

Calendar No. 57

103D CONGRESS
1ST SESSION

S. 171

[Report No. 103-38]
[Report No. 103-39]

A BILL

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

APRIL 15, 1993

Reported under authority of the order of the Senate of March 30 (legislative day, March 3), 1993, without amendment

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

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. GLENN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BRYAN, Mr. BUMPERS, Mr. COHEN, Mr. DODD, Mr. GRAHAM, Mr. JEFFORDS, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, and Mr. SASSER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

MARCH 30 (legislative day, MARCH 3), 1993

Ordered, that if and when reported by the Committee on Governmental Affairs, the bill be referred to the Committee on Environment and Public Works solely for consideration of section 112

MARCH 31 (legislative day, MARCH 3), 1993

Reported by Mr. GLENN, with an amendment

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

MARCH 31 (legislative day, MARCH 3), 1993

Referred, pursuant to the order of March 30 (legislative day, March 3), 1993, to the Committee on Environment and Public Works solely for consideration of section 112

APRIL 15, 1993

Reported under authority of the order of the Senate of March 30 (legislative day, March 3), 1993, by Mr. BAUCUS, without amendment

A BILL

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

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

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

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

6 (b) **TABLE OF CONTENTS.**—The table of contents is
 7 as follows:

Sec. 1. Short title and table of contents.

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

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Establishment of the Department of the Environment.

Sec. 104. Assistant Secretaries.

Sec. 105. Deputy Assistant Secretaries.

Sec. 106. Office of the General Counsel.

Sec. 107. Office of the Inspector General.

Sec. 108. Bureau of Environmental Statistics.

Sec. 109. Grant and contract authority for certain activities.

Sec. 110. Study of data needs.

Sec. 111. Miscellaneous employment restrictions.

Sec. 112. Administrative provisions.

Sec. 113. Inherently governmental functions.

Sec. 114. References.

Sec. 115. Savings provisions.

Sec. 116. Conforming amendments.

Sec. 117. Additional conforming amendments.

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

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

TITLE III—ESTABLISHMENT OF THE COMMISSION ON IMPROVING
ENVIRONMENTAL PROTECTION

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

TITLE IV—EFFECTIVE DATE

- Sec. 401. Effective date.

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

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

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

7 **SEC. 102. FINDINGS.**

8 The Congress finds that—

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

15 (2) protection of the environment increasingly
16 involves negotiations with foreign states, including

1 the most highly industrialized states all of whose top
2 environmental officials have ministerial status;

3 ~~(3)~~ the size of the budget and the number of
4 Federal civil servants devoted to tasks associated
5 with environmental protection at the Environmental
6 Protection Agency is commensurate with depart-
7 mental status; and

8 ~~(4)~~ a cabinet-level Department of the Environ-
9 ment should be established.

10 **SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE**
11 **ENVIRONMENT.**

12 ~~(a)~~ REDESIGNATION.—The Environmental Protec-
13 tion Agency is hereby redesignated as the Department of
14 the Environment (hereafter referred to as the “Depart-
15 ment”) and shall be an executive department in the execu-
16 tive branch of the Government. The official acronym of
17 the Department shall be the “U.S.D.E.”.

18 ~~(b)~~ SECRETARY OF THE ENVIRONMENT.—(1) There
19 shall be at the head of the Department a Secretary of the
20 Environment who shall be appointed by the President, by
21 and with the advice and consent of the Senate. The De-
22 partment shall be administered under the supervision and
23 direction of the Secretary.

24 ~~(2)~~ The Secretary may not assign duties for or dele-
25 gate authority for the supervision of the Assistant Sec-

1 retaries, the General Counsel, the Director of Environ-
2 mental Statistics, or the Inspector General of the Depart-
3 ment to any officer of the Department other than the Dep-
4 uty Secretary.

5 (3) Except as described under paragraph (2) of this
6 section and section 104(b)(2), and notwithstanding any
7 other provision of law, the Secretary may delegate any
8 functions including the making of regulations to such offi-
9 cers and employees of the Department as the Secretary
10 may designate, and may authorize such successive
11 redelegations of such functions within the Department as
12 determined to be necessary or appropriate.

