

# Consideration of Climate Change under NEPA

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Assessing the Benefits of Avoided Climate Change – Washington, DC

# National Environmental Policy Act

- **Purpose:** *“...encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man...”*
- **Practice:** procedural tool for evaluating federal actions
- **Scope:** 542 Environmental Impact Statements filed in 2006 (primarily Departments of Agriculture, Interior, Transportation, Defense, Energy)

# NEPA - 1997

CEQ Chairman McGinty to Agency heads:

*“...the vast majority of scientific evidence supports the view that continued increases in greenhouse gas emissions will lead to climate change...because of the potentially substantial health and environmental impacts associated with climate change, the Council on Environmental Quality is issuing this guidance today calling on federal agencies to consider...two aspects of global climate change.”*

# McGinty - continued

- “ (1) The potential for federal actions to influence global climatic change (e.g., increased emissions or sinks of greenhouse gases)”*
- “ (2) The potential for global climatic change to affect federal actions (e.g., feasibility of coastal projects in light of sea level rise)”*

# NEPA - Today

McGinty's guidance was never finalized:

- Increasing number of court decisions requiring consideration of climate change under NEPA
- Piecemeal assessment procedures among federal agencies
- Continuing absence of essential information needed to understand the costs and consequences of federal actions

# Step #1: Executive Order

The President should direct the Chairman of the Council on Environmental Quality to:

- Define and interpret NEPA to include consideration for global warming
- Require systematic assessments of GHG emissions and climatic vulnerability
- Require evaluation of alternatives that reduce emissions and climate vulnerability
- Provide periodic public reporting on the results of such considerations

## Step #2: Implementation

An Executive Order alone is not enough. It must be complemented by:

- Executive and legislation action to establish a national emissions reduction goal and implementation plan
- Aggressive oversight and enforcement
- When necessary, third-party litigation

# California Environmental Quality Act

NEPA & CEQA: “Similar laws with a common purpose”

- Executive and legislative action to establish a emissions reduction goal and plan
  - AB 32/CARB Scoping Plan
- Aggressive oversight and enforcement
  - Attorney General
- When necessary, third-party litigation
  - NGO legal action

# Current CEQA Requirements

Plans *and* projects must not undermine state GHG reduction goals.

- Assess the impact on GHG emissions *and* the consequences of changing climatic conditions
- Quantify and disclose emissions
- Reduce emissions to a level “consistent with AB 32”

# Project-level CEQA Commitments

## Non-transportation GHG emissions

Location	Type	GHG reduction from BAU	Features
Los Angeles (2008)	Planned Community	35%	Energy efficiency + PV + reclaimed water + xeriscape
Encinitas (2009)	Mixed-use	28.8%	Energy efficiency + PV + water
Encinitas (2008)	Mixed-use	+25%	Energy efficiency + PV + water
San Diego (2007)	Planned Community	22%	Energy efficiency + PV + water

# Benefits from Commitments

- **Avoided risks of delay and litigation**
- Lower energy bills
- Lower total monthly housing costs (net)
- Reduction of peak electricity demand
- Reduced overall water consumption
- Reduced potable water use

# CEQA Policy Challenges

- Plans or projects are evaluated based on *consistency with state emission reduction goal* (a “significance threshold”)
- However, there is still no clear, consistent, and quantitative basis for connecting state goals to individual plans and projects

# Emerging CA Policy Framework

State Scoping Plan (AB32)

Regional Plans (SB375)

General Plans

Climate Action Plans

Plans and Projects (SB97)

