

The Cumulative Impacts of Coal Export Terminals: FAQs on Programmatic Environmental Review

The Pacific Northwest is at a crossroads. Global coal companies are seeking permits to build at least seven coal export terminals in Washington and Oregon – currently four along the Columbia River, two on the Coast and one on the banks of Puget Sound. If all of these terminals were built, more than 150 million tons of coal annually would travel through Washington, Oregon, Montana and Idaho. Some Northwest communities could see as many as 60 mile-and-a-half long coal trains rolling through town—every day. Communities all along the rail corridor and at the terminal sites have serious concerns about the coal dust, diesel pollution, traffic congestion, safety, noise, and the disruption to daily commerce and quality of life that would follow from construction of these facilities.

Right now, no one is asking the hard questions about whether these terminals are right for the Pacific Northwest and what it means for affected communities not only in Washington and Oregon but inland along rail-lines in Montana and Idaho. That’s why a growing coalition of citizens is calling on federal and state governments to conduct an environmental analysis of the cumulative or shared impacts of all the terminal sites before any permitting decisions are made. Such a document, called a “programmatic environmental impact statement,” would provide an opportunity to analyze the “big picture” and give citizens throughout the region an opportunity to weigh in with decisionmakers.



Roberts Bank (Westshore Terminal) Coal Export Terminal in Vancouver, Canada currently exports 21 million tons of coal annually.

What is a “programmatic environmental impact statement”?

A programmatic environmental impacts statement (“EIS”) is a document that considers at one time several related actions within a geographic area that have shared impacts. NEPA regulations specifically direct agencies to consider in a single EIS independent actions that are “cumulative” (i.e., that when viewed together have “cumulatively significant impacts”) or “similar” (i.e., that when viewed with “other reasonably foreseeable or proposed agency actions have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography”). 40 C.F.R. § 1508.25.

Programmatic EISs involving multiple independent proposals are always an option where they make sense, and can be required in some instances. In a landmark case, the U.S. Supreme Court case observed that “when several proposals for coal-related actions that will have a cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together. Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action.” Kleppe v. Sierra Club, 427 U.S. 390, 410 (1976).

Why should a programmatic EIS be performed for coal export terminals?



Right now, the U.S. Army Corps of Engineer is processing permits for multiple coal export terminals in Washington and Oregon: Cherry Point (48 million tons per year (“mty”)), Longview (44 mty), and Port of Morrow (9 mty). The Corps is processing another permit application for a terminal at the Port of Coos Bay (reportedly 10 mty) that does not provide details on the Port’s plans to build a coal export terminal. There are other proposals that have been publicly discussed even though no formal permit applications have been filed with the Corps yet (for example, the Rail America proposal at Grays’ Harbor and the Kinder-Morgan project at Port of St. Helens). Still others may be proposed in the near future.

Each of these projects has serious environmental impacts at the terminal location and surrounding area due to air and water pollution, safety risks, and local traffic impacts. However, the various projects also

have a number of very serious collective impacts that affect the regional and even the global environment that are better considered in one programmatic EIS. For example, operation of all of the pending or potential known proposals could mean around 150 million tons per year moving via rail—scores of mile-and-a-half-long trains every day—through Northwest communities. The programmatic EIS could consider those shared impacts of all the terminal proposals, and separate terminal-specific EISs could be performed on the individual or unique impacts of the individual projects.

What should a programmatic EIS include?

A programmatic EIS should consider those environmental impacts of the various coal export terminal proposals that are cumulative or similar. The precise contours of what should be included in the EIS should be determined through a full scoping process that includes multiple hearings around the region to allow the public to voice concerns common to all the projects. 40 C.F.R. § 1501.7. Issues that could be considered for inclusion in a programmatic EIS include:

- Traffic, pollution, safety, and congestion issues along the rail line between coal mines and the Pacific Northwest.
- Increased mining in Wyoming and Montana, particularly on public lands, and its effect on domestic energy security and pricing.
- Effect on global consumption of coal due to effect of export on market prices, and resulting increased greenhouse gas emissions.
- Effect of significantly increased barge and cargo ship operations on the Columbia and in Puget Sound.

Does Washington State have authority under SEPA to do a programmatic EIS?

Yes. Under SEPA, agencies have authority to perform an EIS on “nonproject” proposals. WAC 197-11-442. While nonproject proposals can include programs, policies and plans, WAC 197-11-774, Ecology’s SEPA handbook confirms that a nonproject EIS can cover a “series of connected actions.” SEPA Handbook at 65; 46 (noting that “nonproject” is the same as “programmatic”). Ecology has been involved in programmatic EISs in the past, for example for the Columbia River Water Management System.¹ Also, Ecology has cooperated with federal agencies, including the Corps, on joint SEPA/NEPA programmatic EISs.²

¹ <http://www.ecy.wa.gov/programs/wr/cwp/eis.html>

² <http://www.ecy.wa.gov/programs/tcp/smu/muds/MPEISSummary.htm>



150 million tons of coal/year out of NW ports means some communities could see as many as 60 mile-and-a-half long coal trains passing through every day.

What would a programmatic EIS mean for the terminal-specific EISs?

Terminal-specific EISs could focus only on those aspects of each project that are unique to that project, and incorporate by reference the programmatic EIS for discussion of cumulative effects, as long as its adequate. Both NEPA and SEPA provide for “tiering” from broad EISs to more site-specific EISs. 40 C.F.R. § 1502.20. This means that the terminal-specific EISs would not need to evaluate cumulative effects that are already analyzed in the programmatic EIS. Both SEPA rules and the SEPA Handbook acknowledge that a programmatic EIS provides greater predictability, and greater efficiency, for project-specific review. SEPA Handbook, at 65; WAC 197-11-060(5)(c)(i) (discussing phased review from programmatic to project-specific review).

Are Programmatic EISs unusual or uncommon?

No. Federal agencies have performed comprehensive programmatic EISs for a variety of different agency actions, programs, or plans, including:

- Energy development actions on public lands, including wind, solar, geothermal and tar sands;³
- Designation of energy corridors;⁴
- Approval of mountaintop-removal mining permits;⁵
- Development of high-speed rail corridors;⁶
- Management actions to recover protected species;⁷
- Regulation of genetically engineered crops;⁸
- Military training and readiness activities;⁹
- Law enforcement;¹⁰

³ http://www.blm.gov/wo/st/en/prog/energy/geothermal/geothermal_nationwide/Documents/Final_PEIS.html; <http://windeis.anl.gov/>; <http://solareis.anl.gov/>; <http://ostseis.anl.gov./index.cfm>.

⁴ <http://corridoreis.anl.gov/>

⁵ <http://www.epa.gov/region03/mtntop/eis2005.htm>

⁶ <http://govpulse.us/entries/2004/05/20/04-11397/programmatic-environmental-impact-statement-high-speed-rail-corridor-las-vegas-nv-to-anaheim-ca>

⁷ <http://www.nmfs.noaa.gov/pr/permits/eis/hawaiianmonkseal.htm>; <http://www.gpo.gov/fdsys/pkg/FR-2011-05-20/html/2011-12511.htm>.

⁸ http://www.aphis.usda.gov/publications/biotechnology/content/printable_version/fs_programmatic_eis.pdf

⁹ <https://www.federalregister.gov/articles/2011/10/14/2011-26579/draft-programmatic-environmental-impact-statement-eis-for-modernization-of-training-infrastructure>

¹⁰ http://www.jtfn.northcom.mil/factsheets/peis_jun01.pdf