13 (c) DEPUTY SECRETARY.—There shall be in the De-
14 partment a Deputy Secretary of the Environment, who
15 shall be appointed by the President, by and with the advice
16 and consent of the Senate. The Deputy Secretary shall
17 perform such responsibilities as the Secretary shall pre-
18 scribe and shall act as the Secretary during the absence
19 or disability of the Secretary or in the event of a vacancy
20 in the Office of Secretary.

21 (d) OFFICE OF THE SECRETARY.—The Office of the
22 Secretary shall consist of a Secretary and a Deputy Sec-
23 retary and may include an Executive Secretary and such
24 other executive officers as the Secretary may determine
25 necessary.

1 ~~(e) REGIONAL OFFICES.—~~The Secretary is author-
2 ized to establish, alter, discontinue, or maintain such re-
3 gional or other field offices as he may determine necessary
4 to carry out the functions vested in him or other officials
5 of the Department.

6 ~~(f) INTERNATIONAL RESPONSIBILITIES OF THE SEC-~~
7 ~~RETARY.—~~(1) In addition to exercising other international
8 responsibilities under existing provisions of law, the
9 Secretary is—

10 ~~(A)~~ encouraged to assist the Secretary of State
11 to carry out his primary responsibilities for coordi-
12 nating, negotiating, implementing and participating
13 in international agreements, including participation
14 in international organizations, relevant to environ-
15 mental protection; and

16 ~~(B)~~ authorized and encouraged to—

17 ~~(i)~~ conduct research on and apply existing
18 research capabilities to the nature and impacts
19 of international environmental problems and de-
20 velop responses to such problems; and

21 ~~(ii)~~ provide technical and other assistance
22 to foreign countries and international bodies to
23 improve the quality of the environment.

24 ~~(2)~~ The Secretary of State shall consult with the Sec-
25 retary of the Environment and such other persons as he

1 determines appropriate on such negotiations, implementa-
2 tions, and participations described under paragraph
3 (1)(A).

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

6 (1) authorizes the Secretary of the Environ-
7 ment to require any action by any officer of any ex-
8 ecutive department or agency other than officers of
9 the Department of the Environment, except that this
10 paragraph shall not affect any authority provided for
11 by any other provision of law authorizing the Sec-
12 retary of the Environment to require any such ac-
13 tions;

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

16 (3) transfers to the Department of the Environ-
17 ment any authority exercised by any other Federal
18 executive department or agency prior to the date of
19 the enactment of this Act, except the authority exer-
20 cised by the Environmental Protection Agency.

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

1 **SEC. 104. ASSISTANT SECRETARIES.**

2 (a) ESTABLISHMENT OF POSITIONS.—There shall be
3 in the Department such number of Assistant Secretaries,
4 not to exceed 10, as the Secretary shall determine, each
5 of whom shall be appointed by the President, by and with
6 the advice and consent of the Senate.

7 (b) RESPONSIBILITIES OF ASSISTANT SECRETAR-
8 ES.—(1) The Secretary shall assign to Assistant Sec-
9 retaries such responsibilities as the Secretary considers
10 appropriate, including, but not limited to—

11 (A) enforcement and compliance monitoring;

12 (B) research and development;

13 (C) air and radiation;

14 (D) water;

15 (E) pesticides and toxic substances;

16 (F) solid waste;

17 (G) hazardous waste;

18 (H) hazardous waste cleanup;

19 (I) emergency response;

20 (J) international affairs;

21 (K) policy, planning, and evaluation;

22 (L) pollution prevention;

23 (M) congressional, intergovernmental, and pub-
24 lie affairs; and

25 (N) administration and resources management,
26 including financial and budget management, infor-

1 mation resources management, procurement and as-
2 sistance management, and personnel and labor rela-
3 tions.

4 (2) The Secretary may assign and modify any respon-
5 sibilities at his discretion under paragraph (1), except that
6 the Secretary may not modify the responsibilities of any
7 Assistant Secretary without substantial prior written noti-
8 fication of such modification to the appropriate commit-
9 tees of the Senate and the House of Representatives.

10 (c) DESIGNATION OF RESPONSIBILITIES PRIOR TO
11 CONFIRMATION.—Whenever the President submits the
12 name of an individual to the Senate for confirmation as
13 Assistant Secretary under this section, the President shall
14 state the particular responsibilities of the Department
15 such individual shall exercise upon taking office.

