

**Union Calendar No. 192**

103D CONGRESS  
1ST SESSION

**H. R. 3425**

[Report No. 103-3551]

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**A BILL**

To redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes.

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NOVEMBER 10, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1993

Mr. CONYERS (for himself, Mr. BOEHLERT, Mr. SYNAR, Mr. PORTER, Mr. WAXMAN, Mr. SHAYS, Mr. STUDDS, Mr. GILMAN, Mr. NEAL of North Carolina, Mr. MACHTLEY, Mrs. COLLINS of Illinois, Mrs. MEYERS of Kansas, Mr. RUSH, Mrs. MORELLA, Mr. OWENS, Mr. GILLMOR, Mr. WASHINGTON, Mr. GALLO, Ms. MARGOLIES-MEZVINSKY, Mr. RAMSTAD, Mr. WISE, Ms. SNOWE, Mr. TOWNS, Mr. SMITH of New Jersey, Mrs. MALONEY, Mr. WALSH, Mr. PAYNE of New Jersey, Mr. LAZIO, Mr. HOCHBRUECKNER, Ms. MOLINARI, Mr. WELDON, Mrs. JOHNSON of Connecticut, Mr. GOSS, Mr. KLUG, Mr. UPTON, Mr. SANDERS, Mr. HORN, Mr. LANTOS, Ms. BROWN of Florida, Ms. WOOLSEY, Mr. GENE GREEN of Texas, and Mr. LANCASTER) introduced the following bill; which was referred to the Committee on Government Operations

NOVEMBER 10, 1993

Additional sponsors: Mr. DINGELL, Miss COLLINS of Michigan, and Ms. FURSE

NOVEMBER 10, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 3, 1993]

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# A BILL

To redesignate the Environmental Protection Agency as the Department of 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “De-*  
 5 *partment of Environmental Protection Act”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Definitions.*

*Sec. 3. Disclaimer.*

*TITLE I—REDESIGNATION OF ENVIRONMENTAL PROTECTION  
 AGENCY AS DEPARTMENT OF ENVIRONMENTAL PROTECTION*

*Sec. 101. Redesignation of Environmental Protection Agency as Department of  
 Environmental Protection.*

*Sec. 102. Assistant Secretaries.*

*Sec. 103. Deputy Assistant Secretaries.*

*Sec. 104. Office of the General Counsel.*

*Sec. 105. Office of Inspector General.*

*Sec. 106. Regional offices.*

*Sec. 107. Continuing performance of functions.*

*Sec. 108. Strategic management, planning, performance measurement, and re-*  
*porting to Congress.*

*Sec. 109. Information resources management.*

*Sec. 110. Public access to and use of information resources.*

*Sec. 111. Bureau of Environmental Statistics.*

*Sec. 112. Office of Environmental Justice.*

*Sec. 113. Office of Environmental Risk.*

*Sec. 114. Scientific integrity.*

*Sec. 115. Conflicts of interest of members of advisory committees.*

*Sec. 116. Limitation on scope of certain umbrella contracts by Department for  
 advisory and assistance services.*

*Sec. 117. Prohibition on transferring to contractors inherently governmental  
 functions of Department.*

*Sec. 118. Disallowance of, and penalties for, improperly claimed costs under De-*  
*partment contracts and regulations.*

*Sec. 119. Contractor employee gift, entertainment, or recreation costs specifically  
 unallowable under Department contracts.*

- Sec. 120. Documentation of contractor travel costs.  
 Sec. 121. Effective dates; limitations on application.  
 Sec. 122. Regulations.  
 Sec. 123. References.  
 Sec. 124. Savings provisions.  
 Sec. 125. Conforming amendments.  
 Sec. 126. Additional conforming amendments.

TITLE II—ADMINISTRATIVE PROVISIONS

- Sec. 201. Acquisition of copyrights and patents.  
 Sec. 202. Gifts and bequests.  
 Sec. 203. Official seal of Department.  
 Sec. 204. Use of likeness of official seal of Department.  
 Sec. 205. Use of stationery, printed forms, and supplies of Environmental Protection Agency.

1 **SEC. 2. DEFINITIONS.**

2 *As used in this Act:*

3 (1) *DEPARTMENT.*—The term “Department”  
 4 means the Department of Environmental Protection  
 5 provided for in section 101(a).

6 (2) *INDIAN TRIBE.*—The term “Indian tribe” has  
 7 the same meaning as provided by section 4(e) of the  
 8 Indian Self-Determination and Education Assistance  
 9 Act (25 U.S.C. 450b(e)).

10 (3) *STATE.*—The term “State” means a State,  
 11 the District of Columbia, the Commonwealth of Puer-  
 12 to Rico, the Virgin Islands, Guam, American Samoa,  
 13 the Commonwealth of the Northern Mariana Islands,  
 14 and any other territory or possession of the United  
 15 States.

16 (4) *SECRETARY.*—The term “Secretary” means  
 17 the Secretary of the Environment appointed under  
 18 section 101(b).

1 **SEC. 3. DISCLAIMER.**

2 *Nothing in this Act or the amendments made by this*  
3 *Act shall be construed by the Secretary, any officer or em-*  
4 *ployee of the Department, or by any court as altering, af-*  
5 *fecting, amending, modifying, or changing, directly or indi-*  
6 *rectly, any law which on the day before the date of the en-*  
7 *actment of this Act referred to and provided authorities or*  
8 *responsibilities for, or was administered by, the Environ-*  
9 *mental Protection Agency or the Administrator of the Envi-*  
10 *ronmental Protection Agency. The term "any law" in the*  
11 *preceding sentence includes the Federal Water Pollution*  
12 *Control Act, title XIV of the Public Health Service Act (the*  
13 *Safe Drinking Water Act), the Clean Air Act, the Pollution*  
14 *Prevention Act of 1990, the Toxic Substances Control Act,*  
15 *the Federal Insecticide, Fungicide, and Rodenticide Act, the*  
16 *Federal Food, Drug, and Cosmetic Act, the Motor Vehicle*  
17 *Information and Cost Savings Act, the Federal Hazardous*  
18 *Substances Act, the Atomic Energy Act, the Noise Control*  
19 *Act of 1972, the Solid Waste Disposal Act, the Comprehen-*  
20 *sive Environmental Response, Compensation, and Liability*  
21 *Act of 1980, the Superfund Amendments and Reauthoriza-*  
22 *tion Act of 1986, the Ocean Dumping Act, the Environ-*  
23 *mental Research, Development, and Demonstration Author-*  
24 *ization Act, the Pollution Prosecution Act of 1990, and the*  
25 *Federal Facilities Compliance Act of 1992, or any statute*  
26 *containing amendment to any of such Acts. The provisions*

1 of section 112 (relating to environmental justice) and sec-  
2 tion 113 (relating to environmental risk) shall not be con-  
3 strued to alter, affect, amend, or change such Acts, and to  
4 the extent that the authorities provided under such provi-  
5 sions are made applicable by the Secretary to programs,  
6 standards, or regulations under such Acts, the Secretary  
7 shall ensure that such provisions do not alter, affect, amend,  
8 modify, or change the objectives, requirements, procedures,  
9 or limitations of such Acts or make them more or less  
10 stringent.

11 **TITLE I—REDESIGNATION OF**  
12 **ENVIRONMENTAL PROTEC-**  
13 **TION AGENCY AS DEPART-**  
14 **MENT OF ENVIRONMENTAL**  
15 **PROTECTION**

16 **SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTEC-**  
17 **TION AGENCY AS DEPARTMENT OF ENVIRON-**  
18 **MENTAL PROTECTION.**

19 (a) *REDESIGNATION.*—

20 (1) *IN GENERAL.*—The Environmental Protec-  
21 tion Agency is redesignated as the Department of En-  
22 vironmental Protection, and shall be an executive de-  
23 partment in the executive branch of the Government.

24 (2) *HEADQUARTERS.*—The Department shall be  
25 headquartered at the seat of Government.

1           (3) *OFFICIAL ACRONYM.*—*The official acronym of*  
2 *the Department shall be “D.E.P.”.*

3           (b) *SECRETARY OF THE ENVIRONMENT.*—

4           (1) *IN GENERAL.*—*There shall be at the head of*  
5 *the Department a Secretary of the Environment who*  
6 *shall be appointed by the President, by and with the*  
7 *advice and consent of the Senate.*

8           (2) *OFFICE OF THE SECRETARY.*—*The Office of*  
9 *the Secretary shall consist of—*

10           (A) *the Secretary and the Deputy Secretary*  
11 *appointed under subsection (d); and*

12           (B) *such other officers as the Secretary may*  
13 *determine to be necessary, who may include an*  
14 *Executive Secretary appointed by the Secretary.*

15           (c) *TRANSFER OF FUNCTION, POWERS, AND DUTIES.*—

16           (1) *IN GENERAL.*—*The functions, powers, and*  
17 *duties of each officer and employee of the Environ-*  
18 *mental Protection Agency are transferred to, and vest-*  
19 *ed in, the corresponding officer or employee of the*  
20 *Department.*

21           (2) *CONSTRUCTION.*—*This subsection may not be*  
22 *construed to prohibit the delegation or redelegation by*  
23 *the Secretary of functions, powers, or duties trans-*  
24 *ferred by paragraph (1).*

25           (d) *DEPUTY SECRETARY.*—

1           (1) *IN GENERAL.*—*There shall be in the Depart-*  
2           *ment a Deputy Secretary of the Environment, who*  
3           *shall be appointed by the President, by and with the*  
4           *advice and consent of the Senate.*

5           (2) *FUNCTIONS.*—*The Deputy Secretary shall*  
6           *perform such functions as the Secretary shall pre-*  
7           *scribe, and shall act as the Secretary during the ab-*  
8           *sence or disability of the Secretary or in the event of*  
9           *a vacancy in the position of the Secretary.*

10          (e) *DELEGATION OF AUTHORITY.*—

11           (1) *IN GENERAL.*—*Except as provided in this*  
12           *Act or other laws administered by the Department,*  
13           *the Secretary may, consistent with other applicable*  
14           *laws—*

15                   (A) *delegate any functions, powers, or du-*  
16                   *ties, including with respect to the making of reg-*  
17                   *ulations, to such officers and employees of the*  
18                   *Department as the Secretary may designate; and*

19                   (B) *authorize such successive redelegations*  
20                   *of such functions within the Department as the*  
21                   *Secretary considers to be necessary or appro-*  
22                   *priate.*

23           (2) *CONSIDERATIONS.*—*In acting under this sub-*  
24           *section or subsection (c) to delegate or authorize the*  
25           *relegation of functions, the Secretary shall take into*



1 *consideration the need to ensure that regulations,*  
2 *standards, and policies of the Department (including*  
3 *changes and revisions to regulations, standards, and*  
4 *policies) are promulgated and issued by the Secretary*  
5 *or other officers of the Department.*

6 (3) *NOTICE; REVIEW.—The Secretary shall—*

7 (A) *maintain, in a central location that is*  
8 *available to the public, copies of all orders and*  
9 *other instruments making delegations and*  
10 *redelegations of function under this subsection*  
11 *(including all revisions to such delegations); and*

12 (B) *periodically review all such delegations*  
13 *and redelegations.*

14 **SEC. 102. ASSISTANT SECRETARIES.**

15 (a) *ESTABLISHMENT OF POSITIONS.—There shall be in*  
16 *the Department such number of Assistant Secretaries, not*  
17 *to exceed 10, as the Secretary shall determine, each of*  
18 *whom—*

19 (1) *shall be appointed by the President, by and*  
20 *with the advice and consent of the Senate; and*

21 (2) *shall perform such functions as the Secretary*  
22 *prescribes.*

23 (b) *FUNCTIONS.—*

24 (1) *IN GENERAL.—The Secretary shall assign to*  
25 *the Assistant Secretaries of the Department such func-*

1        *tions as the Secretary considers appropriate, includ-*  
2        *ing, subject to the discretion of and modification by*  
3        *the Secretary—*

4                *(A) pollution prevention;*

5                *(B) resource recovery, recycling, and reuse;*

6                *(C) education;*

7                *(D) policy, planning, and evaluation;*

8                *(E) administration;*

9                *(F) resources management, including finan-*  
10                *cial and budget management;*

11                *(G) information resources management;*

12                *(H) procurement and assistance manage-*  
13                *ment;*

