

103D CONGRESS  
1ST SESSION

# H. R. 109

To establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. BOEHLERT (for himself, Mr. HOCHBRUECKNER, Mr. SHAYS, and Mr. MACHTLEY) introduced the following bill; which was referred jointly to the Committees on Government Operations and Foreign Affairs

JUNE 2, 1993

Additional sponsors: Mr. GILLMOR, Mr. WELDON, Mr. NEAL of North Carolina, Mr. ACKERMAN, Mr. RAMSTAD, Mrs. MEYERS of Kansas, Mr. WALSH, Mr. GOSS, Mr. LANCASTER, Mr. LEWIS of Florida, Mr. GILMAN, Ms. FURSE, Ms. NORTON, Mrs. MORELLA, Mr. PALLONE, Mr. OLVER, Mr. SANGMEISTER, Mr. RAVENEL, Mr. LaFALCE, Mr. DELLUMS, Mr. KANJORSKI, Mr. PAYNE of New Jersey, Mr. HINCHEY, Ms. SNOWE, Ms. MOLINARI, Mr. FINGERHUT, Mr. SANDERS, Mrs. MALONEY, Ms. WOOLSEY, Mr. BRYANT, Mr. BACCHUS of Florida, Mr. KLECZKA, Ms. SLAUGHTER, Mr. BLACKWELL, Mr. VALENTINE, Mr. HUGHES, Ms. BYRNE, Mr. FROST, Mr. LAZIO, Mr. TORRICELLI, Mr. COLEMAN, Mr. GEJDENSON, Mr. EVANS, Mr. FISH, Mr. KLUG, Mr. WISE, Mr. HAMBURG, Mr. WYNN, Mr. RANGEL, Mr. SAXTON, and Mr. ANDREWS of Maine

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## A BILL

To establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
 5       “Department of the Environment Act of 1993”.

6       (b) TABLE OF CONTENTS.—The contents of this Act  
 7       are as follows:

Sec. 1. Short title and table of contents.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION  
 AGENCY TO CABINET LEVEL

- Sec. 101. Short title.
- Sec. 102. Findings.
- Sec. 103. Establishment of the Department of the Environment.
- Sec. 104. Assistant Secretaries.
- Sec. 105. Deputy Assistant Secretaries.
- Sec. 106. Office of the General Counsel.
- Sec. 107. Office of the Inspector General.
- Sec. 108. Bureau of Environmental Statistics.
- Sec. 109. Grant and contract authority for certain activities.
- Sec. 110. Study of data needs.
- Sec. 111. Miscellaneous employment restrictions.
- Sec. 112. Administrative provisions.
- Sec. 113. Inherently governmental functions.
- Sec. 114. References.
- Sec. 115. Savings provisions.
- Sec. 116. Conforming amendments.
- Sec. 117. Additional conforming amendments.

TITLE II—ENVIRONMENTAL ROLE OF THE UNITED STATES IN  
 INTERNATIONAL ORGANIZATIONS TO WHICH IT BELONGS

- Sec. 201. International energy conference.
- Sec. 202. International greenhouse gas monitoring program.

TITLE III—ESTABLISHMENT OF THE COMMISSION ON IMPROVING  
 ENVIRONMENTAL PROTECTION

- Sec. 301. Establishment; membership.
- Sec. 302. Commission responsibilities.
- Sec. 303. Report to the President and Congress.
- Sec. 304. Commission staff.
- Sec. 305. Advisory groups.
- Sec. 306. Funding; authorization of appropriations.

TITLE IV—EFFECTIVE DATE

- Sec. 401. Effective date.

1 **TITLE I—ELEVATION OF THE EN-**  
2 **VIROMENTAL PROTECTION**  
3 **AGENCY TO CABINET LEVEL**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Department of the  
6 Environment Act”.

7 **SEC. 102. FINDINGS.**

8 The Congress finds that—

9 (1) recent concern with Federal environmental  
10 policy has highlighted the necessity of assigning to  
11 protection of the domestic and international environ-  
12 ment a priority which is at least equal to that as-  
13 signed to other functions of the Federal Govern-  
14 ment;

15 (2) protection of the environment increasingly  
16 involves negotiations with foreign states, including  
17 the most highly industrialized states all of whose top  
18 environmental officials have ministerial status;

19 (3) the size of the budget and the number of  
20 Federal civil servants devoted to tasks associated  
21 with environmental protection at the Environmental  
22 Protection Agency is commensurate with depart-  
23 mental status; and

24 (4) a cabinet-level Department of the Environ-  
25 ment should be established.

1 **SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE**  
2 **ENVIRONMENT.**

3 (a) REDESIGNATION.—The Environmental Protec-  
4 tion Agency is hereby redesignated as the Department of  
5 the Environment (hereafter in this title referred to as the  
6 “Department”) and shall be an executive department in  
7 the executive branch of the Government. The official acro-  
8 nym of the Department shall be the “U.S.D.E.”.

9 (b) SECRETARY OF THE ENVIRONMENT.—(1) There  
10 shall be at the head of the Department a Secretary of the  
11 Environment (hereafter in this title referred to as the  
12 “Secretary”) who shall be appointed by the President, by  
13 and with the advice and consent of the Senate. The De-  
14 partment shall be administered under the supervision and  
15 direction of the Secretary.

16 (2) The Secretary may not assign duties for or dele-  
17 gate authority for the supervision of the Assistant Sec-  
18 retaries, the General Counsel, the Director of Environ-  
19 mental Statistics, or the Inspector General of the Depart-  
20 ment to any officer of the Department other than the Dep-  
21 uty Secretary.