16 (d) CONTINUING PERFORMANCE OF FUNCTIONS.—
17 On the effective date of this Act, the Administrator and
18 Deputy Administrator of the Environmental Protection
19 Agency shall be redesignated as the Secretary and Deputy
20 Secretary of the Department of the Environment, Assist-
21 ant Administrators of the Agency shall be redesignated as
22 Assistant Secretaries of the Department, and the General
23 Counsel and the Inspector General of the Agency shall be
24 redesignated as the General Counsel and the Inspector

1 General of the Department, without renomination or re-
2 confirmation.

3 ~~(c) CHIEF INFORMATION RESOURCES OFFICER.—(1)~~

4 The Secretary shall designate the Assistant Secretary
5 whose responsibilities include information resource man-
6 agement functions as required by section 3506 of title 44,
7 United States Code, as the Chief Information Resources
8 Officer of the Department.

9 ~~(2) The Chief Information Resources Officer shall—~~

10 ~~(A) advise the Secretary on information re-~~
11 ~~source management activities of the Department as~~
12 ~~required by section 3506 of title 44, United States~~
13 ~~Code;~~

14 ~~(B) develop and maintain an information re-~~
15 ~~sources management system for the Department~~
16 ~~which provides for—~~

17 ~~(i) the conduct of and accountability for~~
18 ~~any acquisitions made pursuant to a delegation~~
19 ~~of authority under section 111 of the Federal~~
20 ~~Property and Administrative Services Act of~~
21 ~~1949 (40 U.S.C. 759);~~

22 ~~(ii) the implementation of all applicable~~
23 ~~government-wide and Department information~~
24 ~~policies, principles, standards, and guidelines~~
25 ~~with respect to information collection, paper-~~

1 work reduction, privacy and security of records,
2 sharing and dissemination of information, ac-
3 quisition and use of information technology,
4 and other information resource management
5 functions;

6 (iii) the periodic evaluation of and, as
7 needed, the planning and implementation of im-
8 provements in the accuracy, completeness, and
9 reliability of data and records contained with
10 Department information systems; and

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

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

16 **SEC. 105. DEPUTY ASSISTANT SECRETARIES.**

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

20 (b) APPOINTMENTS.—Each Deputy Assistant Sec-
21 retary—

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

23 (2) shall perform such functions as the Sec-
24 retary shall prescribe.

1 (c) ~~FUNCTIONS.~~—Functions assigned to an Assistant
2 Secretary under section 104(b) may be performed by one
3 or more Deputy Assistant Secretaries appointed to assist
4 such Assistant Secretary.

5 **~~SEC. 106. OFFICE OF THE GENERAL COUNSEL.~~**

6 There shall be in the Department, the Office of the
7 General Counsel. There shall be at the head of such office
8 a General Counsel who shall be appointed by the Presi-
9 dent, by and with advice and consent of the Senate. The
10 General Counsel shall be the chief legal officer of the De-
11 partment and shall provide legal assistance to the Sec-
12 retary concerning the programs and policies of the Depart-
13 ment.

14 **~~SEC. 107. OFFICE OF THE INSPECTOR GENERAL.~~**

15 The Office of Inspector General of the Environmental
16 Protection Agency, established in accordance with the In-
17 spector General Act of 1978, is hereby redesignated as the
18 Office of Inspector General of the Department of the
19 Environment.

20 **~~SEC. 108. BUREAU OF ENVIRONMENTAL STATISTICS.~~**

21 (a) ~~ESTABLISHMENT.~~—(1) There is established with-
22 in the Department a Bureau of Environmental Statistics
23 (hereafter referred to as the “Bureau”). The Bureau shall
24 be responsible for—

1 (A) compiling, analyzing, and publishing a com-
2 prehensive set of environmental quality statistics
3 which should provide timely summary in the form of
4 industrywide aggregates, multiyear averages, or to-
5 tals or some similar form and include information
6 on—

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

9 (ii) the effects on the public and the envi-
10 ronment of those pollutants;

11 (B) promulgating guidelines for the collection of
12 information by the Department required for the sta-
13 tistics under this paragraph to assure that the infor-
14 mation is accurate, reliable, relevant, and in a form
15 that permits systematic analysis;

16 (C) coordinating the collection of information
17 by the Department for developing such statistics
18 with related information-gathering activities con-
19 ducted by other Federal agencies;

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

22 (E) identifying missing information of the kind
23 described under subparagraph (A) (i) and (ii), re-
24 viewing these information needs at least annually
25 with the Science Advisory Board, and making rec-

1 ommendations to the appropriate Department of En-
2 vironment research officials concerning extramural
3 and intramural research programs to provide such
4 information.