14                *(I) personnel and labor relations;*

15                *(J) enforcement;*

16                *(K) compliance monitoring;*

17                *(L) research and development;*

18                *(M) air;*

19                *(N) radiation;*

20                *(O) water;*

21                *(P) pesticides;*

22                *(Q) toxic substances;*

23                *(R) solid wastes;*

24                *(S) hazardous waste and hazardous waste*  
25                *cleanup;*

- 1           (T) *small entity compliance and Regulatory*  
2           *Flexibility Act enforcement;*  
3           (U) *emergency response;*  
4           (V) *congressional affairs and public affairs;*  
5           (W) *intergovernmental affairs;*  
6           (X) *Indian affairs, including Indian tribes;*  
7           (Y) *international affairs; and*  
8           (Z) *noise pollution control and abatement.*

9           (2) *NOTIFICATION REGARDING MODIFICATIONS.—*  
10          *The Secretary may not modify the responsibilities of*  
11          *any Assistant Secretary without prior written notifi-*  
12          *cation, with explanation, of such modification to the*  
13          *appropriate committees of the Senate and the House*  
14          *of Representatives.*

15          (c) *DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMA-*  
16          *TION.—Whenever the President submits the name of an in-*  
17          *dividual to the Senate for confirmation as an Assistant Sec-*  
18          *retary under this section, the President shall state the par-*  
19          *ticular functions of the Department (as assigned by the Sec-*  
20          *retary under subsection (b)) such individual will exercise*  
21          *upon taking office.*

22          ***SEC. 103. DEPUTY ASSISTANT SECRETARIES.***

23          (a) *ESTABLISHMENT OF POSITIONS.—There is author-*  
24          *ized in the Department such number of Deputy Assistant*

1 *Secretaries as the Secretary determines is appropriate, not*  
2 *to exceed 20.*

3 (b) *APPOINTMENTS AND FUNCTIONS.*—*Each Deputy*  
4 *Assistant Secretary—*

5 (1) *shall be appointed by the Secretary; and*

6 (2) *shall perform such functions as the Secretary*  
7 *shall prescribe.*

8 ***SEC. 104. OFFICE OF THE GENERAL COUNSEL.***

9 (a) *OFFICE.*—*There shall be in the Department the Of-*  
10 *fice of the General Counsel.*

11 (b) *GENERAL COUNSEL.*—*There shall be at the head*  
12 *of such office a General Counsel who shall be appointed by*  
13 *the President, by and with the advice and consent of the*  
14 *Senate.*

15 (c) *FUNCTIONS.*—*The General Counsel shall be the*  
16 *chief legal officer of the Department and shall provide legal*  
17 *assistance to the Secretary concerning the programs and*  
18 *policies of the Department.*

19 ***SEC. 105. OFFICE OF INSPECTOR GENERAL.***

20 *The Office of Inspector General of the Environmental*  
21 *Protection Agency, established in accordance with the In-*  
22 *spector General Act of 1978 (5 U.S.C. App.), is redesignated*  
23 *as the Office of Inspector General of the Department of*  
24 *Environmental Protection.*

1 **SEC. 106. REGIONAL OFFICES.**

2 (a) *REGIONAL OFFICES.*—

3 (1) *ESTABLISHMENT; NUMBER.*—*The Secretary*  
4 *shall establish such Regional Offices of the Depart-*  
5 *ment as the Secretary determines to be necessary to*  
6 *carry out in an efficient and economic manner the*  
7 *functions vested in the Secretary or other officials of*  
8 *the Department. The number of such Regional Offices*  
9 *may not exceed 10.*

10 (2) *ALTERATION, CONSOLIDATION, AND RELOCA-*  
11 *TION.*—*The Secretary may alter, consolidate, or relo-*  
12 *cate any Regional Office taking into consideration the*  
13 *needs of the Department and economy and efficiency.*

14 (b) *REGIONAL ADMINISTRATORS.*—

15 (1) *IN GENERAL.*—*There shall be in each Re-*  
16 *gional Office established under subsection (a) a Re-*  
17 *gional Administrator, who shall be the head of the Re-*  
18 *gional Office.*

19 (2) *APPOINTMENT.*—*Each Regional Adminis-*  
20 *trator shall be appointed by, and serve at the pleasure*  
21 *of, the Secretary.*

22 (3) *FUNCTIONS.*—*Each Regional Administrator*  
23 *shall implement, execute, and enforce the national*  
24 *program priorities and policies established, in accord-*  
25 *ance with this Act and other laws applicable to the*  
26 *Department, by the Secretary, or by the Deputy Sec-*

1        *retary or an Assistant Secretary pursuant to a dele-*  
2        *gation from the Secretary.*

3        *(c) INFORMATION REGARDING REGIONAL OFFICE PER-*  
4        *FORMANCE.—The Secretary shall periodically assess the*  
5        *performance of each Regional Office in meeting the program*  
6        *and enforcement priorities established or delegated by the*  
7        *Secretary, and inform the appropriate committees of the*  
8        *Congress about that performance. The first such assessment*  
9        *shall be completed within 2 years after the date of the enact-*  
10       *ment of this Act.*

11       **SEC. 107. CONTINUING PERFORMANCE OF FUNCTIONS.**

12       *(a) REDESIGNATION OF POSITIONS.—*

13                *(1) ADMINISTRATOR.—The Administrator of the*  
14        *Environmental Protection Agency is redesignated as*  
15        *the Secretary of the Environment.*

16                *(2) DEPUTY ADMINISTRATOR.—The Deputy Ad-*  
17        *ministrator of the Environmental Protection Agency*  
18        *is redesignated as the Deputy Secretary of the Envi-*  
19        *ronment.*

20                *(3) ASSISTANT ADMINISTRATORS.—Each Assist-*  
21        *ant Administrator of the Environmental Protection*  
22        *Agency is redesignated as an Assistant Secretary of*  
23        *the Department.*

1           (4) *GENERAL COUNSEL.*—*The General Counsel of*  
2 *the Environmental Protection Agency is redesignated*  
3 *as the General Counsel of the Department.*

4           (5) *INSPECTOR GENERAL.*—*The Inspector Gen-*  
5 *eral of the Environmental Protection Agency is reded-*  
6 *ignated as the Inspector General of the Department.*

7           (b) *NOT SUBJECT TO RENOMINATION OR RECON-*  
8 *FIRMATION.*—*An individual serving at the pleasure of the*  
9 *President in a position that is redesignated by subsection*  
10 *(a) may continue to serve in and perform functions of that*  
11 *position after the date of the enactment of this Act without*  
12 *renomination by the President or reconfirmation by the*  
13 *Senate.*

14 ***SEC. 108. STRATEGIC MANAGEMENT, PLANNING, PERFORM-***  
15 ***ANCE MEASUREMENT, AND REPORTING TO***  
16 ***CONGRESS.***

17           (a) *IN GENERAL.*—*The Secretary shall take such ac-*  
18 *tions as the Secretary determines to be necessary to ensure*  
19 *that all functions and duties vested in the Secretary or other*  
20 *officials of the Department under existing law are carried*  
21 *out in an efficient and economic manner.*

22           (b) *RESPONSIBILITIES OF THE SECRETARY.*—*The Sec-*  
23 *retary shall—*

24                 (1) *develop and maintain, in accordance with*  
25 *the statutes that authorize programs of the Depart-*

1 *ment, a strategic business plan for the Department*  
2 *that clearly and specifically defines the mission of the*  
3 *Department;*

4 *(2) establish and maintain a performance meas-*  
5 *urement system to measure and report on specific*  
6 *program performance from a policy, operational, and*  
7 *economic standpoint, including information resources*  
8 *management; and*

9 *(3) establish a permanent departmental senior*  
10 *management committee, which shall—*

11 *(A) be chaired by the Secretary;*

12 *(B) consist of senior program managers of*  
13 *the Department; and*

14 *(C) assist the Secretary in carrying out the*  
15 *responsibilities of the Secretary in managing the*  
16 *Department.*

17 *(c) REPORT TO THE CONGRESS.—Within 30 days of*  
18 *the submission to the Congress of the budget of the United*  
19 *States Government for each fiscal year under section 1105*  
20 *of title 31, United States Code, the Secretary shall report*  
21 *to the Congress on—*

22 *(1) the extent to which the strategic business*  
23 *plan required by subsection (b) has been implemented,*  
24 *especially with regard to the specific performance*  
25 *measures established under subsection (b)(2); and*



1           (2) *progress in implementing the strategy to at-*  
2           *tain reductions in risk developed under section*  
3           *113(b).*

4   **SEC. 109. INFORMATION RESOURCES MANAGEMENT.**

5           (a) *RESPONSIBILITIES OF THE SECRETARY.*—*The Sec-*  
6           *retary, consistent with section 111 and other provisions of*  
7           *law, shall—*

8           (1) *manage information resources and informa-*  
9           *tion technology so as to ensure—*

10           (A) *maximum net benefits from the applica-*  
11           *tion of such resources and technology, and*

12           (B) *maximum accountability to the public;*

13           (2) *develop policies and mechanisms to commu-*  
14           *nicate information management goals, priorities, and*  
15           *practices effectively throughout the Department, in-*  
16           *cluding policy guidance that describes the process by*  
17           *which the Department shall initiate, approve, and*  
18           *evaluate major automated information systems at key*  
19           *milestones;*

20           (3) *ensure that program management officials,*  
21           *the Chief Financial Officer of the Department, the*  
22           *Chief Information Officer of the Department, and the*  
23           *Director of Environmental Statistics collaborate in—*

1           (A) defining the specific information and  
2           developing the systems capabilities necessary to  
3           meet program missions and goals;

4           (B) identifying specific opportunities to re-  
5           design business practices and supporting infor-  
6           mation systems;

7           (C) estimating the life-cycle costs of pro-  
8           posed automated information systems and ob-  
9           taining independent cost evaluations; and

10          (D) assuring that information included in  
11          the annual budget request of the Department in-  
12          cludes life-cycle cost estimates for automated in-  
13          formation systems;

14          (4) develop management processes that assign  
15          priority to information technology acquisitions and  
16          measure the effect of those acquisitions on mission  
17          performance;

18          (5) ensure substantive involvement of program  
19          management and systems users with information re-  
20          sources management staff in all information systems  
21          projects;

22          (6) establish a management education program  
23          to assist managers in identifying—

24                 (A) areas in which information and tech-  
25                 nology are vital to mission accomplishment, and

1           (B) techniques that can be applied to ex-  
2           ploit information technology successfully; and

3           (7) in accordance with all laws applicable to the  
4           Department, coordinate the data collection and dis-  
5           semination efforts of the Department with other rel-  
6           evant Federal, State, and local agencies in order to  
7           reduce unnecessary burdens and promote greater inte-  
8           gration of information.

9           (b) *INFORMATION RESOURCES MANAGEMENT STEER-*  
10 *ING COMMITTEE.*—

11           (1) *ESTABLISHMENT.*—*The Secretary shall estab-*  
12 *lish a permanent information resources management*  
13 *steering committee, which shall—*

14                   (A) consist of senior program managers or  
15                   their representatives, and

16                   (B) include the Chief Information Officer of  
17                   the Department and the Director of Environ-  
18                   mental Statistics.

19           (2) *FUNCTIONS.*—*The committee established*  
20 *under paragraph (1) shall—*

21                   (A) assist and advise the Secretary in car-  
22                   rying out information resources management re-  
23                   sponsibilities of the Secretary under subsection  
24                   (a);

1           (B) present Department-wide information  
2 resources management issues to the departmental  
3 senior management committee established under  
4 section 108(b)(3) for resolution;

5           (C) establish specific performance measures  
6 for information resources management that re-  
7 late specifically to program missions;

8           (D) review and make recommendations to  
9 the Secretary with regard to major automated  
10 information systems of the Department at  
11 predefined milestones throughout their life cycles;  
12 and

13           (E) evaluate and make recommendations to  
14 the Secretary with regard to significant informa-  
15 tion technology acquisitions of the Department  
16 above a threshold to be defined by the committee.