22 (3) Except as described under paragraph (2) of this  
23 section and section 104(b)(2), and notwithstanding any  
24 other provision of law, the Secretary may delegate any  
25 functions including the making of regulations to such offi-  
26 cers and employees of the Department as the Secretary

1 may designate, and may authorize such successive  
2 redelegations of such functions within the Department as  
3 determined to be necessary or appropriate.

4 (c) DEPUTY SECRETARY.—There shall be in the De-  
5 partment a Deputy Secretary of the Environment, who  
6 shall be appointed by the President, by and with the advice  
7 and consent of the Senate. The Deputy Secretary shall  
8 perform such responsibilities as the Secretary shall pre-  
9 scribe and shall act as the Secretary during the absence  
10 or disability of the Secretary or in the event of a vacancy  
11 in the Office of Secretary.

12 (d) OFFICE OF THE SECRETARY.—The Office of the  
13 Secretary shall consist of a Secretary and a Deputy Sec-  
14 retary and may include an Executive Secretary and such  
15 other executive officers as the Secretary may determine  
16 necessary.

17 (e) REGIONAL OFFICES.—The Secretary is author-  
18 ized to establish, alter, discontinue, or maintain such re-  
19 gional or other field offices as the Secretary may deter-  
20 mine necessary to carry out the functions vested in the  
21 Secretary or other officials of the Department.

22 (f) INTERNATIONAL RESPONSIBILITIES OF THE SEC-  
23 RETARY.—(1) In addition to exercising other international  
24 responsibilities under existing provisions of law, the Sec-  
25 retary is—

1 (A) encouraged to assist the Secretary of State  
2 to carry out the primary responsibilities of the Sec-  
3 retary of State for coordinating, negotiating, imple-  
4 menting, and participating in international agree-  
5 ments, including participation in international orga-  
6 nizations, relevant to environmental protection; and

7 (B) authorized and encouraged to—

8 (i) conduct research on and apply existing  
9 research capabilities to the nature and impacts  
10 of international environmental problems and de-  
11 velop responses to such problems; and

12 (ii) provide technical and other assistance  
13 to foreign countries and international bodies to  
14 improve the quality of the environment.

15 (2) The Secretary of State shall consult with the Sec-  
16 retary of the Environment and such other persons as the  
17 Secretary of State determines appropriate on such nego-  
18 tiations, implementations, and participations described  
19 under paragraph (1)(A).

20 (g) AUTHORITY OF THE SECRETARY WITHIN THE  
21 DEPARTMENT.—Nothing in the provisions of this Act—

22 (1) authorizes the Secretary of the Environ-  
23 ment to require any action by any officer of any ex-  
24 ecutive department or agency other than officers of  
25 the Department of the Environment, except that this

1 paragraph shall not affect any authority provided for  
2 by any other provision of law authorizing the Sec-  
3 retary of the Environment to require any such ac-  
4 tions;

5 (2) modifies any Federal law that is adminis-  
6 tered by any executive department or agency; or

7 (3) transfers to the Department of the Environ-  
8 ment any authority exercised by any other Federal  
9 executive department or agency prior to the date of  
10 the enactment of this Act, except the authority exer-  
11 cised by the Environmental Protection Agency.

12 (h) APPLICATION TO THE DEPARTMENT OF THE EN-  
13 VIRONMENT.—The provisions of this Act apply only to ac-  
14 tivities of the Department of the Environment, except  
15 where expressly provided otherwise.

16 **SEC. 104. ASSISTANT SECRETARIES.**

17 (a) ESTABLISHMENT OF POSITIONS.—There shall be  
18 in the Department such number of Assistant Secretaries,  
19 not to exceed 10, as the Secretary shall determine, each  
20 of whom shall be appointed by the President, by and with  
21 the advice and consent of the Senate.

22 (b) RESPONSIBILITIES OF ASSISTANT SECRETAR-  
23 IES.—(1) The Secretary shall assign to Assistant Sec-  
24 retaries such responsibilities as the Secretary considers  
25 appropriate, including, but not limited to—

- 1 (A) enforcement and compliance monitoring;
  - 2 (B) research and development;
  - 3 (C) air and radiation;
  - 4 (D) water;
  - 5 (E) pesticides and toxic substances;
  - 6 (F) solid waste;
  - 7 (G) hazardous waste;
  - 8 (H) hazardous waste cleanup;
  - 9 (I) emergency response;
  - 10 (J) international affairs;
  - 11 (K) policy, planning, and evaluation;
  - 12 (L) pollution prevention;
  - 13 (M) congressional, intergovernmental, and pub-
  - 14 lic affairs; and
  - 15 (N) administration and resources management,
  - 16 including financial and budget management, infor-
  - 17 mation resources management, procurement and as-
  - 18 sistance management, and personnel and labor rela-
  - 19 tions.
- 20 (2) The Secretary may assign and modify any respon-
- 21 sibilities at his discretion under paragraph (1), except that
- 22 the Secretary may not modify the responsibilities of any
- 23 Assistant Secretary without substantial prior written noti-
- 24 fication of such modification to the appropriate commit-
- 25 tees of the Senate and the House of Representatives.



1       (c) DESIGNATION OF RESPONSIBILITIES PRIOR TO  
2 CONFIRMATION.—Whenever the President submits the  
3 name of an individual to the Senate for confirmation as  
4 Assistant Secretary under this section, the President shall  
5 state the particular responsibilities of the Department  
6 such individual shall exercise upon taking office.

