National Environmental Policy Act (Nepa) Encyclopedia Article

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National Environmental Policy Act (Nepa)

When signed into law in 1970, the National Environmental Policy Act (NEPA) was a visionary and wide-reaching statute that required U.S. agencies to fully identify, analyze, and weigh the environmental impacts of their decisions. Insofar as most modern land-use planning requires agency approvals, and industrial and commercial activity that results in pollution typically requires agency-issued permits, the NEPA-mandated environmental review process has dramatically affected modern lifestyles, the American economy and, obviously, the environment.

NEPA is essentially procedural, in that it simply requires agencies to proceed through certain steps of environmental review. It does not create substantive legal rights. Although NEPA is a federal statute, many states and even municipalities have enacted their own environmental review statutes. While statutes may differ from state to state (New York's, for instance, provides for substantive obligations and enforcement mechanisms), they incorporate many of NEPA's basic elements. NEPA, in fact, is the model for numerous similar laws in other countries.

The core of NEPA is the Environmental Impact Statement (EIS), a document that has significantly affected modern American business, and even political, practices. NEPA requires that an EIS be prepared and disseminated before any "major federal action significantly affecting the quality of the human environment" may proceed. "Major federal actions" often include the granting of a permit.

Mitigation measures, if feasible, are also identified, although NEPA does not mandate that any particular form of mitigation be employed. This information is intended not only to aid the agency in its decision making, but also to put the public on notice as to the environmental consequences of various potential government responses.

NEPA has been dramatically effective as an informational device, especially to the extent that the public is included in the process and thereby given the tools necessary to shape political action. However, NEPA has been criticized in many quarters because it lacks significant enforcement capability. Nevertheless, the information-driven process it generates has proven to be an indispensable resource for not only the public, but also agencies presented with proposals that invariably have social, economic, and also environmental importance.

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