5 (2) Nothing in the provisions of paragraph (1) shall
6 authorize the Bureau to require the collection of any data
7 by any other Department, State or local government, or
8 to establish observation or monitoring programs.

9 (3) Information compiled by the Bureau of Environ-
10 mental Statistics, which has been submitted for purposes
11 of statistical reporting requirements of this law, shall not
12 be disclosed publicly in a manner that would reveal the
13 identity of the submitter, including submissions by Fed-
14 eral, State, or local governments, or reveal the identity of
15 any individual consistent with the provisions of section
16 552a of title 5, United States Code (the Privacy Act of
17 1974). This paragraph shall not affect the availability of
18 data provided to the Department under any other provi-
19 sion of law administered by the Department. The con-
20 fidentiality provisions of other statutes authorizing the col-
21 lection of environmental statistics shall also apply, includ-
22 ing but not limited to, section 14 of the Toxic Substances
23 Control Act (15 U.S.C. 2613), section 2(h) of the Federal
24 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.

1 136h), section 114(c) of the Clean Air Act (42 U.S.C.
2 741(c)), and section 1905 of title 18, United States Code.

3 (b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—

4 The Bureau shall be under the direction of a Director of
5 Environmental Statistics (hereafter referred to as the “Di-
6 rector”) who shall be appointed by the President, by and
7 with the advice and consent of the Senate. The term of
8 the Director shall be 4 years. The Director shall be a
9 qualified individual with experience in the compilation and
10 analysis of environmental statistics. The Director shall re-
11 port directly to the Secretary. The Director shall be com-
12 pensated at the rate provided for at level V of the Execu-
13 tive Schedule under section 5316 of title 5, United States
14 Code.

15 (c) ENVIRONMENTAL STATISTICS ANNUAL RE-
16 PORT.—On January 1, 1992, and each January 1 there-
17 after, the Director shall submit to the President an Envi-
18 ronmental Statistics Annual Report (hereafter referred to
19 as the “Report”). The Report shall include, but not be
20 limited to—

21 (1) statistics on environmental quality includ-
22 ing—

23 (A) The environmental quality of the Na-
24 tion with respect to all aspects of the environ-
25 ment, including, but not limited to, the air,

1 aquatic ecosystems, including marine, estuarine,
2 and fresh water, and the terrestrial ecosystems,
3 including, but not limited to, the forest, dry-
4 land, wetland, range, urban, suburban, and
5 rural environment; and

6 (B) changes in the natural environment,
7 including the plant and animal systems, and
8 other information for a continuing analysis of
9 these changes or trends and an interpretation
10 of their underlying causes;

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

14 (3) documentation of the method used to obtain
15 and assure the quality of the statistics presented in
16 the Report;

17 (4) economic information on the current and
18 projected costs and benefits of environmental protec-
19 tion; and

20 (5) recommendations on improving environ-
21 mental statistical information.

22 (d) CONTINUING PERFORMANCE OF THE FUNCTIONS
23 OF THE DIRECTOR PENDING CONFIRMATION.—An indi-
24 vidual who, on the effective date of this Act, is performing
25 any of the functions required by this section to be per-

1 formed by the Director may continue to perform such
2 functions until such functions are assigned to an individ-
3 ual appointed as the Director under this Act.

4 (e) ~~ADVISORY COUNCIL ON ENVIRONMENTAL STA-~~
5 ~~TISTICS.~~—The Director shall appoint an Advisory Council
6 on Environmental Statistics, comprised of no more than
7 6 private citizens who have expertise in environmental sta-
8 tistics and analysis (except that at least one of such ap-
9 pointees should have expertise in economics) to advise the
10 Director on environmental statistics and analyses, includ-
11 ing whether the statistics and analyses disseminated by
12 the Bureau are of high quality and are based upon the
13 best available objective information. The Council shall be
14 subject to the provisions of the Federal Advisory Commit-
15 tee Act.