7       (d) CONTINUING PERFORMANCE OF FUNCTIONS.—  
8 On the effective date of this Act, the Administrator and  
9 Deputy Administrator of the Environmental Protection  
10 Agency shall be redesignated as the Secretary and Deputy  
11 Secretary of the Department of the Environment, Assist-  
12 ant Administrators of the Agency shall be redesignated as  
13 Assistant Secretaries of the Department, and the General  
14 Counsel and the Inspector General of the Agency shall be  
15 redesignated as the General Counsel and the Inspector  
16 General of the Department, without renomination or re-  
17 confirmation.

18       (e) CHIEF INFORMATION RESOURCES OFFICER.—(1)  
19 The Secretary shall designate the Assistant Secretary  
20 whose responsibilities include information resource man-  
21 agement functions as required by section 3506 of title 44,  
22 United States Code, as the Chief Information Resources  
23 Officer of the Department.

24       (2) The Chief Information Resources Officer shall—

1           (A) advise the Secretary on information re-  
2           source management activities of the Department as  
3           required by section 3506 of title 44, United States  
4           Code;

5           (B) develop and maintain an information re-  
6           sources management system for the Department  
7           which provides for—

8                   (i) the conduct of and accountability for  
9                   any acquisitions made pursuant to a delegation  
10                  of authority under section 111 of the Federal  
11                  Property and Administrative Services Act of  
12                  1949 (40 U.S.C. 759);

13                  (ii) the implementation of all applicable  
14                  government-wide and Department information  
15                  policies, principles, standards, and guidelines  
16                  with respect to information collection, paper-  
17                  work reduction, privacy and security of records,  
18                  sharing and dissemination of information, ac-  
19                  quisition and use of information technology,  
20                  and other information resource management  
21                  functions;

22                  (iii) the periodic evaluation of and, as  
23                  needed, the planning and implementation of im-  
24                  provements in the accuracy, completeness, and

1 reliability of data and records contained with  
2 Department information systems; and

3 (iv) the development and annual revision of  
4 a 5-year plan for meeting the Department's in-  
5 formation technology needs; and

6 (C) report to the Secretary as required under  
7 section 3506 of title 44, United States Code.

8 **SEC. 105. DEPUTY ASSISTANT SECRETARIES.**

9 (a) ESTABLISHMENT OF POSITIONS.—There shall be  
10 in the Department such number of Deputy Assistant Sec-  
11 retaries as the Secretary may determine.

12 (b) APPOINTMENTS.—Each Deputy Assistant Sec-  
13 retary—

14 (1) shall be appointed by the Secretary; and

15 (2) shall perform such functions as the Sec-  
16 retary shall prescribe.

17 (c) FUNCTIONS.—Functions assigned to an Assistant  
18 Secretary under section 104(b) may be performed by one  
19 or more Deputy Assistant Secretaries appointed to assist  
20 such Assistant Secretary.

21 **SEC. 106. OFFICE OF THE GENERAL COUNSEL.**

22 There shall be in the Department the Office of the  
23 General Counsel. There shall be at the head of such office  
24 a General Counsel who shall be appointed by the Presi-  
25 dent, by and with advice and consent of the Senate. The

1 General Counsel shall be the chief legal officer of the De-  
2 partment and shall provide legal assistance to the Sec-  
3 retary concerning the programs and policies of the Depart-  
4 ment.

5 **SEC. 107. OFFICE OF THE INSPECTOR GENERAL.**

6 The Office of Inspector General of the Environmental  
7 Protection Agency, established in accordance with the In-  
8 spector General Act of 1978, is hereby redesignated as the  
9 Office of Inspector General of the Department of the En-  
10 vironment.

11 **SEC. 108. BUREAU OF ENVIRONMENTAL STATISTICS.**

12 (a) ESTABLISHMENT.—(1) There is established with-  
13 in the Department a Bureau of Environmental Statistics  
14 (hereafter in this title referred to as the “Bureau”). The  
15 Bureau shall be responsible for—

16 (A) compiling, analyzing, and publishing a com-  
17 prehensive set of environmental quality statistics  
18 which should provide timely summary in the form of  
19 industrywide aggregates, multiyear averages, or to-  
20 tals or some similar form and include information  
21 on—

22 (i) the nature, source, and amount of pol-  
23 lutants in the environment; and

24 (ii) the effects on the public and the envi-  
25 ronment of those pollutants;

1 (B) promulgating guidelines for the collection of  
2 information by the Department required for the sta-  
3 tistics under this paragraph to assure that the infor-  
4 mation is accurate, reliable, relevant, and in a form  
5 that permits systematic analysis;

6 (C) coordinating the collection of information  
7 by the Department for developing such statistics  
8 with related information-gathering activities con-  
9 ducted by other Federal agencies;

10 (D) making readily accessible the statistics pub-  
11 lished under this paragraph; and

12 (E) identifying missing information of the kind  
13 described under subparagraph (A) (i) and (ii), re-  
14 viewing these information needs at least annually  
15 with the Science Advisory Board, and making rec-  
16 ommendations to the appropriate Department of En-  
17 vironment research officials concerning extramural  
18 and intramural research programs to provide such  
19 information.

20 (2) Nothing in the provisions of paragraph (1) shall  
21 authorize the Bureau to require the collection of any data  
22 by any other department, State, or local government, or  
23 to establish observation or monitoring programs.

