

The White House has proposed [new guidelines](#) on how to treat greenhouse gas emissions in environmental impact statements. Basically, the document recommends a quantitative analysis of carbon emissions whenever emissions exceed 25,000 tons per year. The proposal goes beyond a previous one in targeting resource projects such as coal mines as well as direct emissions. Last year, 33 Republican Senators released a [letter](#) warning against this step, arguing that it expands NEPA beyond its intentions and that courts require a “direct and proximate link” between a project and a possible environmental impact.

It’s important to keep in mind the statute’s broad ambitions. One section declares the government’s responsibility to “fulfill the responsibilities of each generations as trustee of the environment for succeeding generations,” and it is future generations who will feel the greatest impact of climate change. Another section requires government agencies to “recognize the worldwide and long-range character of environmental problems.”

In terms of the current case law, it’s worth noting that two circuits have held that agencies must consider climate impacts. Moreover, the existing guidelines, which receive substantial judicial deference, require consideration of “indirect effects, which are caused by the action and are later in time or farther removed in distance,” including impacts on natural resources and ecosystems. The only limitation is that the effect be “reasonably foreseeable.” The impact of carbon emissions on the global climate is well-established scientifically, as is the likelihood of major adverse effects on the environment.