17 (c) CHIEF INFORMATION OFFICER.—

18           (1) DESIGNATION AND PRIMARY RESPONSIBIL-  
19 ITIES.—

20           (A) IN GENERAL.—The Secretary shall des-  
21 ignate a Chief Information Officer of the Depart-  
22 ment, whose primary responsibilities shall in-  
23 clude providing assistance to senior agency man-  
24 agement in ensuring that information and tech-  
25 nology resources are managed to maximize bene-

1 *fits to the Department and accountability to the*  
2 *public served by the Department.*

3 (B) *INFORMATION COORDINATION FUNC-*  
4 *TIONS.—The Chief Information Officer shall*  
5 *serve as the senior official required to be des-*  
6 *ignated for the Department under section*  
7 *3506(b) of title 44, United States Code.*

8 (2) *QUALIFICATIONS.—To the maximum extent,*  
9 *the individual designated as Chief Information Offi-*  
10 *cer shall be selected from individuals who have—*

11 (A) *direct and substantial experience in*  
12 *successfully achieving major improvements in or-*  
13 *ganizational performance through the use of in-*  
14 *formation technology; and*

15 (B) *demonstrated technical competence and*  
16 *ability to work effectively with senior program*  
17 *managers.*

18 (3) *RANK; LIMITATION ON DUTIES.—The Chief*  
19 *Information Officer shall—*

20 (A) *hold a rank in the Department equiva-*  
21 *lent to Assistant Secretary;*

22 (B) *report directly to the Secretary; and*

23 (C) *not be assigned any permanent duties*  
24 *that are not related to information resources*  
25 *management.*

1           (d) *RESPONSIBILITIES OF THE CHIEF INFORMATION*  
2 *OFFICER.*—*The Chief Information Officer, consistent with*  
3 *section 111 and other provisions of law, shall—*

4           (1) *design, develop, implement, and facilitate a*  
5 *strategic information resources management process*  
6 *for the Department that—*

7           (A) *establishes what information resources*  
8 *management capabilities are necessary to sup-*  
9 *port programs for accomplishing the mission of*  
10 *the Department, including information resources*  
11 *management policies, architectures, and stand-*  
12 *ards;*

13           (B) *includes information plans that set*  
14 *forth what information systems and programs*  
15 *will support the various programmatic and*  
16 *management information requirements of the De-*  
17 *partment;*

18           (C) *includes the development of annual op-*  
19 *erating plans, coordinated with departmental*  
20 *budgets, setting forth resource allocations for spe-*  
21 *cific information systems and programs that*  
22 *support Department missions and goals; and*

23           (D) *includes performance review and re-*  
24 *porting that identifies net benefits actually real-*  
25 *ized from information system investments;*

1           (2) design and maintain a strategic information  
2 resources management plan;

3           (3) develop a comprehensive process for control-  
4 ling information systems development and operations  
5 life cycle, including explicit decision criteria and  
6 early decision points for all information systems  
7 projects;

8           (4) be responsible for assuring the effective and  
9 efficient design, development, and delivery of informa-  
10 tion products and services that support key program  
11 responsibilities;

12           (5) in cooperation with the Chief Financial  
13 Officer of the Department, ensure that—

14                 (A) Department-wide and component ac-  
15 counting, financial, and asset management sys-  
16 tems and other information systems that provide,  
17 at least in part, financial or program perform-  
18 ance data used in financial statements are effec-  
19 tively designed, developed, and implemented; and

20                 (B) financial and related program perform-  
21 ance data are provided on a reliable, consistent,  
22 and timely basis to agency financial manage-  
23 ment systems;

24           (6) identify, in cooperation with program man-  
25 agers and the Chief Financial Officer of the Depart-

1 *ment, specific opportunities to redesign business prac-*  
2 *tices and supporting information systems to improve*  
3 *agency performance;*

4 *(7) regularly complete accurate post-implemen-*  
5 *tation reviews for all information systems projects of*  
6 *the Department;*

7 *(8) develop, in cooperation with the Chief Finan-*  
8 *cial Officer of the Department, full and accurate*  
9 *information on—*

10 *(A) information technology expenditures*  
11 *(including capital investment and expenses) by*  
12 *the Department; and*

13 *(B) all expenses for Department staff who*  
14 *carry out information resources management re-*  
15 *sponsibilities;*

16 *(9) develop requirements and mechanisms for*  
17 *comprehensive information resources management*  
18 *training and professional development of Department*  
19 *staff;*

20 *(10) establish policies for communicating De-*  
21 *partment-wide and component information systems*  
22 *requirements and acquisition plans with industry, in-*  
23 *cluding by—*

24 *(A) working with program managers and*  
25 *component information resources management*



1           officials to ensure that each major acquisition  
2           plan contains an industry communications seg-  
3           ment that informs industry of the acquisition,  
4           presents its purpose, and solicits industry feed-  
5           back on technology, schedule, and other signifi-  
6           cant issues; and

7                   (B) establishing Department-wide policies  
8           for the use of requests for information, requests  
9           for comment, and draft requests for procurement  
10          proposals, as mechanisms for improving acquisi-  
11          tion effectiveness and increasing competition;  
12          and

13               (11) work cooperatively with the Director of En-  
14          vironmental Statistics, providing the technical and  
15          other support necessary to fulfill the information sys-  
16          tems and other information requirements identified  
17          by the Director as needed to carry out the functions  
18          of the Bureau of Environmental Statistics.

19               (e) *DEFINITIONS.*—Terms used in this section have the  
20          meanings set forth in section 3502 of title 44, United States  
21          Code, to the extent the terms are defined in that section.

22               (f) *CONSTRUCTION.*—This section may not be con-  
23          strued as affecting or limiting in any way the functions  
24          and authorities of the Director of the Bureau of Environ-  
25          mental Statistics relating to—

1           (1) *collecting, compiling, evaluating, analyzing,*  
2           *reporting, preparing, and publishing data, statistics,*  
3           *or other environmental and public health informa-*  
4           *tion, or*

5           (2) *the making of grants or the conduct of any*  
6           *related activities.*

7   **SEC. 110. PUBLIC ACCESS TO AND USE OF INFORMATION**

8           **RESOURCES.**

9           (a) *ENCOURAGING PUBLIC ACCESS AND USE.—*

10           (1) *POLICIES AND METHODS.—The Secretary*  
11           *shall, in accordance with all provisions of law appli-*  
12           *cable to the Department—*

13                   (A) *identify and develop policies and meth-*  
14                   *ods for encouraging greater public access to, and*  
15                   *use of, departmental information collected,*  
16                   *stored, retained, or disseminated and available to*  
17                   *the public under such provisions of law; and*

18                   (B) *make such public information available*  
19                   *in a variety of formats and through systems that*  
20                   *permit and encourage widespread use and anal-*  
21                   *ysis.*

22           (2) *BUREAU OF ENVIRONMENTAL STATISTICS.—*

23           *For the purpose of the application of this section to*  
24           *the Bureau of Environmental Statistics, the Director*

1        *of Environmental Statistics shall have the responsibil-*  
2        *ities of the Secretary.*

3        *(b) INVENTORY AND LOCATOR OF INFORMATION SERV-*  
4        *ICES.—The Secretary shall, in accordance with all provi-*  
5        *sions of law applicable to the Department, develop and*  
6        *maintain a public access system providing a current, com-*  
7        *prehensive, and detailed inventory of the Department’s pub-*  
8        *lic information services, products, systems, and other hold-*  
9        *ings. The system shall include the following:*

10            *(1) An inventory that lists each such service,*  
11            *product, and system, and describes the type of infor-*  
12            *mation available, the cost and other terms of public*  
13            *access, and details about sources and methodology*  
14            *used in preparation of the information. The inventory*  
15            *shall—*

16                    *(A) be updated regularly;*

17                    *(B) be disseminated as widely as possible in*  
18                    *electronic and hard copy formats; and*

19                    *(C) be printed at least annually.*

20            *(2) Provision of access to selected public infor-*  
21            *mation holdings and databases. Such access shall—*

22                    *(A) allow users to download information;*

23                    *(B) include easy to use menus and other en-*  
24                    *hancements to improve use; and*

1           (C) be accompanied by support and tech-  
2           nical assistance to current and potential users.

3           (3) A means for the public and other agencies to  
4           communicate with the Department about public infor-  
5           mation available through the system and about im-  
6           provements to the system.

7           (c) *INTEGRATION AND AVAILABILITY OF SERVICES.*—  
8           In order to enhance public access and encourage use of pub-  
9           lic information, improve the management of information  
10          resources, and assist Departmental multimedia permitting  
11          and enforcement initiatives, the Secretary shall, in accord-  
12          ance with all laws applicable to the Department, develop  
13          policies, programs, and methods for integrating and linking  
14          public information pertaining to the environment, public  
15          health, environmental justice, and other public policy con-  
16          cerns within the jurisdiction of the Department.

17          (d) *STRATEGIC PLAN AND REPORTS ON PUBLIC AC-*  
18          *CESS TO AND USE OF INFORMATION.*—

19               (1) *STRATEGIC PLAN.*—As part of the strategic  
20          information resources management plan required  
21          under section 109(d)(2), the Chief Information Officer  
22          shall develop a strategic plan on the use of informa-  
23          tion technology to provide for dissemination of, and  
24          public access to, departmental information that is  
25          available to the public in accordance with applicable

1 *provisions of law, and to facilitate implementation of*  
2 *subsections (b) and (c).*

3 (2) *CONTENTS OF PLAN.—The strategic plan re-*  
4 *quired by paragraph (1), where appropriate, shall in-*  
5 *clude—*

6 (A) *a description of current activities and*  
7 *future initiatives to carry out requirements for*  
8 *promoting public access to, and use of, publicly*  
9 *available information under this section, includ-*  
10 *ing a discussion of efforts to implement sub-*  
11 *sections (b) and (c);*

12 (B) *an evaluation of the use of geographical*  
13 *information systems and spatial display tech-*  
14 *nologies in fulfilling the public dissemination ob-*  
15 *jectives of this section;*

16 (C) *an evaluation of the role of emerging*  
17 *computer technologies, including CD-ROM (com-*  
18 *pact-disk—read only memory) and other suitable*  
19 *machine readable storage alternatives, and on-*  
20 *line transaction-based reporting, in fulfilling the*  
21 *public dissemination objectives of this section;*

22 (D) *a plan for one or more pilot programs*  
23 *to expand existing online information dissemina-*  
24 *tion programs to include additional data bases;*

1           (E) efforts for considering and implement-  
2           ing an electronic data interchange;

3           (F) the role of the existing or planned enti-  
4           ties, including depository libraries and the Na-  
5           tional Research and Educational Network, in  
6           aiding dissemination objectives of this section;

7           (G) a review of alternatives and possibili-  
8           ties for conversion of print material to machine  
9           readable formats;

10          (H) an evaluation of a system linked to the  
11          inventory established under subsection (b), for  
12          indexing, locating, and obtaining publicly avail-  
13          able information about facilities and substances  
14          regulated by the Department; and

15          (I) the personnel, funding, and length of  
16          time needed to implement the plan.

17          (e) *OBTAINING PUBLIC ADVICE AND GUIDANCE.*—The  
18          Secretary shall establish an ongoing balanced process for  
19          obtaining public advice, guidance, and recommendations on  
20          improving public access to, and use of, Departmental infor-  
21          mation that is available to the public under applicable  
22          provisions of law.