24 (3) Information compiled by the Bureau which has  
25 been submitted for purposes of statistical reporting re-

1 requirements of this law shall not be disclosed publicly in  
2 a manner that would reveal the identity of the submitter,  
3 including submissions by Federal, State, or local govern-  
4 ments, or reveal the identity of any individual consistent  
5 with the provisions of section 552a of title 5, United  
6 States Code (popularly known as the Privacy Act of  
7 1974). This paragraph shall not affect the availability of  
8 data provided to the Department under any other provi-  
9 sion of law administered by the Department. The con-  
10 fidentiality provisions of other statutes authorizing the col-  
11 lection of environmental statistics shall also apply, includ-  
12 ing but not limited to section 14 of the Toxic Substances  
13 Control Act (15 U.S.C. 2613), section 2(h) of the Federal  
14 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
15 136h), section 114(c) of the Clean Air Act (42 U.S.C.  
16 741(c)), and section 1905 of title 18, United States Code.

17 (b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—  
18 The Bureau shall be under the direction of a Director of  
19 Environmental Statistics (hereafter in this section re-  
20 ferred to as the “Director”) who shall be appointed by  
21 the President, by and with the advice and consent of the  
22 Senate. The term of the Director shall be 4 years. The  
23 Director shall be a qualified individual with experience in  
24 the compilation and analysis of environmental statistics.  
25 The Director shall report directly to the Secretary. The

1 Director shall be compensated at the rate provided for at  
2 level V of the Executive Schedule under section 5316 of  
3 title 5, United States Code.

4 (c) ENVIRONMENTAL STATISTICS ANNUAL RE-  
5 PORT.—On January 1, 1992, and each January 1 there-  
6 after, the Director shall submit to the President an Envi-  
7 ronmental Statistics Annual Report. The report shall in-  
8 clude, but not be limited to—

9 (1) statistics on environmental quality includ-  
10 ing—

11 (A) the environmental quality of the Na-  
12 tion with respect to all aspects of the environ-  
13 ment, including, but not limited to, the air,  
14 aquatic ecosystems, including marine, estuarine,  
15 and fresh water, and the terrestrial ecosystems,  
16 including, but not limited to, the forest, dry-  
17 land, wetland, range, urban, suburban, and  
18 rural environment; and

19 (B) changes in the natural environment,  
20 including the plant and animal systems, and  
21 other information for a continuing analysis of  
22 these changes or trends and an interpretation  
23 of their underlying causes;

1           (2) statistics on the effects of changes in envi-  
2       ronmental quality on human health and nonhuman  
3       species and ecosystems;

4           (3) documentation of the method used to obtain  
5       and assure the quality of the statistics presented in  
6       the report;

7           (4) economic information on the current and  
8       projected costs and benefits of environmental protec-  
9       tion; and

10          (5) recommendations on improving environ-  
11       mental statistical information.

12       (d) CONTINUING PERFORMANCE OF THE FUNCTIONS  
13 OF THE DIRECTOR PENDING CONFIRMATION.—An indi-  
14 vidual who, on the effective date of this Act, is performing  
15 any of the functions required by this section to be per-  
16 formed by the Director may continue to perform such  
17 functions until such functions are assigned to an individ-  
18 ual appointed as the Director under this Act.

19       (e) ADVISORY COUNCIL ON ENVIRONMENTAL STA-  
20 TISTICS.—The Director shall appoint an Advisory Council  
21 on Environmental Statistics, comprised of no more than  
22 6 private citizens who have expertise in environmental sta-  
23 tistics and analysis (except that at least one of such ap-  
24 pointees should have expertise in economics) to advise the  
25 Director on environmental statistics and analyses, includ-



1 ing whether the statistics and analyses disseminated by  
2 the Bureau are of high quality and are based upon the  
3 best available objective information. The Council shall be  
4 subject to the provisions of the Federal Advisory Commit-  
5 tee Act.

6 (f) BUREAU AUTHORIZATION OF APPROPRIATIONS.—  
7 There are authorized to be appropriated \$2,800,000 in fis-  
8 cal year 1992, \$5,400,000 in fiscal year 1993, and such  
9 sums as necessary in each fiscal year thereafter to carry  
10 out the provisions of this section.

11 **SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CER-**  
12 **TAIN ACTIVITIES.**

13 The Secretary may make grants to and enter into  
14 contracts with State and local governments to assist them  
15 in meeting the costs of collecting specific data and other  
16 short-term activities that are related to the responsibilities  
17 and functions under section 108(a)(1) (A), (B), (C), and  
18 (D).

19 **SEC. 110. STUDY OF DATA NEEDS.**

20 (a) STUDY OF DATA NEEDS.—(1) No later than 1  
21 year after the start of Bureau operations, the Secretary,  
22 in consultation with the Director of the Bureau and the  
23 Assistant Secretary designated as Chief Information Re-  
24 sources Officer, shall enter into an agreement with the Na-  
25 tional Academy of Sciences for a study, evaluation, and

1 report on the adequacy of the data collection procedures  
2 and capabilities of the Department. No later than 18  
3 months following the entering of such an agreement, the  
4 National Academy of Sciences shall report its findings to  
5 the Secretary and the Congress. The report shall include  
6 an evaluation of the Department's data collection re-  
7 sources, needs, and requirements, and shall include an as-  
8 sessment and evaluation of the following systems, capabili-  
9 ties, and procedures established by the Department to  
10 meet those needs and requirements:

11 (A) Data collection procedures and capabilities.

12 (B) Data analysis procedures and capabilities.

13 (C) The ability of data bases to integrate with  
14 one another.

15 (D) Computer hardware and software capabili-  
16 ties.

17 (E) Management information systems, includ-  
18 ing the ability of management information systems  
19 to integrate with another.

20 (F) Department personnel.

21 (G) The Department's budgetary needs and re-  
22 sources for data collection, including an assessment  
23 of the adequacy of the budgetary resources provided  
24 to the Department and budgetary resources used by

1 the Department for data collection needs and pur-  
2 poses.