16 (f) ~~BUREAU AUTHORIZATION OF APPROPRIATIONS.~~—
17 There are authorized to be appropriated \$5,400,000 in fis-
18 cal year 1993, \$5,400,000 in fiscal year 1994, and such
19 sums as necessary in each fiscal year thereafter to carry
20 out the provisions of this section.

21 **SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CER-**
22 **TAIN ACTIVITIES.**

23 The Secretary may make grants to and enter into
24 contracts with State and local governments to assist them
25 in meeting the costs of collecting specific data and other

1 short-term activities that are related to the responsibilities
2 and functions under section 108(a)(1) (A), (B), (C), and
3 ~~(D)~~.

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

5 ~~(a) STUDY OF DATA NEEDS.—(1) No later than 1~~
6 ~~year after the start of Bureau operations, the Secretary~~
7 ~~of the Department of Environment, in consultation with~~
8 ~~the Director of the Bureau and the Assistant Secretary~~
9 ~~designated as Chief Information Resources Officer, shall~~
10 ~~enter into an agreement with the National Academy of~~
11 ~~Sciences for a study, evaluation, and report on the ade-~~
12 ~~quacy of the data collection procedures and capabilities of~~
13 ~~the Department. No later than 18 months following an~~
14 ~~agreement, the National Academy of Sciences shall report~~
15 ~~its findings to the Secretary and the Congress. The report~~
16 ~~shall include an evaluation of the Department's data col-~~
17 ~~lection resources, needs, and requirements, and shall in-~~
18 ~~clude an assessment and evaluation of the following sys-~~
19 ~~tems, capabilities, and procedures established by the De-~~
20 ~~partment to meet those needs and requirements:~~

21 ~~(A) data collection procedures and capabilities;~~

22 ~~(B) data analysis procedures and capabilities;~~

23 ~~(C) the ability of data bases to integrate with~~
24 ~~one another;~~

1 ~~(D)~~ computer hardware and software capabilities;
2

3 ~~(E)~~ management information systems, including
4 the ability of management information systems to
5 integrate with another;

6 ~~(F)~~ Department personnel; and

7 ~~(G)~~ the Department's budgetary needs and re-
8 sources for data collection, including an assessment
9 of the adequacy of the budgetary resources provided
10 to the Department and budgetary resources used
11 by the Department for data collection needs and
12 purposes.

13 ~~(2)~~ The report shall include recommendations for im-
14 proving the Department's data collection systems, capa-
15 bilities, procedures, data collection, and analytical hard-
16 ware and software, and for improving its management in-
17 formation systems.

18 ~~(b)~~ AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated such sums as necessary
20 to carry out the provisions of this section.

21 **SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.**

22 ~~(a)~~ PROHIBITED EMPLOYMENT AND ADVANCEMENT
23 CONSIDERATIONS.—Except as otherwise provided in this
24 Act, political affiliation or political qualification may not
25 be taken into account in connection with the appointment

1 of any person to any position in the career civil service
2 or in the assignment or advancement of any career civil
3 servant in the Department.

4 (b) REPORTS ON IMPLEMENTATION.—One year after
5 the date of the enactment of this title and again 3 years
6 after the date of the enactment of this title, the Secretary
7 shall report to the Senate Committees on Appropriations,
8 Governmental Affairs, and Environment and Public
9 Works and to the House of Representatives on the esti-
10 mated additional cost of implementing this title over the
11 cost as if this title had not been implemented, including
12 a justification of increased staffing not required in the exe-
13 cution of this title.

14 **SEC. 112. ADMINISTRATIVE PROVISIONS.**

15 (a) ACCEPTANCE OF MONEY AND PROPERTY.—(1)
16 The Secretary may accept and retain money, uncompen-
17 sated services, and other real and personal property or
18 rights (whether by gift, bequest, devise, or otherwise) for
19 the purpose of carrying out the Department's programs
20 and activities, except that the Secretary shall not endorse
21 any company, product, organization, or service. Gifts, be-
22 quests, and devises of money and proceeds from sales of
23 other property received as gifts, bequests, or devises shall
24 be credited in a separate fund in the Treasury of the Unit-

1 ed States and shall be available for disbursement upon the
2 order of the Secretary.