23          (f) *USER FEES.*—Fees for dissemination of Depart-  
24          ment information products or services may be set at a level

1 *sufficient to recover the cost of the dissemination, but no*  
2 *higher.*

3 **SEC. 111. BUREAU OF ENVIRONMENTAL STATISTICS.**

4 (a) *ESTABLISHMENT.*—*There is established within the*  
5 *Department the Bureau of Environmental Statistics (here-*  
6 *inafter in this section referred to as the “Bureau”). The*  
7 *purpose of the Bureau is to provide in accordance with this*  
8 *section such environmental quality and related public*  
9 *health and economic information, and such evaluation and*  
10 *analyses of such information, as may be appropriate, to*  
11 *meet adequately and fully the needs of the Department in*  
12 *carrying out its functions under applicable law, and the*  
13 *Congress.*

14 (b) *DIRECTOR OF ENVIRONMENTAL STATISTICS.*—

15 (1) *IN GENERAL.*—*The Bureau shall be under the*  
16 *direction of the Director of Environmental Statistics*  
17 *(hereinafter in this section referred to as the “Direc-*  
18 *tor”), who shall report directly to the Secretary.*

19 (2) *APPOINTMENT, TERM, AND REMOVAL.*—

20 (A) *APPOINTMENT AND TERM.*—*The Direc-*  
21 *tor shall—*

22 (i) *be appointed by the Secretary for a*  
23 *term of 4 years; and*

24 (ii) *be selected from individuals who*  
25 *are well qualified through experience or*

1           *training in the collection and analysis of*  
2           *environmental statistics.*

3           (B) *SERVICE AFTER EXPIRATION OF*  
4           *TERM.—An individual may, at the request of the*  
5           *Secretary, serve as Director after the expiration*  
6           *of his or her term for not more than 3 months*  
7           *until his or her successor has taken office.*

8           (C) *REMOVAL.—An individual may be re-*  
9           *moved as Director by the Secretary only for mal-*  
10          *feasance in office or neglect of duty.*

11          (D) *REAPPOINTMENT.—An individual serv-*  
12          *ing as Director may be reappointed for addi-*  
13          *tional terms.*

14          (3) *COMPENSATION.—The Director shall be com-*  
15          *pensated at the rate provided for level V of the Execu-*  
16          *tive Schedule under section 5316 of title 5, United*  
17          *States Code.*

18          (c) *FUNCTIONS OF DIRECTOR.—*

19                 (1) *IN GENERAL.—The functions of the Director*  
20                 *shall include—*

21                         (A) *collecting, compiling, analyzing, and*  
22                         *publishing a comprehensive set of environmental*  
23                         *quality and related public health, economic, and*  
24                         *statistical data for determining environmental*  
25                         *quality and related measures of public health,*



1           *over both the short- and long-term, including as-*  
2           *sessing—*

3                     *(i) ambient conditions and trends; and*  
4                     *(ii) the distribution of environmental*  
5                     *conditions and related public health condi-*  
6                     *tions across all affected populations, includ-*  
7                     *ing those populations identifiable on the*  
8                     *basis of income, race, ethnicity, or national*  
9                     *origin;*

10                    *(B) evaluating the adequacy of available*  
11                    *statistical measures to determine the Depart-*  
12                    *ment's success in fulfilling statutory require-*  
13                    *ments;*

14                    *(C) ensuring that data and measures re-*  
15                    *ferred to in this subsection are accurate, reliable,*  
16                    *relevant, and in a form that permits systematic*  
17                    *analysis;*

18                    *(D) collecting and analyzing such other*  
19                    *data as may be required by the Director to—*

20                             *(i) efficiently and effectively fulfill the*  
21                             *Director's responsibilities, or*

22                             *(ii) identify new environmental prob-*  
23                             *lems;*

24                    *(E) conducting specialized analyses and*  
25                    *preparing special reports on particular subjects*

1           *whenever required to do so by the President, by*  
2           *law, or by the Secretary, or when considered ap-*  
3           *propriate by the Director; and*

4           *(F) making readily accessible or, to the ex-*  
5           *tent practicable, disseminating all publicly*  
6           *available data collected under subparagraph (A)*  
7           *or (B), in a timely manner and using dissemi-*  
8           *nation methods that will maximize the utility of*  
9           *such publicly available information to the public.*

10           (2) *TECHNICAL CAPABILITIES TO PERFORM*  
11           *ANALYSES.—The Director shall establish and main-*  
12           *tain the scientific, engineering, statistical, and other*  
13           *technical capability to perform analysis of environ-*  
14           *mental quality and related public health and eco-*  
15           *nomical data, to—*

16           *(A) verify the accuracy of items of environ-*  
17           *mental quality and related public health and*  
18           *economic data submitted to the Director; and*

19           *(B) ensure the coordination and com-*  
20           *parability of that data.*

21           (d) *POWERS OF DIRECTOR.—*

22           (1) *IN GENERAL.—The Director is authorized on*  
23           *a nonexclusive basis, to exercise and enforce any au-*  
24           *thority vested in the Secretary by law that relates to*  
25           *the collection, gathering, reporting, evaluating, analy-*

1 *sis, or dissemination of environmental quality data*  
2 *and related measures of public health in order to*  
3 *carry out fully the functions of the Director.*

4 (2) *ACTIONS NOT SUBJECT TO APPROVAL.—The*  
5 *Director shall not be required to—*

6 (A) *obtain the approval of any other officer*  
7 *or employee of the Department in connection*  
8 *with the collection, compilation, evaluation,*  
9 *analysis, or dissemination of any information;*  
10 *or*

11 (B) *obtain, prior to publication, the ap-*  
12 *proval of any other officer or employee of the*  
13 *United States with respect to the substance of*  
14 *any reports prepared in accordance with law.*

15 (3) *PROVIDING ASSISTANCE.—The Director may,*  
16 *upon request, provide technical assistance to offices of*  
17 *the Department and to other Federal agencies for the*  
18 *purpose of assuring the technical quality and the co-*  
19 *ordination of statistical activities of the Department.*  
20 *Such assistance may include reviewing data collection*  
21 *plans, survey designs, and pretests, management of*  
22 *data, and quality of data. The Director shall, upon*  
23 *request, promptly provide any information or analy-*  
24 *sis in the possession of the Bureau to any office with-*

1        *in the Department which such office determines re-*  
2        *lates to the functions of such office.*

3            (4) *COLLECTION OF DATA FROM OTHER AGEN-*  
4        *CIES, PERSONS, ETC.—Subject to other applicable*  
5        *provisions of law, the Director, in carrying out re-*  
6        *sponsibilities under this Act, may collect data from*  
7        *such Federal agencies, State or local governments or*  
8        *instrumentalities, Indian tribes, businesses, and other*  
9        *individuals, persons, organizations, and institutions*  
10       *as the Director considers appropriate.*

11           (5) *USE OF DATA COLLECTED BY FEDERAL*  
12        *AGENCIES.—*

13           (A) *IN GENERAL.—The Director may—*

14                (i) *use data collected by any Federal*  
15                *agency, and*

16                (ii) *enter into interagency or intra-*  
17                *agency agreements for the collection of data*  
18                *for the purposes of this section.*

19           (B) *PROVISION OF DATA TO DIRECTOR.—*

20        *Subject to applicable law, all Federal agencies*  
21        *(including agencies in the Department) shall*  
22        *provide to the Director, in a timely manner and*  
23        *to the extent possible in a usable electronic for-*  
24        *mat, any data that the Director requires to carry*  
25        *out responsibilities under this Act.*

1           (C) *COOPERATIVE COLLECTION OF DATA.*—

2           *The Director may—*

3                   (i) *arrange with any agency, organiza-*  
4                   *tion, or institution for the cooperative col-*  
5                   *lection of data for the purposes of this*  
6                   *section, and*

7                   (ii) *assign employees of the Bureau to*  
8                   *any such agency, organization, or institu-*  
9                   *tion to assist in such collection.*

10           (6) *OBTAINING EMPLOYEES AND SERVICES.*—*The*  
11           *Director—*

12                   (A) *may select, appoint, and employ such*  
13                   *officers and employees as may be necessary to*  
14                   *carry out the functions of the Bureau, subject*  
15                   *to—*

16                           (i) *the provisions of title 5, United*  
17                           *States Code, governing appointments in the*  
18                           *competitive service, and*

19                           (ii) *the provisions of chapter 51 and*  
20                           *subchapter III of chapter 53 of such title re-*  
21                           *lating to classification and General Sched-*  
22                           *ule pay rates; and*

23                   (B) *may obtain services as authorized by*  
24                   *section 3109 of title 5, United States Code, at a*  
25                   *rate not to exceed the equivalent daily rate pay-*

1           able for level V of the Executive Schedule under  
2           section 5316 of such title.

3           (e) *STAFF.*—The Secretary shall ensure that the Bu-  
4   reau of Environmental Statistics has staff sufficient to en-  
5   able the Director to efficiently carry out the duties of the  
6   Director.

7           (f) *CONTINUING PERFORMANCE OF FUNCTIONS OF DI-*  
8   RECTOR.—An individual who, on the effective date of this  
9   Act, is performing any of the functions required by this sec-  
10   tion to be performed by the Director may continue to per-  
11   form such functions until such functions are assigned to an  
12   individual appointed as the Director under this Act.

13          (g) *AVAILABILITY OF DIRECTOR TO CONGRESS; SPE-*  
14   CIAL REPORTS.—The Director—

15           (1) shall be available to the Congress to provide  
16   testimony on subjects under the authority of the Di-  
17   rector as any committee of the Congress may request,  
18   including on environmental quality data and related  
19   measures of public health and analyses thereof;

20           (2) shall, notwithstanding any limitation con-  
21   tained in this section or any other provision of law,  
22   make available to any committee of the Congress hav-  
23   ing jurisdiction over any program of the Department,  
24   upon written request of the committee, any informa-  
25   tion reported or otherwise obtained, and any evalua-

1     *tion or analysis made, by the Director or any officer*  
2     *or employee of the Bureau under this section that*  
3     *relates to that program; and*

4             *(3) may provide, and charge for, statistical*  
5     *records, compilations, surveys, and reports to State*  
6     *and local officials, public and private organizations,*  
7     *and individuals.*

8     *(h) CONFIDENTIALITY OF INFORMATION.—*

9             *(1) IN GENERAL.—The Director may not make*  
10     *public any information obtained under this section*  
11     *that is exempt from disclosure pursuant to subsection*  
12     *(b)(4) of section 552 of title 5, United States Code, ex-*  
13     *cept as provided in subsection (d) of that section and*  
14     *this section.*

15             *(2) ACCESS TO INFORMATION IN POSSESSION OF*  
16     *OTHER FEDERAL AGENCY.—In furtherance and not in*  
17     *limitation of any other authority, the Director, on be-*  
18     *half of the Secretary, shall have access to environ-*  
19     *mental and related public health, economic, and sta-*  
20     *tistical information in the possession of the Depart-*  
21     *ment or any other Federal agency, except informa-*  
22     *tion—*

23                     *(A) the disclosure of which to another Fed-*  
24     *eral agency is expressly prohibited by law; or*

1           (B) the disclosure of which the agency hav-  
2           ing possession determines would significantly  
3           impair the discharge of authorities and respon-  
4           sibilities that have been delegated to, or vested by  
5           law, in such agency.

6           (3) OBTAINING INFORMATION TO WHICH ACCESS  
7           IS DENIED.—In any case in which the Director is de-  
8           nied information that is necessary to achieve the pur-  
9           poses of this Act, the Director shall take appropriate  
10          action, pursuant to paragraph (2), to obtain such in-  
11          formation from the original sources of the informa-  
12          tion or an alternate source. Such an alternate source  
13          shall be notified of the reason for any request under  
14          this paragraph for information.

15          (4) DISCLOSURE OF INFORMATION TO FEDERAL  
16          AGENCIES.—Notwithstanding paragraphs (1) and (2)  
17          and section 552(b)(4) of title 5, United States Code,  
18          the Director, unless prohibited by law, may disclose  
19          any information obtained under this section to—

20                 (A) the General Accounting Office; and

21                 (B) any department or agency of the Fed-  
22          eral Government that requests the information to  
23          carry out its lawful functions.

24          (5) CONTINUING APPLICATION OF OTHER RE-  
25          STRICTIONS.—Any information disclosed by the Di-



1        *rector under paragraph (4) shall continue thereafter*  
2        *to be subject to any restriction, requirement, or condi-*  
3        *tion regarding the use or disclosure of the information*  
4        *that applies to the Department.*

5        *(i) ESTABLISHMENT OF PUBLIC PARTICIPATION PROC-*  
6        *ESS.—The Director shall establish an ongoing balanced*  
7        *process for obtaining public advice, guidance, and rec-*  
8        *ommendations on the implementation of the functions of the*  
9        *Director.*

10       *(j) PEER REVIEW OF BUREAU.—*

11            *(1) REVIEW REQUIREMENT.—The statistical pro-*  
12            *cedures and methodology of the Bureau shall be sub-*  
13            *ject to an annual peer review. Such review shall be*  
14            *conducted by a Peer Review Team, which shall pre-*  
15            *pare and submit to the President and the Congress a*  
16            *report describing its investigation and findings.*

17            *(2) PEER REVIEW TEAM.—The Peer Review*  
18            *Team shall consist of at least 5 professionally quali-*  
19            *fied persons who are officers or employees of the*  
20            *United States, of whom at least—*

21                    *(A) one shall be designated by the Director*  
22                    *of the Bureau of the Census;*

23                    *(B) one shall be designated by the Commis-*  
24                    *sioner of Labor Statistics;*

1           (C) one shall be designated by the Director  
2 of the National Center for Health Statistics;

3           (D) one shall be designated by the Adminis-  
4 trator of the Energy Information Administra-  
5 tion; and

6           (E) one shall be designated by the Comp-  
7 troller General of the United States.

