What is NEPA?

The National Environmental Protection Act (NEPA) is often characterized as an environmental impact review law, but it is much more than that. It is a law that has made informed decision-making about the environment a key component of every major federal action.

The passage of NEPA in 1969, at the time hailed as “landmark legislation,” was only made possible due to broad bipartisan support. NEPA is one of the most important and far-reaching environmental and conservation measures ever enacted. With the passage of NEPA, Congress recognized that the government’s actions have the potential to cause large-scale environmental effects. NEPA made informed decision-making about the environment a key component of every major federal action.

NEPA requires state and local project sponsors to engage in an environmental review intended to discover any significant impacts prior to starting construction. These impacts could include anything from the loss of wetlands to increases in pollution from highway construction to a decrease in soil quality associated with irrigation proposals.

NEPA has three visionary elements: 1) a far-sighted declaration of national environmental policy; 2) an “action-forcing mechanism” to ensure the federal government’s compliance with NEPA’s environmental goals; and, 3) a broad recognition of the importance of public participation in government decision-making.

NEPA is an Important Tool for Public Participation and Accountability:

- One of the visionary elements of NEPA is its creation of broad opportunities for public participation in government decisions that affect their environment and local communities.
- NEPA recognizes that when the public and federal experts work together, better decisions are made.
- NEPA reflects the belief that citizens have a right to know and be heard when their government proposes actions that may affect them.
- Thanks to NEPA, local and tribal communities today take it as a given that major governmental actions will be subject to public comment and examination.
Under Attack

Attacks aimed at weakening or eliminating NEPA by Congress and the current Administration have been extensive. Some would simply exempt broad categories of federal agency action from NEPA, effectively repealing NEPA from this type of action. For example, the “Real I.D. Act of 2005” empowered the Secretary of Homeland security to construct barriers and roads along the US border without complying with any legal requirements, including NEPA.

Federal agencies have also routinely attempted to circumvent NEPA obligations through the wholesale application of “Categorical Exclusions” (CEs). Categorical Exclusions are actions an agency has determined does not individually or cumulatively have a significant effect on the quality of the environment and are therefore not subject to environmental reviews (e.g., minor facility renovations or reconstruction of a hiking trail). The “Energy Policy Act of 2005,” for example, established a “rebuttable presumption” that oil and gas activities causing surface disturbance of less than 5 acres should be categorically excluded from NEPA review.

President Trump has also been very assiduous in his attacks on NEPA, issuing Executive Order on August 15, 2017. Using deceptive buzzwords such as “efficiency” and “streamlining” as justification to weaken the substance of environmental reviews under NEPA, the order requires federal agencies to “apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible.”

Get Involved!

When it comes to our health and our environment, weakening NEPA and the environmental review process will hurt local communities and natural habitats.

For more information about how you can take action to protect your voice in government and for additional resources, please visit:

- www.protectNEPA.org

Please also make sure to “Like” us on Facebook (www.facebook.com/ProtectNEPA) and follow us on Twitter (@ProtectNEPA).

A Positive Agenda for NEPA Reform:

- Make Agency Mitigation Promises Mandatory: Agency promises to “mitigate” the adverse effects of federal actions must be made mandatory. Failure to implement mitigation commitments undermines the integrity of NEPA.

- Require Ongoing Monitoring of Project Impacts: Too often, federal agencies invest significant resources in complex scientific assessments without committing sufficient resources to monitoring a project’s actual impacts.

- Improve Training and Funding for NEPA Compliance: Although NEPA has been in effect for almost 50 years, serious financial shortfalls remain. Without adequate funding and staffing, pressure will mount on agencies to cut corners and bypass NEPA compliance.