Under the Wisconsin Environmental Policy Act (WEPA) and the National Environmental Policy Act (NEPA), state and federal agencies are required to review the impacts of their decisions on the environment. When those decisions involve major projects that significantly impact the quality of the human environment, those agencies must prepare a detailed statement, also known as an Environmental Impact Statement (EIS).

"A vital requisite of environmental management is the development of adequate methodology for evaluating the full environmental impacts and the full costs—social, economic, and environmental—of Federal actions."

U.S. Senate Report on NEPA

When an EIS is required for the construction of pipelines to transport oil, WEPA and NEPA require the Wisconsin Department of Natural Resources (DNR) and the U.S. Army Corps Of Engineers (USACE) to carefully consider intergenerational equity before permitting the project to go forward.

What is Intergenerational Equity?

Intergenerational equity is an environmental principle representing fairness amongst all generations in the use, conservation, and preservation of the environment and its natural resources. It seeks to balance the right to manage natural resources for present development with the duty to safeguard natural resources for the benefit of future generations. The principle is embedded in international, federal, and state law.

"As members of the present generation, we hold the earth in trust for future generation"

Edith Brown Weiss, 1980

International law recognizes that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.” United Nations, Principle 3 of the Rio Declaration on Environment and Development.
Intergenerational Equity under NEPA and WEPA

When evaluating the environmental effects of the construction of oil pipelines, NEPA and WEPA hold the federal and state government responsible for making decisions for the benefit of present and future generations. The law provides that the federal and state government must “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.” To that end, an EIS must adequately analyze:

- All foreseeable direct, indirect, and cumulative impacts of the pipeline construction,
- The relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity, and
- Any irreversible or irretrievable commitments of resources that would be involved in the construction of the pipeline

*To find all the general requirements related to the development of an EIS, see this Guide at https://midwestadvocates.org/assets/resources/EIS-Guide.pdf*

Climate Harms Associated with the Construction of Fossil Fuel Pipelines

In light of their trust responsibilities and to satisfy the legal requirements outlined above, DNR and USACE must take a “hard look” at the climate effects of a pipeline infrastructure project that facilitates the combustion of fossil fuels under the environmental review process.

The greenhouse gas (GHG) emissions associated with the construction of an oil pipeline add pressure to an already stressed atmosphere to the disproportionate detriment of younger and future generations. For instance, the Fourth National Climate Assessment estimates that climate change will lead to increased temperatures and precipitation that will reduce agricultural productivity, erode soils, contribute to poor air quality, and overall worsening of economic conditions in the Midwest.

These types of harms resulting from the accumulation of GHG emissions derived from fossil fuel infrastructure that burden environmental and economic systems are required to be accounted for in the environmental review process.

The Social Cost of Greenhouse Gases

To carefully consider the climate harms associated with the construction of a fossil fuel pipeline, the EIS must first adequately quantify all the emissions linked to the project. This may include emissions from fossil fuel’s extraction, transportation, refining, and ultimate end-use.

Then, the EIS must adequately monetize the social cost of these emissions using models and assumptions widely accepted by the scientific community. The Social Cost of GHG or the Social Cost of Carbon is the most widely accepted model for the monetization of climate harms.