3 (2) The report shall include recommendations for im-  
4 proving the Department's data collection systems, capa-  
5 bilities, procedures, data collection, and analytical hard-  
6 ware and software, and for improving its management in-  
7 formation systems.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated such sums as necessary  
10 to carry out the provisions of this section.

11 **SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.**

12 (a) PROHIBITED EMPLOYMENT AND ADVANCEMENT  
13 CONSIDERATIONS.—Except as otherwise provided in this  
14 Act, political affiliation or political qualification may not  
15 be taken into account in connection with the appointment  
16 of any person to any position in the career civil service  
17 or in the assignment or advancement of any career civil  
18 servant in the Department.

19 (b) REPORTS ON IMPLEMENTATION.—One year after  
20 the date of the enactment of this title and again 3 years  
21 after the date of the enactment of this title, the Secretary  
22 shall report to the Senate Committees on Appropriations,  
23 Governmental Affairs, and Environment and Public  
24 Works and to the House of Representatives on the esti-  
25 mated additional cost of implementing this title over the

1 cost as if this title had not been implemented, including  
2 a justification of increased staffing not required in the exe-  
3 cution of this title.

4 **SEC. 112. ADMINISTRATIVE PROVISIONS.**

5 (a) ACCEPTANCE OF MONEY AND PROPERTY.—(1)  
6 The Secretary may accept and retain money, uncompen-  
7 sated services, and other real and personal property or  
8 rights (whether by gift, bequest, devise, or otherwise) for  
9 the purpose of carrying out the Department's programs  
10 and activities, except that the Secretary shall not endorse  
11 any company, product, organization, or service. Gifts, be-  
12 quests, and devises of money and proceeds from sales of  
13 other property received as gifts, bequests, or devises shall  
14 be credited in a separate fund in the Treasury of the Unit-  
15 ed States and shall be available for disbursement upon the  
16 order of the Secretary.

17 (2) The Secretary shall prescribe regulations and  
18 guidelines setting forth the criteria the Department shall  
19 use in determining whether to accept a gift, bequest, or  
20 devise. Such criteria shall take into consideration whether  
21 the acceptance of the property would reflect unfavorably  
22 upon the Department's or any employee's ability to carry  
23 out its responsibilities or official duties in a fair and objec-  
24 tive manner, or would compromise the integrity of or the

1 appearance of the integrity of a Government program or  
2 any official involved in that program.

3 (b) SEAL OF THE DEPARTMENT.—(1) On the effec-  
4 tive date of this Act, the seal of the Environmental Protec-  
5 tion Agency with appropriate changes shall be the seal of  
6 the Department of the Environment, until such time as  
7 the Secretary may cause a seal of office to be made for  
8 the Department of the Environment of such design as the  
9 Secretary shall approve.

10 (2)(A) Chapter 33 of title 18, United States Code,  
11 is amended by adding at the end thereof the following new  
12 section:

13 **“§ 716. Department of the Environment seal**

14 “(a) Whoever knowingly displays any printed or other  
15 likeness of the official seal of the Department of the Envi-  
16 ronment, or any facsimile thereof, in, or in connection  
17 with, any advertisement, poster, circular, book, pamphlet,  
18 or other publication, public meeting, play, motion picture,  
19 telecast, or other production, or on any building, monu-  
20 ment, or stationery, for the purpose of conveying, or in  
21 a manner reasonably calculated to convey, a false impres-  
22 sion of sponsorship or approval by the Government of the  
23 United States or by any department, agency, or instru-  
24 mentality thereof, shall be fined not more than \$250 or  
25 imprisoned not more than 6 months, or both.

1       “(b) Whoever, except as authorized under regulations  
2 promulgated by the Secretary of the Environment and  
3 published in the Federal Register, knowingly manufac-  
4 tures, reproduces, sells, or purchases for resale, either sep-  
5 arately or appended to any article manufactured or sold,  
6 any likeness of the official seal of the Department of the  
7 Environment, or any substantial part thereof, except for  
8 manufacture or sale of the article for the official use of  
9 the Government of the United States, shall be fined not  
10 more than \$250 or imprisoned not more than 6 months,  
11 or both.

12       “(c) A violation of subsection (a) or (b) may be en-  
13 joined at the suit of the Attorney General of the United  
14 States upon complaint by any authorized representative  
15 of the Secretary of the Department of the Environment.”.

16       (B) The table of sections for chapter 33 of title 18,  
17 United States Code, is amended by adding at the end  
18 thereof the following:

“716. Department of the Environment seal.”.

19       (c) ACQUISITION OF COPYRIGHTS AND PATENTS.—  
20 The Secretary is authorized to acquire any of the following  
21 described rights if the property acquired thereby is for use  
22 by or for, or useful to, the Department:

23           (1) Copyrights, patents, and applications for  
24 patents, designs, processes, and manufacturing data.

1           (2) Licenses under copyrights, patents, and ap-  
2       plications for patents.

3           (3) Releases, before suit is brought, for past in-  
4       fringement of patents or copyrights.

5       (d) ADVISORY COMMITTEE STANDARDS OF CONDUCT  
6 AND COMPENSATION.—The Secretary may promulgate  
7 regulations no less stringent than any other applicable  
8 provision of law, regarding standards of conduct for mem-  
9 bers of advisory committees (and consultants to advisory  
10 committees), including requirements regarding conflicts of  
11 interest or disclosure of past and present financial and em-  
12 ployment interests. The Secretary is authorized to pay  
13 members of advisory committees and others who perform  
14 services as authorized under section 3109 of title 5,  
15 United States Code, at rates for individuals not to exceed  
16 the per diem rate equivalent to the rate for level V of the  
17 Executive Schedule under section 5316 of title 5, United  
18 States Code.

