPA Overview (cont.)

- NEPA analysis requires a detailed statement:
 - environmental impacts
 - adverse environmental effects that cannot be avoided
 - alternatives
 - relationship between short-term uses and long-term productivity, and
 - any irreversible and irretrievable commitments of resources

NEPA Meets Climate Change

- CEQ now saying that climate change must be part of NEPA analysis, like any other environmental impact:
 - Effect of the proposed project on GHG emissions; and
 - Effect of climate change on the proposed project

Project Impact on Climate Change

- Recommended threshold for analysis is 25,000 metric tons annually
- At or above that level, CEQ recommends that agencies:
 - Quantify cumulative emissions over the life of the project
 - Discuss measures to reduce GHG emissions, including consideration of reasonable alternatives, and
 - Qualitatively discuss the link between such GHG emissions and climate change
- “Rule of Reason”

Climate Change Impacts on Project

- Level of analysis depends on:
 - Vulnerability of the project
 - Vulnerability of the affected environment
 - Project timeframe
- Need not undertake exorbitant research of projected climate change impacts; may incorporate existing scientific literature by reference
- CEQ example: an industrial facility that draws water from a water body that is dwindling because of decreased snowpack in the mountains or that is warming due to increasing atmospheric temperatures

WA SEPA Overview

- WA SEPA modeled on NEPA, except SEPA is substantive (See RCW 43.21C.060)
- Draft guidance issued May 27, but converted to “working paper” on October 19
- Lead agencies are to consider climate change where a proposal:
 - Will lead to significant GHG emissions; or
 - May be vulnerable to effects of climate change

UW Climate Impacts Group

- CIG says Northwest can expect:
 - Higher temperatures
 - ***Changes in precipitation patterns***
 - ***Lower water supply in summer months***
 - Elevated stress on certain animal species and habitats
 - Increased risk to our forests
 - Reductions in air quality
 - ***Adverse impacts to agriculture***
 - Increased risk to coastal areas
 - ***Decrease in summer hydropower production***
 - Increase in summer energy demands
 - Increase in illness and mortality related to heat and worsening air quality

What is “Significant?”

- If the incremental addition of GHGs from a proposed project is “significant,” the proponent must either mitigate the emissions to a level of non-significance or an EIS must be prepared
- Ecology welcomes further discussion
- Agency may make policy judgment or decide on case-by-case basis
- 10,000 tons/year? 25,000 tons/year?

SEPA Checklist

- Earlier guidance supplemented the SEPA checklist with a far-reaching GHG emissions checklist, including:
 - All mobile and stationary sources
 - Purchased electricity and steam
 - Extraction, processing, and transportation of purchased materials
 - Waste management
 - Product use
- Now, working paper points to SEPA checklist

Vulnerability Analysis

- Regarding climate change impacts on the project, Ecology considers vulnerability:
 - Water availability (changes in precipitation patterns)
 - Water quality (particularly temperature and stormwater runoff)
 - Urban infrastructure (particularly due to increased stormwater runoff)
 - Energy supply and demand (due to water supply and ambient temperature rise)
 - Impacts due to extreme weather events (flooding, windstorms, droughts, heat waves)
 - Coastlines (direct and indirect impacts from sea level rise)

SEPA Substantive Authority

- Required mitigation may include:
 - Develop projects along reliable and convenient public transit
 - Water recycling or gray water system
 - Organic or low input agriculture
 - On-site renewable energy production
 - Charging stations for plug-in electric vehicles
 - Locally sourced and reused building materials
 - Energy efficient industrial processes

Next Steps

- Comment on the working paper by November 17?
- Address GHG emissions in SEPA checklist
- Develop alternatives and detailed, defensible mitigation plans
- Analyze your project's vulnerability to climate change impacts, using existing scientific literature

For More Information

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