8           (3) CHAIRMAN.—The member of the Peer Review  
9 Team appointed under paragraph (2)(E) shall be the  
10 Chairman of the Team.

11           (4) RESPONSIBILITIES OF DIRECTOR AND SEC-  
12 RETARY.—The Director and the Secretary—

13           (A) shall cooperate fully with the Peer Re-  
14 view Team; and

15           (B) notwithstanding any other provisions of  
16 law, shall make available to the Peer Review  
17 Team such relevant data, information, docu-  
18 ments, and services as the Peer Review Team de-  
19 termines are necessary for successful completion  
20 of its peer review.

21           (5) CONFIDENTIALITY OF INFORMATION.—Infor-  
22 mation made available to the Peer Review Team  
23 under paragraph (4)(B) shall be subject to the con-  
24 fidentiality standards applicable to the information  
25 under subsection (h).

1       (k) *SPECIFICATION IN BUDGET OF PROPOSED APPRO-*  
2 *PRIATIONS.—The President shall include in each budget*  
3 *submitted under section 1105 of title 31, United States*  
4 *Code—*

5           (1) *an estimate of expenditures and appropria-*  
6 *tions necessary to carry out this section for the fiscal*  
7 *year covered by the budget; and*

8           (2) *a statement of the difference, if any, between*  
9 *the estimate under paragraph (1) and the appropria-*  
10 *tion request for the fiscal year that is submitted to the*  
11 *President by the Director under section 1108 of that*  
12 *title.*

13       (l) *STATE AND LOCAL GOVERNMENTS.—Any require-*  
14 *ment solely under this section or a regulation promulgated*  
15 *solely under this section, that a State or local government*  
16 *collect data, conduct an activity, or provide a service, shall*  
17 *apply to the State or local government only if all funds*  
18 *necessary to pay the direct costs incurred by the government*  
19 *in conducting the activity, or providing the service, are pro-*  
20 *vided by the Federal Government. Nothing in this sub-*  
21 *section shall affect the authority of the Director to collect*  
22 *data or information from a State or local government that*  
23 *is available without need for further collection by that gov-*  
24 *ernment, or that is otherwise required by law.*

1 **SEC. 112. OFFICE OF ENVIRONMENTAL JUSTICE.**

2 (a) *OFFICE OF ENVIRONMENTAL JUSTICE.*—The Sec-  
3 retary shall establish in the Department an Office of Envi-  
4 ronmental Justice (hereinafter in this section referred to as  
5 the “Office”), which shall be independent of the Depart-  
6 ment’s single-medium program offices but shall have the au-  
7 thority to advise such offices about environmental justice  
8 matters. The Office shall be under the direction of a Direc-  
9 tor appointed by the President, with the advice and consent  
10 of the Senate. The Director shall be compensated at level  
11 V of the Executive Schedule under section 5316 of title 5,  
12 United States Code.

13 (b) *FUNCTIONS.*—The Director shall develop and, with  
14 the approval of the Secretary, implement a strategy to pro-  
15 mote, to the greatest extent practicable and consistent with  
16 the provisions of this section and other provisions of law  
17 applicable to the Department, environmental justice for all  
18 people wherever they are located or work in the United  
19 States, and regardless of income, race, ethnicity, or national  
20 origin.

21 (c) *ENVIRONMENTAL JUSTICE ADVISORY COMMIT-*  
22 *TEE.*—

23 (1) *ESTABLISHMENT OF ADVISORY COMMIT-*  
24 *TEE.*—The Secretary shall establish an Advisory  
25 Committee on Environmental Justice (hereinafter in  
26 this subsection referred to as the “Committee”), which

1 *shall advise the Secretary and the Director on matters*  
2 *relating to the strategic direction, policies, and pro-*  
3 *grams of the Department under this section.*

4 (2) *APPOINTMENTS.—*

5 (A) *MEMBERSHIP.—The Committee shall be*  
6 *composed of not more than 15 members ap-*  
7 *pointed by the Secretary. The Director and the*  
8 *Secretary (or their designees) shall be ex officio*  
9 *members of the Committee. The Secretary shall,*  
10 *in appointing members of the Committee—*

11 (i) *ensure that the Committee is fairly*  
12 *balanced with respect to points of view rep-*  
13 *resented and with regard to racial, gender,*  
14 *ethnic, and geographic representation;*

15 (ii) *include individuals who have*  
16 *knowledge of, and experience with, environ-*  
17 *mental conditions in racial minority, ethnic*  
18 *minority, or moderate- and low-income*  
19 *communities;*

20 (iii) *include individuals who are recog-*  
21 *nized experts in the fields of environmental*  
22 *law, socioeconomic analysis, health and en-*  
23 *vironmental effects, exposure evaluation,*  
24 *and environmental health science research;*  
25 *and*

1                   (iv) include individuals who represent  
2                   the regulated community, labor, commu-  
3                   nity-based groups, Federal, State, and local  
4                   governments, Indian tribes, and other enti-  
5                   ties that the Secretary determines to be ap-  
6                   propriate.

7                   (B) *TERMS.*—Except as provided in sub-  
8                   paragraph (C), members of the Board shall be  
9                   appointed for a 3-year term, and may be  
10                  reappointed for 1 additional term. Appointees to  
11                  vacancies shall serve for the remainder of the  
12                  original member’s term.

13                  (C) *STAGGERED TERMS.*—Of the members  
14                  first appointed to the Committee—

15                         (i) one-third shall be appointed for a  
16                         1-year term; and

17                         (ii) one-third shall be appointed for a  
18                         2-year term.

19                  (d) *STATE AND LOCAL GOVERNMENTS.*—Any require-  
20                  ment or strategy implemented by the Director solely as a  
21                  result of provisions under this section or a regulation pro-  
22                  mulgated solely under the provisions of this section, that  
23                  a State or local government conduct an activity, or provide  
24                  a service, shall apply to the State or local government only  
25                  if all funds necessary to pay the direct costs incurred by

1 *the government in conducting the activity, or providing the*  
2 *service, are provided by the Federal Government.*

3 **SEC. 113. OFFICE OF ENVIRONMENTAL RISK.**

4       (a) *OFFICE OF ENVIRONMENTAL RISK.*—*The Secretary*  
5 *shall establish in the Department an Office of Environ-*  
6 *mental Risk (hereinafter in this section referred to as the*  
7 *“Office”), which shall be independent of the Department’s*  
8 *single-medium program offices but shall have the authority*  
9 *to advise such offices about environmental relative risk mat-*  
10 *ters. The Office shall be under the direction of a Director*  
11 *appointed by the President, by and with the advice and*  
12 *consent of the Senate. The Director shall be compensated*  
13 *at level V of the Executive Schedule under section 5316 of*  
14 *title 5, United States Code.*

15       (b) *FUNCTIONS.*—*The Director shall develop and, with*  
16 *the approval of the Secretary, implement a strategy, to at-*  
17 *tain, to the greatest extent practicable and consistent with*  
18 *the provisions of this section and other provisions of law*  
19 *applicable to the Department, reductions in risk to human*  
20 *health and the environment that are practicable with the*  
21 *resources available.*

22       (c) *ADVISORY COMMITTEE ON RELATIVE RISKS.*—

23               (1) *ESTABLISHMENT OF ADVISORY COMMIT-*  
24 *TEE.*—*The Secretary shall establish an Advisory*  
25 *Committee on Relative Risk (hereinafter in this sub-*

1 *section referred to as the “Committee”), which shall*  
2 *advise the Secretary and the Director on matters re-*  
3 *lating to the strategic direction, policies, and pro-*  
4 *grams of the Department under this section.*

5 (2) MEMBERS.—

6 (A) IN GENERAL.—*The Secretary shall ap-*  
7 *point 15 members to the Committee. In making*  
8 *appointments to the Committee, the Secretary*  
9 *shall request nominations from the heads of the*  
10 *National Academy of Sciences, the National*  
11 *Academy of Engineering, the Assistant to the*  
12 *President for Science and Technology, the Soci-*  
13 *ety for Risk Analysis, and such other individuals*  
14 *as the Secretary determines to be appropriate.*

15 (B) REPRESENTATION.—*The Secretary shall*  
16 *appoint a representative group of individuals on*  
17 *the basis of the recognized expertise and ability*  
18 *of the individuals in the areas of human health*  
19 *effects (including physicians and industrial hy-*  
20 *gienists), ecological effects, welfare effects, law,*  
21 *engineering, economics, risk communications,*  
22 *and other such specialties related to risk man-*  
23 *agement and risk assessment as the Secretary*  
24 *considers appropriate.*



1           (C) *CONSIDERATIONS OF THE SEC-*  
2           *RETARY.—In making appointments, the Sec-*  
3           *retary shall appoint members so as to represent*  
4           *a balanced spectrum of expertise and ability. The*  
5           *Secretary shall take such action as is necessary*  
6           *to ensure that—*

7                     (i) *the appointments are made only on*  
8                     *the basis of the criteria referred to in the*  
9                     *previous sentence, and not other criteria,*  
10                    *such as political affiliation; and*

11                   (ii) *each member appointed to the*  
12                    *Committee has no real or apparent conflict*  
13                    *of interest with respect to serving on the*  
14                    *Committee.*

15           (D) *LIST.—The Secretary shall publish a*  
16            *list of the individuals who supply nominations*  
17            *pursuant to this paragraph and their respective*  
18            *nominees.*

19           (E) *TERMS.—Except as provided in sub-*  
20            *paragraph (F), members of the Board shall be*  
21            *appointed for a 3-year term, and may be*  
22            *reappointed for 1 additional term. Appointees to*  
23            *vacancies shall serve for the remainder of the*  
24            *original member's term.*

1                   (F) *STAGGERED TERMS.*—*Of the members*  
2                   *first appointed to the Committee—*

3                           (i) *one-third shall be appointed for a*  
4                           *1-year term; and*

5                           (ii) *one-third shall be appointed for a*  
6                           *2-year term.*

7   **SEC. 114. SCIENTIFIC INTEGRITY.**

8           (a) *IN GENERAL.*—*The Secretary, in carrying out re-*  
9           *sponsibilities of the Secretary under this Act and any other*  
10          *Act that applies to the Department, shall—*

11                   (1) *provide for the development and acquisition*  
12                   *of the best credible and unbiased scientific informa-*  
13                   *tion, and make such information available on a time-*  
14                   *ly basis, for use by, and guidance of, the Secretary;*  
15                   *and*

16                   (2) *develop, publish, and implement, within 18*  
17                   *months after the date of the enactment of this Act,*  
18                   *meaningful peer review and quality assurance guide-*  
19                   *lines and policies for improved performance of the*  
20                   *Department and its activities, which guidelines and*  
21                   *policies shall identify, to the greatest extent possible,*  
22                   *the types or categories of science-based, science-*  
23                   *dependent, and technical products that will be subject*  
24                   *to them.*

1       (b) *PRODUCTS DEFINED.*—In subsection (a)(2), the  
2 term “products”—

3           (1) includes studies, reports, models, analyses,  
4 and other publications used to support rulemaking;  
5 and

6           (2) does not include the promulgation of a rule,  
7 the issuance or denial of a permit, or the taking of  
8 enforcement actions.

9       (c) *LIMITATION ON LEGAL EFFECT.*—This section  
10 shall not be the basis for challenging actions taken under  
11 other provisions of law, or the cause of delay of any action  
12 required to meet a statutory or court-imposed deadline.