# NEPA Implications

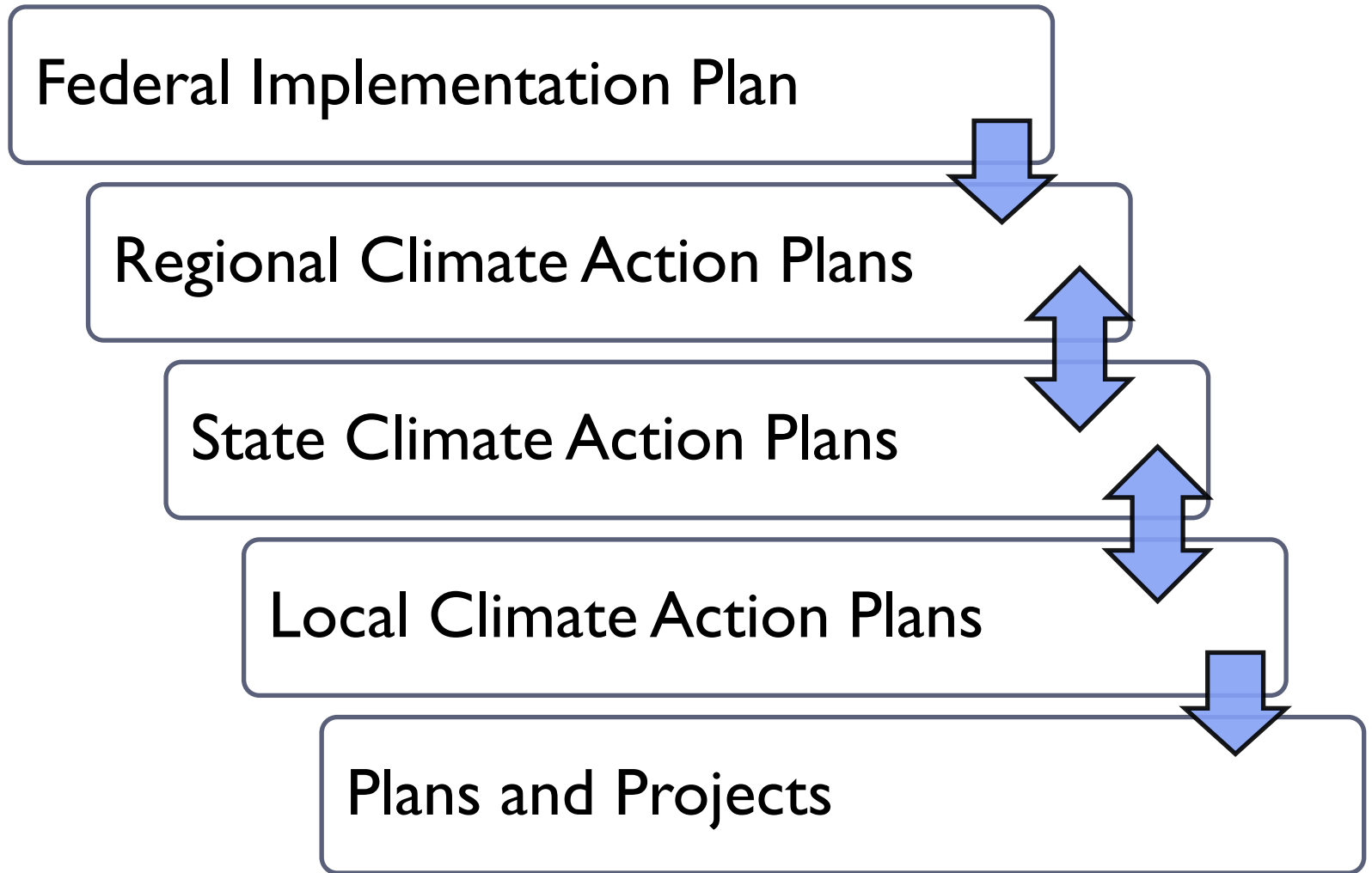
A hierarchy of goals and plans is needed at the federal level.

*“Until meaningful, accepted thresholds are adopted against which to weigh any project-related GHG emissions, it will not be possible to determine whether a specific project will have a significant effect...”*

Climate Change Considerations in Project Level NEPA Analysis

A.R. Kimell, Chief, USDA Forest Service, January 13, 2009

# Skeleton of Federal Framework



# Questions

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