3 (2) The Secretary shall prescribe regulations and
4 guidelines setting forth the criteria the Department shall
5 use in determining whether to accept a gift, bequest, or
6 devise. Such criteria shall take into consideration whether
7 the acceptance of the property would reflect unfavorably
8 upon the Department's or any employee's ability to carry
9 out its responsibilities or official duties in a fair and objec-
10 tive manner, or would compromise the integrity of or the
11 appearance of the integrity of a Government program or
12 any official involved in that program.

13 (b) SEAL OF THE DEPARTMENT.—(1) On the effec-
14 tive date of this Act, the seal of the Environmental Protec-
15 tion Agency with appropriate changes shall be the seal of
16 the Department of the Environment, until such time as
17 the Secretary may cause a seal of office to be made for
18 the Department of the Environment of such design as the
19 Secretary shall approve.

20 (2) CRIMINAL PENALTY FOR UNAUTHORIZED USE OF
21 SEAL.—(A) Chapter 33 of title 18, United States Code,
22 is amended by adding at the end thereof the following new
23 section:

1 **“§ 716. Department of the Environment Seal**

2 “(a) Whoever knowingly displays any printed or other
3 likeness of the official seal of the Department of the Envi-
4 ronment, or any facsimile thereof, in, or in connection
5 with, any advertisement, poster, circular, book, pamphlet,
6 or other publication, public meeting, play, motion picture,
7 telecast, or other production, or on any building, monu-
8 ment, or stationery, for the purpose of conveying, or in
9 a manner reasonably calculated to convey, a false impres-
10 sion of sponsorship or approval by the Government of the
11 United States or by any department, agency, or instru-
12 mentality thereof, shall be fined not more than \$250 or
13 imprisoned not more than 6 months, or both.

14 “(b) Whoever, except as authorized under regulations
15 promulgated by the Secretary of the Environment and
16 published in the Federal Register, knowingly manufac-
17 tures, reproduces, sells, or purchases for resale, either sep-
18 arately or appended to any article manufactured or sold,
19 any likeness of the official seal of the Department of the
20 Environment, or any substantial part thereof, except for
21 manufacture or sale of the article for the official use of
22 the Government of the United States, shall be fined not
23 more than \$250 or imprisoned not more than 6 months,
24 or both.

25 “(c) A violation of subsection (a) or (b) may be en-
26 joined at the suit of the Attorney General of the United

1 States upon complaint by any authorized representative
2 of the Secretary of the Department of the Environment.”.

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

“716. Department of the Environment Seal.”.

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

10 (1) copyrights, patents, and applications for
11 patents, designs, processes, and manufacturing data;

12 (2) licenses under copyrights, patents, and ap-
13 plications for patents; and

14 (3) releases, before suit is brought, for past in-
15 fringement of patents or copyrights.

16 (d) ADVISORY COMMITTEE STANDARDS OF CONDUCT
17 AND COMPENSATION.—The Secretary may promulgate
18 regulations, no less stringent than any other applicable
19 provision of law, regarding standards of conduct for mem-
20 bers of advisory committees (and consultants to advisory
21 committees), including requirements regarding conflicts of
22 interest or disclosure of past and present financial and em-
23 ployment interests. The Secretary is authorized to pay
24 members of advisory committees and others who perform
25 services as authorized under section 3109 of title 5, Unit-

1 ed States Code, at rates for individuals not to exceed the
2 per diem rate equivalent to the rate for level V of the Ex-
3 ecutive Schedule under section 5316 of title 5, United
4 States Code.

5 **SEC. 113. INHERENTLY GOVERNMENTAL FUNCTIONS.**

6 (a) GOVERNMENT OFFICERS AND EMPLOYEES.—(1)
7 Inherently governmental functions of the Department
8 shall be performed only by officers and employees of the
9 United States. For purposes of this section, “inherently
10 governmental” means any activity which is so intimately
11 related to the public interest as to mandate performance
12 by Government officers and employees. These inherently
13 governmental functions include those activities which re-
14 quire either the exercise of discretion in applying Govern-
15 ment authority or the use of value of judgment in making
16 decisions for the Government. These functions shall in-
17 clude, but not be limited to, work of a policy, decisionmak-
18 ing, or managerial nature which is the direct responsibility
19 of Department officials.