19 **SEC. 113. INHERENTLY GOVERNMENTAL FUNCTIONS.**

20       (a) GOVERNMENT OFFICERS AND EMPLOYEES.—In-  
21 herently governmental functions of the Department shall  
22 be performed only by officers and employees of the United  
23 States. For purposes of this section, “inherently govern-  
24 mental function” means any activity which is so intimately  
25 related to the public interest as to mandate performance

1 by Government officers and employees, and includes those  
2 activities which require either the exercise of discretion in  
3 applying Government authority or the use of value of judg-  
4 ment in making decisions for the Government, including  
5 but not be limited to work of a policy, decisionmaking,  
6 or managerial nature which is the direct responsibility of  
7 Department officials.

8 (b) CONFLICTS OF INTEREST.—(1) The Secretary  
9 shall by regulation require any person proposing to enter  
10 into a contract, agreement, or other arrangement, whether  
11 by competitive bid or negotiation, for the conduct of re-  
12 search, development, evaluation activities, or for advisory  
13 and assistance services, to provide the Secretary, prior to  
14 entering into any such contract, agreement, or arrange-  
15 ment, with all relevant information, as determined by the  
16 Secretary, bearing on whether that person has a possible  
17 conflict of interest with respect to—

18 (A) being able to render impartial, technically  
19 sound, or objective assistance or advice in light of  
20 other activities or relationships with other persons;  
21 or

22 (B) being given an unfair competitive advan-  
23 tage.

24 (2) Such person shall ensure, in accordance with reg-  
25 ulations prescribed by the Secretary, compliance with this



1 section by subcontractors of such person who are engaged  
2 to perform similar services.

3 (c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF  
4 INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF  
5 CONFLICTS.—(1) Subject to the provisions of paragraph  
6 (2), the Secretary may not enter into any such contract,  
7 agreement, or arrangement, unless the Secretary affirma-  
8 tively finds, after evaluating all such information and any  
9 other relevant information otherwise available to the Sec-  
10 retary, either that—

11 (A) there is little or no likelihood that a conflict  
12 of interest would exist; or

13 (B) that such conflict has been avoided after  
14 appropriate conditions have been included in such  
15 contract, agreement, or arrangement.

16 (2) If the Secretary determines that such conflict of  
17 interest exists and that such conflict of interest cannot be  
18 avoided by including appropriate conditions therein, the  
19 Secretary may enter into such contract, agreement, or ar-  
20 rangement, if the Secretary—

21 (A) determines that it is in the best interests of  
22 the United States to do so; and

23 (B) includes appropriate conditions in such con-  
24 tract, agreement, or arrangement to mitigate such  
25 conflict.

1       (d) PUBLIC NOTICE REGARDING CONFLICTS OF IN-  
2 TEREST.—The Secretary shall promulgate regulations  
3 which require public notice to be given whenever the Sec-  
4 retary determines that the award of a contract, agreement,  
5 or arrangement may result in a conflict of interest which  
6 cannot be avoided by including appropriate conditions  
7 therein.

8       (e) DISCLAIMER.—Nothing in this section shall pre-  
9 clude the Department from promulgating regulations to  
10 monitor potential conflicts after the contract award.

11       (f) RULES.—No later than 30 days after the effective  
12 date of this Act, the Secretary shall publish rules for the  
13 implementation of this section.

14       (g) CENTRAL FILE.—The Department shall maintain  
15 a central file regarding all cases when a public notice is  
16 issued. Other information required under this section shall  
17 also be compiled. Access to this information shall be con-  
18 trolled to safeguard any proprietary information.

19       (h) DEFINITIONS.—For purposes of this section, the  
20 term “advisory and assistance services” includes—

21               (1) management and professional support  
22 services;

23               (2) the conduct of studies, analyses, and evalua-  
24 tions; and

1           (3) engineering and technical services, excluding  
2       routine technical services.

3   **SEC. 114. REFERENCES.**

4       Reference in any other Federal law, Executive order,  
5   rule, regulation, or delegation of authority, or any docu-  
6   ment of or pertaining—

7           (1) to the Administrator of the Environmental  
8       Protection Agency is deemed to refer to the Sec-  
9       retary of the Environment;

10          (2) to the Environmental Protection Agency is  
11       deemed to refer to the Department of the Environ-  
12       ment;

13          (3) to the Deputy Administrator of the Envi-  
14       ronmental Protection Agency is deemed to refer to  
15       the Deputy Secretary of the Environment; or

16          (4) to any Assistant Administrator of the Envi-  
17       ronmental Protection Agency is deemed to refer to  
18       an Assistant Secretary of the Department of the  
19       Environment.

20   **SEC. 115. SAVINGS PROVISIONS.**

21       (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—  
22   All orders, determinations, rules, regulations, permits,  
23   agreements, grants, contracts, certificates, licenses, reg-  
24   istrations, privileges, and other administrative actions—

1           (1) which have been issued, made, granted, or  
2           allowed to become effective by the President, by the  
3           Administrator of the Environmental Protection  
4           Agency, or by a court of competent jurisdiction, in  
5           the performance of functions of the Administrator or  
6           the Environmental Protection Agency, and

7           (2) which are in effect at the time this Act  
8           takes effect, or were final before the effective date  
9           of this Act and are to become effective on or after  
10          the effective date of this Act,

11 shall continue in effect according to their terms until  
12 modified, terminated, superseded, set aside, or revoked in  
13 accordance with law by the President, the Secretary, or  
14 other authorized official, a court of competent jurisdiction,  
15 or by operation of law.

