Attacks on our federal environmental charter, the National Environmental Policy Act, or NEPA, have escalated from seeking the statute's truncation to its outright abolition. Increasingly bandied about is the claim that while all well and good when passed in 1969, NEPA is now superfluous because we have a whole series of other laws protecting specific resource and places. This ill-founded contention misses what is unique about NEPA and why we benefit from it, today as much as ever.

NEPA is our one, full-spectrum, nationwide mechanism for getting agencies to use their discretion better. Other, resource-specific, federal environmental laws are prohibitory, setting minimum protective standards as a floor under agency discretion. They provide a basic "thou shalt not" for individual resources and values. NEPA's focus is on the positive, the field of possibilities, not what agencies have to avoid but rather on how to do best what they can do—over and above those often bare-bones minimums. It is on helping and pushing agencies to use their discretion better, for the environment we live in, for people, and ultimately for the agencies themselves. And because its scope is the entire human environment, it also does that for impacts where no federal statute mandates threshold protections applicable to agency decisionmaking, for example, many human health and climate consequences.

As applied, if well and conscientiously implemented, NEPA equips and nudges agencies toward decisions that are smart, well-informed, and responsive. In so doing, it confers three critical benefits on the public.

First, there is NEPA's requirement to analyze the reasonably foreseeable, potentially significant, environmental and related socio-economic effects flowing from a proposed action. This provides decisionmakers and the public with their best picture of an action's future consequences. The Clean Water Act says don't degrade that river below these minimum standards. NEPA says, tell us what that river is actually going to be like if you choose to go forward and how that will affect us.

Second, NEPA's mandate to consider reasonable alternatives drives the creation of superior scenarios. It surfaces potential upgrades to what agencies are first inclined towards, helping them peel back blinkers and consider ways to improve their decisions. It says look at ways the river—and its users–could be better off. Many of NEPA's most dramatic successes have come through the mandated analysis of alternatives to an agency official's confident but crabbed initial thinking.

And third, it gives the public a horse in the race—a way to weigh in on which future they want. The NEPA process, as fleshed out by rulings and regulations, has for decades provided opportunities for informed public comments that agencies must consider. That process says, in effect, you agencies can't decide without hearing from people who use the river how your choices could affect them and their businesses, families, and communities.

The importance of these benefits is why a Wyoming Governor requested that a federal land management agency consider an alternative suggested by the public even though he didn't favor it. As he said, NEPA "is not about what we [in state government] do or do not like. Rather it is about displaying a true range of alternatives to address the issues raised during the planning process." It's why then-Secretary of Energy Admiral Watkins once said "thank God for NEPA because there were so many pressures to make a selection … that would have been wrong for the country." And it's why the National Traffic Highway Safety Administration recently noted that despite statutory constraints on the analysis it conducted, NEPA put it in a position to consider the real-world environmental consequences of its proposed action.

In our professional lives, we observed the NEPA process provide these benefits countless times. Ms. Bear, General Counsel at the White House Council on Environmental Quality through four administrations, often saw agencies do better when NEPA surfaced and substantiated—for them and the public—better outcomes. Mr. Lawrence, who advocated for public lands and waters for 34 years at the Natural Resources Defense Council, saw over and over again how generating and heeding robust NEPA documentation protected agency decisions while slipshod NEPA implementation undid them.

References for Quotes

Gov. Dave Freudenthal, Comment Letter on Rawlins Field Office Resource Management Plan Revision Draft Environmental Impact to Bureau of Land Management, March 15, 2005.

Secretary James Watkins, Testimony, House Armed Services Committee, April 28, 1992.

National Highway Traffic Safety Administration, Notice of Proposed Rulemaking, The Safer Affordable Fuel-Efficient Vehicles Rule III for Model Years 2022 to 2031 Passenger Cars and Light Trucks, December 5, 2025, 90 Federal Register 56438, 56624-25.