13 **SEC. 115. CONFLICTS OF INTEREST OF MEMBERS OF ADVI-**  
14 **SORY COMMITTEES.**

15       (a) *CONFLICTS OF INTEREST REPORTING REQUIRE-*  
16 *MENTS.*—Each member of an advisory committee of the De-  
17 partment who is not an officer or employee of the Federal  
18 Government shall file with the Secretary an annual written  
19 report disclosing—

20           (1) the member’s principal employment;

21           (2) all other corporations, companies, firms,  
22 partnerships, business enterprises, research organiza-  
23 tions, educational institutions, or other entities in or  
24 to which the member serves as an employee, officer,  
25 adviser, director, owner, or consultant, including a

1 *description of the nature of the member's service, but*  
2 *only to the extent the entity or relationship is rel-*  
3 *evant to the purposes and functions of the advisory*  
4 *committee; and*

5 *(3) the identity, but not the value or amount, of*  
6 *any sources of income or financial interests of the*  
7 *member that are or may be relevant to the purposes*  
8 *and functions of the advisory committee.*

9 *(b) PUBLIC ACCESS TO REPORTS.—The Secretary*  
10 *shall, within 15 days after receiving any report under this*  
11 *section, permit inspection of such report by, or furnish a*  
12 *copy of such report to, any person requesting such inspec-*  
13 *tion or copy, subject to the terms and conditions established*  
14 *by section 104 of the Ethics in Government Act of 1978*  
15 *(2 U.S.C. 704) for reports filed under that Act.*

16 *(c) BALANCED REPRESENTATION REQUIREMENT.—*

17 *(1) IN GENERAL.—The membership of each advi-*  
18 *sory committee appointed by the Department shall be*  
19 *balanced in terms of the points of view represented*  
20 *and the functions to be performed by the advisory*  
21 *committee. In order to meet this requirement, each*  
22 *such advisory committee shall have representatives*  
23 *appointed from among the following groups:*

24 *(A) The affected industry.*

1           (B) Consumer, labor, environmental, health,  
2           and public interest groups.

3           (C) State and local governments and In-  
4           dian tribes.

5           (2) TREATMENT OF CATEGORIES.—The categories  
6           described in paragraphs (1) (A), (B), and (C)—

7                   (A) are not exclusive, and

8                   (B) may each be waived by the appointing  
9           authority if a determination is made in writing  
10          explaining why the category is not germane to  
11          the work of the advisory committee.

12          (3) JUDICIAL REVIEW.—A determination under  
13          paragraph (2)(B) is subject to judicial review.

14          (d) ADVISORY COMMITTEE COMPENSATION.—

15               (1) IN GENERAL.—Subject to paragraph (2), the  
16          Secretary may pay members of advisory committees  
17          of the Department at rates for individuals not to ex-  
18          ceed the per diem rate equivalent to the rate for level  
19          V of the Executive Schedule under section 5316 of  
20          title 5, United States Code.

21               (2) CONDITION.—The Secretary may not pay  
22          compensation to an individual under paragraph (1)  
23          unless compensation is necessary because—

24                   (A) the services of the individual are consid-  
25          ered by the Secretary to be essential;

1           (B) failure to pay compensation would con-  
2           stitute a financial hardship for the individual;

3           or

4           (C) the individual has professional expertise  
5           that may not be obtained without compensation.

6   **SEC. 116. LIMITATION ON SCOPE OF CERTAIN UMBRELLA**  
7                           **CONTRACTS BY DEPARTMENT FOR ADVISORY**  
8                           **AND ASSISTANCE SERVICES.**

9           (a) *ENSURING COMPETITION FOR UMBRELLA CON-*  
10          *TRACTS.—The Department may enter into an umbrella*  
11          *contract only under the following conditions:*

12               (1) *The period covered by the contract does not*  
13               *exceed—*

14                       (A) *in the case of a response action contract*  
15                       *(as that term is defined in section 119(e) of the*  
16                       *Comprehensive Environmental Response, Com-*  
17                       *ensation, and Liability Act of 1980 (42 U.S.C.*  
18                       *9619(e), as in effect on the date of the enactment*  
19                       *of this Act), 10 years; or*

20                       (B) *in the case of any other contract—*

21                               (i) *5 years; or*

22                               (ii) *such longer period as may be spec-*  
23                               *ified by the Secretary, if the Secretary de-*  
24                               *termines in writing that unusual and com-*

1            *elling circumstances exist justifying an*  
2            *umbrella contract for a longer period.*

3            *(2) Except as provided in subsection (e), the con-*  
4            *tract is awarded pursuant to full and open competi-*  
5            *tion (as that term is defined in section 4 of the Office*  
6            *Federal Procurement Policy Act (41 U.S.C. 403)), un-*  
7            *less the Secretary determines in writing that—*

8                    *(A) the services to be procured under the*  
9                    *contract are available from only one responsible*  
10                   *source and no other type of services will satisfy*  
11                   *the needs of the Department; or*

12                   *(B) the Department's need for the services to*  
13                   *be provided under the contract is of such an un-*  
14                   *usual and compelling urgency that the Govern-*  
15                   *ment would be seriously injured unless the De-*  
16                   *partment is permitted to limit the number of*  
17                   *sources from which it solicits bids or proposals.*

18            *(3) The contract does not authorize the contrac-*  
19            *tor to procure items on behalf of the Government, ex-*  
20            *cept that the contract may authorize the contractor to*  
21            *procure personal property if—*

22                    *(A) it is procured under a response action*  
23                    *contract referred to in paragraph (1),*

24                    *(B) it is procured for the performance of the*  
25                    *contract, and*

1           (C) all right, title, and interest in the prop-  
2           erty vests in the Government.

3           (b) PROHIBITION OF “CONTRACT SHOPPING”.—

4           (1) LIMITATION.—Task orders or work assign-  
5           ments may be made under an umbrella contract  
6           awarded by the Department only to carry out the  
7           mission of the office, function, or program that re-  
8           quested the umbrella contract.

9           (2) WAIVER.—The Secretary (or a designee who  
10          is an officer of the Department at or above the level  
11          of the senior procurement executive of the Department  
12          designated pursuant to section 16(3) of the Office  
13          Federal Procurement Policy Act (41 U.S.C. 414(3))  
14          may waive the application of the limitation set forth  
15          in paragraph (1) to a task order or work assignment  
16          if he or she determines in writing that—

17                (A) the task order or work assignment is  
18                within the scope of the umbrella contract;

19                (B) there is an identifiable emergency or  
20                other urgent requirement that cannot be met by  
21                other means; and

22                (C) there is no other contract available to  
23                the office seeking the waiver that is suitable for  
24                the task order.



1           (3) *APPLICATION.*—Paragraph (1) does not  
2           apply to any contract which is determined by the  
3           Secretary in writing, before the award of the contract,  
4           as being necessary to meet the needs of more than one  
5           office, function, or program.

6           (c) *FOLLOW-ON COMPETITION.*—Statements of work in  
7           an umbrella contract awarded by the Department shall be  
8           prepared so as to ensure full and open competition (as that  
9           term is defined in section 4 of the Office Federal Procure-  
10          ment Policy Act (41 U.S.C. 403) for any new contract that  
11          results from, completes, or supplements the work performed  
12          under the umbrella contract.

13          (d) *SUBCONTRACTORS.*—

14                 (1) *IDENTIFICATION OF SUBCONTRACTORS.*—Any  
15                 solicitation for an umbrella contract awarded by the  
16                 Department shall require that all offerors identify in  
17                 their proposals all prospective subcontractors and the  
18                 qualifications of those subcontractors.

19                 (2) *RESTRICTION ON ELIGIBILITY FOR SUB-*  
20                 *CONTRACTS.*—A person who is not identified as a  
21                 prospective subcontractor in accordance with para-  
22                 graph (1) by the prime contractor for an umbrella  
23                 contract awarded by the Department shall not be eli-  
24                 gible to perform any task order or work assignment  
25                 as a subcontractor under the umbrella contract.

1           (3) *WAIVER.*—

2                   (A) *The Secretary (or a designee who is an*  
3 *officer of the Department at or above the level of*  
4 *the senior procurement executive of the Depart-*  
5 *ment designated pursuant to section 16(3) of the*  
6 *Office of Federal Procurement Policy Act (41*  
7 *U.S.C. 414(3)) may waive the application of the*  
8 *restriction set forth in paragraph (2) to a task*  
9 *order if the Secretary determines in writing that*  
10 *unusual circumstances exist making such a*  
11 *waiver in the interests of the Government.*

12                   (B) *For purposes of subparagraph (A), the*  
13 *term “unusual circumstances” means—*

14                           (i) *insolvency, nonresponsibility, sus-*  
15 *pension, or debarment of all subcontractors*  
16 *identified pursuant to paragraph (1) that*  
17 *are qualified to perform a task order or*  
18 *work assignment for which the waiver is*  
19 *granted;*

20                           (ii) *a lack of any technical skills nec-*  
21 *essary to perform the task order or work as-*  
22 *signment for which the waiver is granted,*  
23 *by all subcontractors identified pursuant to*  
24 *paragraph (1);*

1                   (iii) other circumstances similar to  
2                   those referred to in clauses (i) and (ii); or  
3                   (iv) any identifiable emergency or  
4                   other urgent requirement determined by the  
5                   Secretary in writing to exist.

6                   (4) *COMPETITION.*—In any case in which the  
7                   Secretary or his or her designee grants a waiver  
8                   under paragraph (3), the award by the prime con-  
9                   tractor to the subcontractor of a subcontract to per-  
10                  form a task for which the waiver is granted shall be  
11                  on a competitive basis unless the written determina-  
12                  tion under paragraph (3)—

13                   (A) approves a noncompetitive award; and

14                   (B) includes a finding that—

15                   (i) an identifiable emergency or other  
16                   urgent requirement exists; or

17                   (ii) no other qualified source is reason-  
18                   ably available.

19                   (5) *LIMITATION ON APPLICATION.*—This sub-  
20                  section shall not apply to a response action contract  
21                  (as that term is defined in section 119(e) of the Com-  
22                  prehensive Environmental Response, Compensation,  
23                  and Liability Act of 1980 (42 U.S.C. 9619(e)), as in  
24                  effect on the date of the enactment of this Act).

1       (e) *PROVISIONS NOT AFFECTED.*—*Nothing in this sec-*  
2 *tion shall be construed as amending, modifying, or super-*  
3 *seding, or is intended to impair or restrict authorities or*  
4 *responsibilities under—*

5           (1) *title IX of the Federal Property and Admin-*  
6 *istrative Services Act of 1949 (40 U.S.C. 541 et seq.),*  
7 *commonly referred to as the “Brooks Architect-Engi-*  
8 *neers Act”;*

9           (2) *the Small Business Act (15 U.S.C. 631 et*  
10 *seq.), including section 8(a) of that Act (15 U.S.C.*  
11 *637(a)); or*

12           (3) *title X of the Act of November 15, 1990 (42*  
13 *U.S.C. 7601 note), popularly known as the “Clean*  
14 *Air Act Amendments of 1990”, relating to disadvan-*  
15 *tagged business concerns.*

16       (f) *DEFINITIONS.*—*In this section—*

17           (1) *the term “advisory and assistance serv-*  
18 *ices”—*

19                   (A) *means services to support or improve—*

20                           (i) *agency policy development, deci-*  
21 *sionmaking, management, and administra-*  
22 *tion; or*

23                           (ii) *the operation of management sys-*  
24 *tems; and*

25                   (B) *includes—*

1                   (i) management and professional sup-  
2                   port services;

3                   (ii) the conduct of studies, analyses,  
4                   and evaluations; and

5                   (iii) engineering and technical services,  
6                   including services provided under a re-  
7                   sponse action contract (as that term is used  
8                   in subsection (a)(1)(B)); and

9                   (2) the term “umbrella contract” means a con-  
10                  tract by the Department that—

11                   (A) provides for the performance of specific  
12                   advisory and assistance services;

13                   (B) does not procure or specify a firm  
14                   quantity of services;

15                   (C) provides for services to be supplied to  
16                   the Government in response to specific task or-  
17                   ders to the contractor from the Government;

18                   (D) requires the contractor to provide a  
19                   stated amount of effort over a given period of  
20                   time (commonly referred to as a “level of effort  
21                   contract”);

22                   (E) has a maximum potential value of more  
23                   than \$1,000,000 and is not a fixed price con-  
24                   tract; and

25                   (F) is for a period longer than 1 year.