16          (b) PROCEEDINGS NOT AFFECTED.—The provisions  
17 of this Act shall not affect any proceedings or any applica-  
18 tion for any license, permit, certificate, or financial assist-  
19 ance pending before the Environmental Protection Agency  
20 at the time this Act takes effect, but such proceedings and  
21 applications shall be continued. Orders shall be issued in  
22 such proceedings, appeals shall be taken therefrom, and  
23 payments shall be made pursuant to such orders, as if this  
24 Act had not been enacted, and orders issued in any such  
25 proceedings shall continue in effect until modified, termi-

1 nated, superseded, or revoked by a duly authorized official,  
2 by a court of competent jurisdiction, or by operation of  
3 law. Nothing in this subsection shall be deemed to prohibit  
4 the discontinuance or modification of any such proceeding  
5 under the same terms and conditions and to the same ex-  
6 tent that such proceeding could have been discontinued  
7 or modified if this Act had not been enacted.

8 (c) SUITS NOT AFFECTED.—The provisions of this  
9 Act shall not affect suits commenced before the date this  
10 Act takes effect, and in all such suits, proceedings shall  
11 be had, appeals taken, and judgments rendered in the  
12 same manner and with the same effect as if this Act had  
13 not been enacted.

14 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
15 or other proceeding commenced by or against the Environ-  
16 mental Protection Agency, or by or against any individual  
17 in the official capacity of such individual as an officer of  
18 the Environmental Protection Agency, shall abate by rea-  
19 son of the enactment of this Act.

20 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-  
21 MULGATION OF REGULATIONS.—Any administrative ac-  
22 tion relating to the preparation or promulgation of a regu-  
23 lation by the Environmental Protection Agency may be  
24 continued by the Department with the same effect as if  
25 this Act had not been enacted.

1       (f) PROPERTY AND RESOURCES.—The contracts, li-  
2 abilities, records, property, and other assets and interests  
3 of the Environmental Protection Agency shall, after the  
4 effective date of this Act, be considered to be the con-  
5 tracts, liabilities, records, property, and other assets and  
6 interests of the Department.

7       (g) SAVINGS.—The Department and its officers, em-  
8 ployees, and agents shall have all the powers and authori-  
9 ties of the Environmental Protection Agency.

10 **SEC. 116. CONFORMING AMENDMENTS.**

11       (a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1)  
12 of title 3, United States Code, is amended by inserting  
13 before the period at the end thereof the following: “, Sec-  
14 retary of the Environment”.

15       (b) DEFINITION OF DEPARTMENT, CIVIL SERVICE  
16 LAWS.—Section 101 of title 5, United States Code, is  
17 amended by adding at the end thereof the following: “The  
18 Department of the Environment”.

19       (c) COMPENSATION, LEVEL I.—Section 5312 of title  
20 5, United States Code, is amended by adding at the end  
21 thereof the following: “Secretary of the Environment”.

22       (d) COMPENSATION, LEVEL II.—Section 5313 of title  
23 5, United States Code, is amended by striking “Adminis-  
24 trator of Environmental Protection Agency” and inserting  
25 “Deputy Secretary of the Environment”.

1 (e) COMPENSATION, LEVEL IV.—Section 5315 of  
2 title 5, United States Code, is amended—

3 (1) by striking “Inspector General, Environ-  
4 mental Protection Agency” and inserting “Inspector  
5 General, Department of the Environment”; and

6 (2) by striking each reference to an Assistant  
7 Administrator of the Environmental Protection  
8 Agency and by adding at the end thereof the follow-  
9 ing:

10 “Assistant Secretaries, Department of the Envi-  
11 ronment (10).

12 “General Counsel, Department of the Environ-  
13 ment.”.

14 (f) COMPENSATION, LEVEL V.—Section 5316 of title  
15 5, United States Code, is amended by adding at the end  
16 thereof the following:

17 “Director of the Bureau of Environmental Sta-  
18 tistics, Department of the Environment.

19 “Executive Director of the Commission on Im-  
20 proving Environmental Protection.”.

21 (g) INSPECTOR GENERAL ACT OF 1978.—The In-  
22 spector General Act of 1978 is amended—

23 (1) in section 2(1)—

24 (A) by inserting “the Department of the  
25 Environment,” after “Veterans Affairs,”; and

1 (B) by striking “The Environmental Pro-  
2 tection Agency,”;

3 (2) in section 11(1) by striking “or Veterans  
4 Affairs” and inserting “Veterans Affairs, or the En-  
5 vironment,”; and

6 (3) in section 11(2) by striking “or Veterans  
7 Affairs” and inserting “Veterans Affairs, or the En-  
8 vironment,”.

9 **SEC. 117. ADDITIONAL CONFORMING AMENDMENTS.**

10 After consultation with the Committee on Govern-  
11 mental Affairs and the Committee on Environment and  
12 Public Works and other appropriate committees of the  
13 United States Senate and the appropriate committees of  
14 the House of Representatives, the Secretary shall prepare  
15 and submit to the Congress proposed legislation contain-  
16 ing technical and conforming amendments to the United  
17 States Code, and to other provisions of law, to reflect the  
18 changes made by this Act. Such legislation shall be sub-  
19 mitted not later than 6 months after the effective date  
20 of this Act.



