

20 Stan. Envtl. L. J. 497 (2001)
 EPA's NEPA Duties and Ecosystem Services, The; Fischman, Robert L.

The EPA's NEPA Duties and Ecosystem Services

Robert L. Fischman*

I. INTRODUCTION	497
II. SOURCES OF NEPA LAW	503
A. NEPA and the Clean Air Act	503
1. NEPA	503
2. Clean Air Act	508
B. The CEQ Regulations	510
1. Incomplete or Unavailable Information	511
2. Cumulative Impacts	512
C. The CEQ Biodiversity Report	514
III. THE EPA'S ENVIRONMENTAL REVIEW PROCESS	516
IV. THE EPA ECOLOGICAL GUIDANCE FOR NEPA REVIEW ..	519
A. Early Efforts	521
B. Habitat Evaluation	524
C. Grazing on Federal Lands and Highway Development	526
D. Considering Ecological Processes in Environmental Impact Assessments	529
V. CONCLUSION	533

I. INTRODUCTION

For some time, conservationists have based utilitarian arguments for the protection of nature on the value of goods produced

* Professor of Law, Indiana University School of Law—Bloomington. I would like to thank Jim Serfis of the EPA, who generously and patiently explained the intricacies of United States Environmental Protection Agency guidance and procedure. Any inaccuracies that remain in this article are the result of my own misunderstandings. Tamara Fraizer, Anne Miller, Jim Salzman, Matthew Sanders, and Jim Serfis offered helpful suggestions on earlier drafts. An EPA grant administered through American University as well as an Indiana University School of Law summer research grant supported this work. The views expressed in this article are entirely mine and not necessarily those of the EPA officials who offered comments. Jason Smith provided able research assistance. Finally, I owe special thanks to Jim Salzman for inviting and inspiring me to participate in the EPA-sponsored ecosystem services project.

Purchase Short-Term Access to HeinOnline

Prices starting as low as \$29.95

Short-term subscription options include access for 24 hours, 48 hours or 1 week to HeinOnline's Law Journal Library. This includes access to more than 1,450 Law Journals

Prices starting as low as \$29.95!



Already a Subscriber?

[Login to HeinOnline](#)

[What Is HeinOnline?](#)

[Learn More About the Law Journal Library \(pdf\)](#)

We also offer annual subscriptions to universities, colleges, law firms, organizations, and other institutions. To request a quote please visit <http://home.heinonline.org/subscriptions/rea-quote/>

Please note: the content in the Law Journal Library is constantly changing and some content has restrictions as required per the license. Therefore, please review the available content via the following link to ensure the material you wish to access is included in the database. For a complete list of content included in the Law Journal Library, please view

<http://www.heinonline.org/HOL/CSV.csv?index=journals&collection=journals>