1           (g) *LIMITATION ON APPLICATION TO EXISTING CON-*  
2 *TRACTS.—*

3           (1) *IN GENERAL.—Except as provided in para-*  
4 *graph (2), this section shall not apply to a contract*  
5 *entered into before the effective date of this section.*

6           (2) *CONTRACTING REQUIREMENTS.—Subsections*  
7 *(b) and (c) shall apply to—*

8           (A) *a task order or work assignment added*  
9 *on or after the effective date of this section to a*  
10 *contract entered into before that effective date;*  
11 *and*

12           (B) *a contract that is extended, or for which*  
13 *an option to renew is exercised, on or after the*  
14 *effective date of this section.*

15           (h) *PUBLIC AVAILABILITY.—Waivers granted under*  
16 *this section shall be available as provided in section 552(b)*  
17 *of title 5, United States Code.*

18 ***SEC. 117. PROHIBITION ON TRANSFERRING TO CONTRAC-***  
19 ***TORS INHERENTLY GOVERNMENTAL FUNC-***  
20 ***TIONS OF DEPARTMENT.***

21           (a) *POLICY.—It shall be the policy of the Department*  
22 *to prevent the transfer of inherently governmental functions*  
23 *of the Department to private sector contractors and to en-*  
24 *sure that inherently governmental functions of the Depart-*  
25 *ment are performed only by officers and employees of the*

1 *Department or other agencies and instrumentalities of the*  
2 *Government.*

3       **(b) FINAL ACTIONS.**—*Final actions of the Department*  
4 *shall reflect the independent conclusions of Department offi-*  
5 *cials.*

6       **(c) RESPONSIBILITIES OF THE SECRETARY.**—*The Sec-*  
7 *retary shall—*

8           **(1)** *ensure that the Department is in full compli-*  
9 *ance with all statutes and regulations that govern the*  
10 *performance of inherently Governmental functions,*  
11 *including by periodically reviewing the operations of*  
12 *the Department with regard to compliance with stat-*  
13 *utes and regulations governing performance of inher-*  
14 *ently governmental functions (including this section);*

15           **(2)** *ensure that no contract is solicited or award-*  
16 *ed by the Department, and no task order or work as-*  
17 *signment is made under a contract awarded by the*  
18 *Department, that fails to comply with statutes and*  
19 *regulations that govern the performance of inherently*  
20 *governmental functions;*

21           **(3)** *provide enhanced scrutiny and management*  
22 *oversight when the Department is contracting for*  
23 *functions that, although not inherently governmental,*  
24 *closely support the performance of inherently govern-*  
25 *mental functions; and*

1           (4) *promulgate regulations in the Department's*  
2 *supplement to the Federal Acquisition Regulation*  
3 *that specify that inherently governmental functions of*  
4 *the Department include—*

5                   (A) *regulation of public health, industry,*  
6 *commerce, or the environment;*

7                   (B) *development (other than technical as-*  
8 *sistance) and drafting of rules, standards, regu-*  
9 *lations, and Government policies; and*

10                   (C) *preparation of contractual documents,*  
11 *including solicitations, specifications, statements*  
12 *of work, and contract orders, except in the case*  
13 *of specifications and statements of work of a*  
14 *technical nature requiring expertise not available*  
15 *in the Department.*

16           (d) *DISCLAIMER.—This section shall not be construed*  
17 *as creating—*

18                   (1) *any substantive or procedural basis on which*  
19 *to challenge any agency action or inaction; or*

20                   (2) *any right or benefit enforceable by law.*

21           (e) *LIMITATION ON APPLICATION.—*

22                   (1) *IN GENERAL.—Except as provided in para-*  
23 *graph (2), this section shall not apply to an inher-*  
24 *ently governmental function performed under a con-*



1 *tract entered into before the effective date of that*  
2 *section.*

3 (2) *INHERENTLY GOVERNMENTAL FUNCTIONS.*—  
4 *This section shall apply to an inherently govern-*  
5 *mental function performed or sought to be per-*  
6 *formed—*

7 (A) *under a task added on or after the effec-*  
8 *tive date of that section to a contract entered*  
9 *into before that effective date;*

10 (B) *under an order made on or after the ef-*  
11 *fective date of that section under a contract en-*  
12 *tered into before that effective date; or*

13 (C) *on or after the effective date of that sec-*  
14 *tion under a contract that is extended, or for*  
15 *which an option to renew is exercised, on or*  
16 *after that effective date.*

17 (f) *RELATIONSHIP TO OTHER LAW.*—*The requirements*  
18 *of this section are in addition to, and do not supersede or*  
19 *affect, other provisions of law.*

20 ***SEC. 118. DISALLOWANCE OF, AND PENALTIES FOR, IM-***  
21 ***PROPERLY CLAIMED COSTS UNDER DEPART-***  
22 ***MENT CONTRACTS AND REGULATIONS.***

23 (a) *COSTS DISALLOWED.*—*If a contractor under a cov-*  
24 *ered contract submits a proposal for settlement of indirect*  
25 *costs incurred by the contractor for any period after such*

1 *costs have been accrued, and if that proposal includes the*  
2 *submission of a cost which is unallowable because the cost*  
3 *violates a cost principle in the Federal Acquisition Regula-*  
4 *tion promulgated under section 25 of the Office of Federal*  
5 *Procurement Policy Act (41 U.S.C. 421) or in the Depart-*  
6 *ment's supplement to the Federal Acquisition Regulation,*  
7 *or violates a provision of statute, the cost shall be dis-*  
8 *allowed.*

9 *(b) PENALTIES.—*

10 *(1) IN GENERAL.—If the Secretary determines*  
11 *that a cost submitted by a contractor under a covered*  
12 *contract in its proposal for settlement is expressly un-*  
13 *allowable under a cost principle referred to in sub-*  
14 *section (a) that defines the allowability of specific se-*  
15 *lected costs, the Secretary shall assess a penalty*  
16 *against the contractor in an amount equal to—*

17 *(A) the amount of the disallowed cost allo-*  
18 *cated to covered contracts for which a proposal*  
19 *for settlement of indirect costs has been submit-*  
20 *ted; plus*

21 *(B) interest to compensate the United States*  
22 *for the use of any funds which the contractor has*  
23 *been paid in excess of the amount to which the*  
24 *contractor was entitled.*

1           (2) *INCREASED PENALTY.*—If the Secretary de-  
2           termines that a proposal for settlement of indirect  
3           costs submitted by a contractor under a covered con-  
4           tract includes a cost determined to be unallowable in  
5           the case of such contractor before the submission of  
6           such proposal, the Secretary shall assess a penalty  
7           against the contractor in an amount equal to twice  
8           the amount of the disallowed cost allocated to covered  
9           contracts for which a proposal for settlement of indi-  
10          rect costs has been submitted.

11          (c) *WAIVER OF PENALTIES.*—The Secretary may  
12          waive a penalty under subsection (b) in the case of a con-  
13          tractor's proposal for settlement of indirect costs if—

14               (1) *the contractor withdraws the proposal before*  
15               *the formal initiation of an audit of the proposal by*  
16               *the Government and resubmits a revised proposal;*

17               (2) *the amount of unallowable costs subject to the*  
18               *penalty is insignificant; or*

19               (3) *the contractor demonstrates, to the contract-*  
20               *ing officer's satisfaction, that—*

21                       (A) *it has established appropriate policies*  
22                       *and personnel training and an internal control*  
23                       *and review system that provide assurance that*  
24                       *unallowable costs subject to penalties are pre-*

1           cluded from being included in the contractor's  
2           proposal for settlement of indirect costs; and

3                   (B) the unallowable costs subject to the pen-  
4           alty were inadvertently incorporated into the  
5           proposal.

6   Such waivers shall be available in accordance with section  
7   552(b) of title 5, United States Code.

8           (d) *DEPARTMENT ACTIONS.*—An action of the Sec-  
9   retary under subsection (a) or (b)—

10                   (1) shall be considered a final decision for pur-  
11           poses of section 6 of the Contract Disputes Act of 1978  
12           (41 U.S.C. 605); and

13                   (2) is appealable in the manner provided in sec-  
14           tion 7 of that Act (41 U.S.C. 606).

15           (e) *CERTIFICATION.*—

16                   (1) *IN GENERAL.*—A proposal for settlement of  
17           indirect costs applicable to a covered contract shall  
18           include a certification by an official of the contractor  
19           that, to the best of the certifying official's knowledge  
20           and belief, all indirect costs included in the proposal  
21           are allowable.

22                   (2) *WAIVER OF CERTIFICATION REQUIREMENT.*—  
23           The Secretary may, in an exceptional case, waive the  
24           requirement for certification under paragraph (1) in  
25           the case of any covered contract if the Secretary—

1           (A) determines in such case that it would be  
2           in the interest of the United States to waive such  
3           determination; and

4           (B) states in writing the reasons for that  
5           determination and makes such determination  
6           available to the public.

7   Such waivers shall be available in accordance with section  
8   552(b) of title 5, United States Code.

9           (f) *CRIMINAL PENALTIES.*—The submission to the De-  
10   partment of a proposal for settlement of costs for any period  
11   after such costs have been accrued that includes a cost that  
12   is expressly specified by law or regulation as being unallow-  
13   able, with the knowledge that such cost is unallowable, shall  
14   be subject to the provisions of section 287 of title 18 and  
15   section 3729 of title 31, United States Code.

16          (g) *BURDEN OF PROOF IN PROCEEDINGS.*—In a pro-  
17   ceeding before a board of contract appeals, the United States  
18   Court of Federal Claims, or any other Federal Court in  
19   which the reasonableness of indirect costs for which a con-  
20   tractor seeks reimbursement from the Department is in  
21   issue, the burden of proof shall be upon the contractor to  
22   establish that those costs are reasonable.

23          (h) *DOCUMENTATION OF COSTS.*—Costs shall be allow-  
24   able under a covered contract only to the extent that such  
25   costs are supported by sufficient documentation (as speci-

1 *fied by regulations issued by the Secretary under section*  
2 *122) to permit audit.*

3 *(i) COVERED CONTRACT DEFINED.—As used in this*  
4 *section and sections 119 and 120, the term “covered con-*  
5 *tract” means a contract for an amount more than \$100,000,*  
6 *other than a fixed-price contract without cost incentives, en-*  
7 *tered into by the Department.*

8 **SEC. 119. CONTRACTOR EMPLOYEE GIFT, ENTERTAINMENT,**  
9 **OR RECREATION COSTS SPECIFICALLY UNAL-**  
10 **LOWABLE UNDER DEPARTMENT CONTRACTS.**

11 *Costs of entertainment, gifts, or recreation for contrac-*  
12 *tor employees or members of their families provided by a*  
13 *contractor to improve employee morale or performance or*  
14 *for any other purpose, are not allowable under a covered*  
15 *contract in any amount, except that nothing in this section*  
16 *precludes a contractor from providing such entertainment,*  
17 *gifts, or recreation to their employees or members of their*  
18 *families at no expense to the Government.*

19 **SEC. 120. DOCUMENTATION OF CONTRACTOR TRAVEL**  
20 **COSTS.**

21 *Costs of travel under a covered contract which are oth-*  
22 *erwise allowable under section 24 of the Office of Federal*  
23 *Procurement Policy Act (41 U.S.C. 421) shall be allowable*  
24 *only if supported by documentation, which shall include*  
25 *documentation of, as specified by regulations issued by the*

1 *Secretary under section 122, amounts, times, dates, origin,*  
2 *and destination of the travel, purpose of the travel, and*  
3 *identities of all travelers to which the costs relate.*

4 **SEC. 121. EFFECTIVE DATES; LIMITATIONS ON APPLICA-**  
5 **TION.**

6 (a) *EFFECTIVE DATES.*—Sections 116 through 120  
7 shall take effect on the earlier of the date that is 90 days  
8 after the date of promulgation of regulations under section  
9 122, or the date that is 18 months after the date of the en-  
10 actment of this Act.

11 (b) *LIMITATIONS ON APPLICATION.*—

12 (1) *IN GENERAL.*—Except as provided in para-  
13 graph (2), sections 118, 119, and 120 shall not apply  
14 to a contract entered into before the effective date of  
15 those sections.

16 (2) *EXCEPTIONS.*—Section 118 shall apply to—

17 (A) a task added on or after the effective  
18 date of the section to a contract entered into be-  
19 fore that effective date;

20 (B) an order made on or after the effective  
21 date of the section under a contract entered into  
22 before that effective date; and

23 (C) a contract that is extended, or for which  
24 an option to renew is exercised, on or after the  
25 effective date of the section.

1 **SEC. 122. REGULATIONS.**

2 (a) *IN GENERAL.*—The Secretary shall promulgate  
3 such revisions as may be necessary to the Department’s sup-  
4 plement to the Federal Acquisition Regulation implement-  
5 ing sections 116 through 120 in final form within one year  
6 after the date of enactment of this Act. The revisions shall  
7 include binding guidance for granting waivers under sub-  
8 sections (b) and (d) of section 116.