1 **TITLE II—ENVIRONMENTAL**  
2 **ROLE OF THE UNITED STATES**  
3 **IN INTERNATIONAL ORGANI-**  
4 **ZATIONS TO WHICH IT BE-**  
5 **LONGS**

6 **SEC. 201. INTERNATIONAL ENERGY CONFERENCE.**

7 The Secretary of State, in consultation with the Sec-  
8 retary of Energy and the Secretary of the Environment,  
9 and with the advice of the Committee on Earth and Envi-  
10 ronmental Sciences, is authorized and strongly urged to  
11 convene an international meeting to be held in the United  
12 States with invitations to representatives of all countries  
13 of the world, the purpose of which shall be to encourage  
14 the exchange of information concerning energy efficiency  
15 and renewable energy resources that are environmentally  
16 acceptable and ecologically sustainable.

17 **SEC. 202. INTERNATIONAL GREENHOUSE GAS MONITORING**  
18 **PROGRAM.**

19 The President, with the advice of the Committee on  
20 Earth and Environmental Sciences, shall encourage the  
21 establishment of an office of the United Nations Environ-  
22 ment Programme and the World Meteorological Organiza-  
23 tion to monitor annual estimated generation and removal  
24 of carbon dioxide and other trace gases on a country-by-  
25 country basis.

1 **TITLE III—ESTABLISHMENT OF**  
2 **THE COMMISSION ON IM-**  
3 **PROVING ENVIRONMENTAL**  
4 **PROTECTION**

5 **SEC. 301. ESTABLISHMENT; MEMBERSHIP.**

6 (a) ESTABLISHMENT.—There is established the Com-  
7 mission on Improving Environmental Protection (here-  
8 after in this title referred to as “the Commission”) whose  
9 13 members including the Chairman shall be composed of  
10 experts in governmental organization (with emphasis on  
11 environmental organization), management of organiza-  
12 tions, and environmental regulation and improved environ-  
13 mental governmental service delivery, consisting of—

14 (1) seven members to be appointed by the  
15 President;

16 (2) three members to be appointed by the  
17 Speaker of the House; and

18 (3) three members to be appointed by the Sen-  
19 ate Majority Leader.

20 (b) CHAIRMAN.—The Chairman of the Commission  
21 shall be appointed by the President in consultation with  
22 the Congress.

23 **SEC. 302. COMMISSION RESPONSIBILITIES.**

24 (a) RESPONSIBILITIES.—The Commission shall be  
25 responsible for examining and making recommendations

1 on the management and implementation of the environ-  
2 mental laws and programs within the jurisdiction of the  
3 Department of the Environment in order to enhance the  
4 ability of the Department to preserve and protect human  
5 health and the environment. The Commission shall make  
6 recommendations and otherwise advise the President and  
7 the Congress on the need to—

8           (1) enhance and strengthen the management  
9           and implementation of existing programs within the  
10          Department;

11          (2) enhance the organization of the Department  
12          to eliminate duplication and overlap between dif-  
13          ferent programs;

14          (3) enhance the coordination between different  
15          programs and offices within the Department; and

16          (4) enhance the consistency of policies through-  
17          out the Department.

18          (b) RECOMMENDATIONS.—The Commission shall  
19          provide specific steps and proposals for implementing the  
20          Commission's recommendations, including an estimate of  
21          the costs of implementing such recommendations, except  
22          that the Commission shall not suggest substantive changes  
23          in the policy expressed by existing laws.

1 **SEC. 303. REPORT TO THE PRESIDENT AND CONGRESS.**

2       The Commission shall report to the President and the  
3 Congress on its investigation, findings, and recommenda-  
4 tions in an interim report no later than 12 months after  
5 the effective date of this title, and in a final report no  
6 later than 24 months after the effective date of this title.  
7 The interim report shall be made available for public re-  
8 view and comment, and the comments taken into account  
9 in finalizing the report.

10 **SEC. 304. COMMISSION STAFF.**

11       The Commission shall appoint an Executive Director  
12 who shall be compensated at a rate not to exceed the rate  
13 of basic pay prescribed for level V of the Executive Sched-  
14 ule under section 5316 title 5, United States Code. With  
15 the approval of the Commission the Executive Director  
16 may appoint and fix the compensation of staff sufficient  
17 to enable the Commission to carry out its duties.

18 **SEC. 305. ADVISORY GROUPS.**

19       The Chairman shall convene at least one advisory  
20 group to assist the Commission in developing its rec-  
21 ommendations. One advisory group shall be composed of  
22 former staff of the Department of the Environment and  
23 its predecessor Environmental Protection Agency, other  
24 Federal and State officials experienced in administering  
25 environmental protection programs, members of the regu-  
26 lated community, and members of public interest groups

1 organized to further the goals of environmental protection.  
 2 The Executive Director is authorized to pay members of  
 3 advisory groups and others who perform services as au-  
 4 thorized under section 3109 of title 5, United States Code,  
 5 at rates for individuals not to exceed the per diem rate  
 6 equivalent to the rate for level V of the Executive Schedule  
 7 under section 5316 of title 5, United States Code. Each  
 8 advisory group shall be subject to the provisions of the  
 9 Federal Advisory Committee Act.

10 **SEC. 306. FUNDING; AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated \$3,000,000  
 12 in fiscal year 1992 and \$5,000,000 in fiscal year 1993  
 13 to carry out the provisions of this title.

14 **TITLE IV—EFFECTIVE DATE**

15 **SEC. 401. EFFECTIVE DATE.**

16 This Act and the amendments made by this Act shall  
 17 take effect on such date during the 6-month period begin-  
 18 ning on the date of enactment, as the President may direct  
 19 in an Executive order. If the President fails to issue an  
 20 Executive order for the purpose of this section, this Act  
 21 and such amendments shall take effect 6 months after the  
 22 date of the enactment of this Act.

○

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HR 109 SC——3