



NEPA AND CEQA: OVERVIEW AND CURRENT ISSUES
Bren School – October 6 and 13, 2023, 10am-1pm, BH 1510
Maggie Hall, Deputy Chief Counsel, Environmental Defense Center

Course Description

This seminar course is intended to build off other Bren courses and focus on current issues pertaining to the National Environmental Policy Act (“NEPA”) and California Environmental Quality Act (“CEQA”). I will provide a brief overview of the statutes and regulations to support the case illustrations that will be discussed in class. For our case studies, I have selected issues involving oil development, land use, and climate change. I will discuss the application of NEPA and CEQA to these matters, and provide examples of how the public can invoke the requirements of NEPA and CEQA to ensure that decision-makers adequately consider environmental concerns. In addition to the lecture, I will provide related reading materials and optional reading materials, as well as examples of cases and real-life administrative processes in which students can consider participating.

Syllabus

I. NEPA

A. Overview

B. Case Studies

1. *EDC v. BOEM*: offshore fracking and acidizing
Reading: *EDC v. BOEM*: Ninth Circuit Opinion (6/3/22)
2. Oil and Gas Generation Conservation Plan for Santa Barbara County
Reading: 85 FR 13181 (“Draft Environmental Assessment and Draft General Conservation Plan for Oil and Gas Activities in Santa Barbara County, California”)
Optional reading: *Environmental Defense Center letter to U.S. Fish & Wildlife Service regarding Draft GCP and Draft EA* (5/6/20)
3. *Center for Biological Diversity v. National Highway Traffic Safety Administration*: corporate average fuel economy (“CAFE”) standards
Reading: *CBD v. NHTSA*, 538 F.3d 1172 (9th Cir. 2008)

C. CEQ NEPA Regulatory Changes 2020

Reading: Berkeley Law; Center for Law, Energy, & the Environment, *Proposed Action Memo: CEQ Rollbacks to the National Environmental Policy Act* (1/2021)

Optional Reading: *Guidance on Consideration of Greenhouse Gases*, https://ceq.doe.gov/guidance/ceq_guidance_nepa-ghg.html

II. CEQA

A. Overview and comparison to NEPA

Optional reading: *NEPA and CEQA: Integrating Federal and State Environmental Reviews*, February 2014, https://ceq.doe.gov/docs/ceq-publications/NEPA_CEQA_Handbook_Feb_2014.pdf

B. Case Studies

1. ExxonMobil Trucking and Santa Ynez Unit Restart Project; Plains Replacement Pipeline Project
Optional reading: *Notice of Preparation for ExxonMobil Interim Trucking for SYU Phased Restart Project Draft Environmental Impact Report (EIR)* (6/15/18); *Environmental Defense Center letter to Santa Barbara County Planning Commission* (9/27/21)
2. Cat Canyon Onshore Enhanced Oil Recovery Projects
Optional reading: *Notice of Preparation for ERG Draft Environmental Impact Report* (8/24/15); *Environmental Defense Center letter to Santa Barbara County Planning Division* (8/3/18)
3. San Diego County's Climate Action Plan and State Climate Policy
Reading: *CEQA and Climate Change*, <http://opr.ca.gov/ceqa/climate-change.html>
Optional reading: *Golden Door Properties, LLC v. County of San Diego*, 27 Cal.App.5th 892 (2018); *Sierra Club v. County of San Diego*, 231 Cal.App.4th 1152 (2014)