9 (b) *PROCEDURES.*—Section 25(c) of the Office of Fed-  
10 eral Procurement Policy Act (41 U.S.C. 421(c)) shall apply  
11 to regulations issued under sections 116 through 120, except  
12 that the Administrator for Federal Procurement Policy may  
13 rescind or deny the promulgation of any such regulation,  
14 or take any other action authorized by section 6 of that  
15 Act (41 U.S.C. 405), only with respect to any inconsistency  
16 of the regulation with those sections which shall be identi-  
17 fied by the Administrator. The Administrator shall notify  
18 the appropriate Committees of the Congress with jurisdic-  
19 tion over the Department and explain the basis for such  
20 action.

21 (c) *OTHER GOVERNMENT-WIDE REGULATIONS SUPER-*  
22 *SEDING SECTIONS 118, 119, AND 120.*—

23 (1) *IN GENERAL.*—On and after the effective date  
24 of modifications to the Federal Acquisition Regula-  
25 tion relating to the matters covered by sections 118,  
26 119, and 120 that apply to all executive agencies, in-



1 *cluding the Department (in this subsection referred to*  
2 *as the “Government-wide regulations”), sections 118,*  
3 *119, and 120 (including any regulations issued there-*  
4 *under) shall be considered to be superseded by the*  
5 *Government-wide regulations, if the Secretary, with*  
6 *the concurrence of the Administrator for Federal Pro-*  
7 *curement Policy, determines in writing that the Gov-*  
8 *ernment-wide regulations—*

9 *(A) cover, for the Department, all of the*  
10 *matters addressed by sections 118, 119, and 120;*  
11 *and*

12 *(B) are at least equal to all of the require-*  
13 *ments of sections 118, 119, and 120.*

14 *(2) NOTIFICATION OF CONGRESS.—The Secretary*  
15 *shall notify the Congress of any determination under*  
16 *paragraph (1) (A) and (B) and of the continuing*  
17 *application of sections 118, 119, and 120.*

18 **SEC. 123. REFERENCES.**

19 *Reference in any other Federal law, Executive order,*  
20 *rule, regulation, reorganization plan, delegation of author-*  
21 *ity, or document—*

22 *(1) to the Environmental Protection Agency is*  
23 *deemed to refer to the Department of Environmental*  
24 *Protection;*

1           (2) to the Administrator of the Environmental  
2           Protection Agency is deemed to refer to the Secretary  
3           of the Environment;

4           (3) to the Deputy Administrator of the Environ-  
5           mental Protection Agency is deemed to refer to the  
6           Deputy Secretary of the Environment; and

7           (4) to an Assistant Administrator of the Envi-  
8           ronmental Protection Agency is deemed to refer to the  
9           corresponding Assistant Secretary of the Department  
10          of Environmental Protection who is assigned the  
11          functions of that Assistant Administrator.

12   **SEC. 124. SAVINGS PROVISIONS.**

13          (a) *POWERS AND AUTHORITIES.*—Except as provided  
14          in section 101(e), the Department and its officers, employ-  
15          ees, and agents shall have all the powers and authorities  
16          of the Environmental Protection Agency and its officers,  
17          employees, and agents, respectively.

18          (b) *CONTINUING EFFECT OF LEGAL DOCUMENTS.*—All  
19          orders, determinations, rules, regulations, permits, grants,  
20          contracts, certificates, licenses, privileges, and other admin-  
21          istrative actions—

22                 (1) which have been issued, made, granted or al-  
23                 lowed to become effective by the President, the Admin-  
24                 istrator or other authorized official of the Environ-  
25                 mental Protection Agency, or by a court of competent

1       *jurisdiction, which relate to functions of the Adminis-*  
2       *trator or any other officer or agent of the Environ-*  
3       *mental Protection Agency actions; and*

4               *(2) which are in effect at the time this Act takes*  
5       *effect;*

6       *shall continue in effect according to their terms until modi-*  
7       *fied, terminated, superseded, set aside, or revoked in accord-*  
8       *ance with law by the President, the Secretary, or other au-*  
9       *thorized official, by a court of competent jurisdiction, or*  
10       *by operation of law.*

11       *(c) PROCEEDINGS NOT AFFECTED.—This Act shall not*  
12       *affect any proceeding, proposed rule, or application for any*  
13       *license, permit, certificate, or financial assistance pending*  
14       *before the Environmental Protection Agency at the time this*  
15       *Act takes effect, and such proceedings and applications shall*  
16       *be continued. Orders shall be issued in such proceedings,*  
17       *appeals shall be taken therefrom, and payments shall be*  
18       *made pursuant to such orders, as if this Act had not been*  
19       *enacted, and orders issued in any such proceedings shall*  
20       *continue in effect until modified, terminated, superseded,*  
21       *or revoked by a duly authorized official, by a court of com-*  
22       *petent jurisdiction, or by operation of law. Nothing in this*  
23       *subsection prohibits the discontinuance or modification of*  
24       *any such proceeding under the same terms and conditions*

1 *and to the same extent that such proceeding could have been*  
2 *discontinued or modified if this Act had not been enacted.*

3 (d) *SUITS NOT AFFECTED.*—*This Act shall not affect*  
4 *suits commenced before the effective date of this Act, and*  
5 *in all such suits proceedings shall be had, appeals taken,*  
6 *and judgments rendered in the same manner and with the*  
7 *same effect as if this Act had not been enacted.*

8 **SEC. 125. CONFORMING AMENDMENTS.**

9 (a) *PRESIDENTIAL SUCCESSION.*—*Section 19(d)(1) of*  
10 *title 3, United States Code, is amended by inserting before*  
11 *the period at the end the following: “, Secretary of the*  
12 *Environment”.*

13 (b) *DEFINITION OF DEPARTMENT IN CIVIL SERVICE*  
14 *LAWS.*—*Section 101 of title 5, United States Code, is*  
15 *amended by adding at the end the following:*

16 “*The Department of Environmental Protection.*”.

17 (c) *COMPENSATION, LEVEL I.*—*Section 5312 of title 5,*  
18 *United States Code, is amended by adding at the end the*  
19 *following:*

20 “*Secretary of the Environment.*”.

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

1           (e) *COMPENSATION, LEVEL III.*—Section 5314 of title  
2 5, *United States Code*, is amended by striking “Deputy Ad-  
3 ministrator of the Environmental Protection Agency.”.

4           (f) *COMPENSATION, LEVEL IV.*—Section 5315 of title  
5 5, *United States Code*, is amended—

6           (1) by striking “Inspector General, Environ-  
7 mental Protection Agency” and inserting “Inspector  
8 General, Department of Environmental Protection”;

9           (2) by striking each reference to an Assistant Ad-  
10 ministrator, or Assistant Administrators, of the Envi-  
11 ronmental Protection Agency; and

12           (3) by adding at the end the following:

13           “Assistant Secretaries, Department of Environ-  
14 mental Protection.

15           “General Counsel, Department of Environmental  
16 Protection.”.

17           (g) *COMPENSATION, LEVEL V.*—Section 5316 of title  
18 5, *United States Code*, is amended by adding at the end  
19 the following:

20           “Director, Bureau of Environmental Statistics,  
21 Department of Environmental Protection.

22           “Director, Office of Environmental Justice, De-  
23 partment of Environmental Protection.

24           “Director, Office of Environmental Risk, Depart-  
25 ment of Environmental Protection.”.

1           (h) *INSPECTOR GENERAL ACT OF 1978.*—*The Inspec-*  
2 *tor General Act of 1978 is amended—*

3           (1) *in section 11(1)—*

4                   (A) *by inserting “the Environment,” after*  
5 *“Energy,”; and*

6                   (B) *by striking “Environmental Protec-*  
7 *tion,”; and*

8           (2) *in section 11(2)—*

9                   (A) *by inserting “Environmental Protec-*  
10 *tion,” after “Energy,”; and*

11                   (B) *by striking “the Environmental Protec-*  
12 *tion Agency,”.*

13 ***SEC. 126. ADDITIONAL CONFORMING AMENDMENTS.***

14           *After consultation with the Committee on Government*  
15 *Operations of the House of Representatives and appropriate*  
16 *committees of the Senate, the Secretary shall prepare and*  
17 *submit to the Congress proposed legislation, which the Sec-*  
18 *retary determines is necessary and appropriate, containing*  
19 *technical and conforming amendments to the laws of the*  
20 *United States to reflect the changes made by this Act.*

1           **TITLE II—ADMINISTRATIVE**  
2                                   **PROVISIONS**

3   **SEC. 201. ACQUISITION OF COPYRIGHTS AND PATENTS.**

4           *The Secretary may acquire any of the following rights*  
5 *if the property acquired thereby is for use by or for, or use-*  
6 *ful to, the Department:*

7                   (1) *Copyrights, patents, and applications for*  
8 *patents, designs, processes, and manufacturing data.*

9                   (2) *Licenses under copyrights, patents, and ap-*  
10 *plications for patents.*

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

13   **SEC. 202. GIFTS AND BEQUESTS.**

14           *The Secretary may accept, hold, administer, and uti-*  
15 *lize gifts, bequests, and devises of real or personal property*  
16 *and donations of services for the purpose of aiding or facili-*  
17 *tating the work of the Department. Gifts, bequests, and de-*  
18 *vises of money and proceeds from sales of other property*  
19 *received as gifts, bequests, or devises shall be deposited in*  
20 *the Treasury and shall be available for disbursement upon*  
21 *the order of the Secretary.*

22   **SEC. 203. OFFICIAL SEAL OF DEPARTMENT.**

23           *On and after the effective date of this Act, the seal of*  
24 *the Environmental Protection Agency, with appropriate*  
25 *changes, shall be the official seal of the Department, until*

1 *such time as the Secretary may cause an official seal to*  
2 *be made for the Department of such design as the Secretary*  
3 *shall approve.*

4 **SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPART-**  
5 **MENT.**

6 (a) *DISPLAY OF SEAL.*—Whoever knowingly displays  
7 any printed or other likeness of the official seal of the De-  
8 partment, or any facsimile thereof, in or in connection  
9 with, any advertisement, poster, circular, book, pamphlet,  
10 or other publication, public meeting, play, motion picture,  
11 telecast, or other production, or on any building, monu-  
12 ment, or stationery, for the purpose of conveying, or in a  
13 manner reasonably calculated to convey, a false impression  
14 of sponsorship or approval by the Government of the United  
15 States or by any department, agency, or instrumentality  
16 thereof, shall be imprisoned not more than 6 months, or  
17 fined under title 18, United States Code, or both.

18 (b) *MANUFACTURE, REPRODUCTION, SALE, OR PUR-*  
19 *CHASES FOR RESALE.*—Except as authorized under regula-  
20 tions promulgated by the Secretary and published in the  
21 Federal Register, whoever knowingly manufactures, repro-  
22 duces, sells, or purchases for resale, either separately or ap-  
23 pended to any article manufactured or sold, any likeness  
24 of the official seal of the Department or any substantial  
25 part thereof (except for manufacture or sale of the article



1 *for the official use of the Government of the United States),*  
 2 *shall be imprisoned not more than 6 months, or fined under*  
 3 *title 18, United States Code, or both.*

4 *(c) INJUNCTIONS.—A violation of subsection (a) or (b)*  
 5 *may be enjoined by an action brought by the Attorney Gen-*  
 6 *eral in the appropriate district court of the United States.*  
 7 *The Attorney General shall file such an action upon request*  
 8 *of the Secretary or any authorized representative of the*  
 9 *Secretary.*

10 **SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUP-**

11 **PLIES OF ENVIRONMENTAL PROTECTION**

12 **AGENCY.**

13 *(a) IN GENERAL.—The Secretary shall ensure that, to*  
 14 *the extent practicable, existing stationery, printed forms,*  
 15 *and other supplies of the Environmental Protection Agency*  
 16 *are used to carry out functions of the Department before*  
 17 *procuring new stationery, printed forms, and other supplies*  
 18 *for the Department.*

19 *(b) LIMITATION.—Notwithstanding subsection (a), the*  
 20 *Secretary may procure stationery, printed forms, and other*  
 21 *supplies for the specific use of the Secretary and the Office*  
 22 *of the Secretary.*

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