20 (b) CONFLICTS OF INTEREST.—(1) The Secretary
21 shall by regulation require any person proposing to enter
22 into a contract, agreement, or other arrangement, whether
23 by competitive bid or negotiation, for the conduct of re-
24 search, development, evaluation activities, or for advisory
25 and assistance services, to provide the Secretary, prior to

1 entering into any such contract, agreement, or arrange-
2 ment, with all relevant information, as determined by the
3 Secretary, bearing on whether that person has a possible
4 conflict of interest with respect to—

5 (A) being able to render impartial, technically
6 sound, or objective assistance or advice in light of
7 other activities or relationships with other persons;
8 or

9 (B) being given an unfair competitive advan-
10 tage.

11 (2) Such person shall ensure, in accordance with reg-
12 ulations prescribed by the Secretary, compliance with this
13 section by subcontractors of such person who are engaged
14 to perform similar services.

15 (c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF
16 INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF
17 CONFLICTS.—(1) Subject to the provisions of paragraph
18 (2), the Secretary may not enter into any such contract,
19 agreement, or arrangement, unless he affirmatively finds,
20 after evaluating all such information and any other rel-
21 evant information otherwise available to him, either that—

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

1 ~~(B)~~ that such conflict has been avoided after
2 appropriate conditions have been included in such
3 contract, agreement, or arrangement.

4 ~~(2)~~ If the Secretary determines that such conflict of
5 interest exists and that such conflict of interest cannot be
6 avoided by including appropriate conditions therein, the
7 Secretary may enter into such contract, agreement, or ar-
8 rangement, if he—

9 ~~(A)~~ determines that it is in the best interests of
10 the United States to do so; and

11 ~~(B)~~ includes appropriate conditions in such con-
12 tract, agreement, or arrangement to mitigate such
13 conflict.

14 ~~(d)~~ PUBLIC NOTICE REGARDING CONFLICTS OF IN-
15 TEREST.—The Secretary shall promulgate regulations
16 which require public notice to be given whenever the Sec-
17 retary determines that the award of a contract, agreement,
18 or arrangement may result in a conflict of interest which
19 cannot be avoided by including appropriate conditions
20 therein.

21 ~~(e)~~ DISCLAIMER.—Nothing in this section shall pre-
22 clude the Department from promulgating regulations to
23 monitor potential conflicts after the contract award.

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

4 (g) CENTRAL FILE.—The Department shall maintain
5 a central file regarding all cases when a public notice is
6 issued. Other information required under this section shall
7 also be compiled. Access to this information shall be con-
8 trolled to safeguard any proprietary information.

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

11 (1) management and professional support serv-
12 ices;

13 (2) the conduct of studies, analyses, and evalua-
14 tions; and

15 (3) engineering and technical services, excluding
16 routine technical services.

17 **SEC. 114. REFERENCES.**

18 Reference in any other Federal law, Executive order,
19 rule, regulation, or delegation of authority, or any docu-
20 ment of or pertaining—

21 (1) to the Administrator of the Environmental
22 Protection Agency shall be deemed to refer to the
23 Secretary of the Environment;

1 (2) to the Environmental Protection Agency
2 shall be deemed to refer to the Department of the
3 Environment;

4 (3) to the Deputy Administrator of the Envi-
5 ronmental Protection Agency shall be deemed to
6 refer to the Deputy Secretary of the Environment;
7 or

8 (4) to any Assistant Administrator of the Envi-
9 ronmental Protection Agency shall be deemed to
10 refer to an Assistant Secretary of the Department of
11 the Environment.

12 **SEC. 115. SAVINGS PROVISIONS.**

13 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

14 All orders, determinations, rules, regulations, permits,
15 agreements, grants, contracts, certificates, licenses, reg-
16 istrations, privileges, and other administrative actions—

17 (1) which have been issued, made, granted, or
18 allowed to become effective by the President, by the
19 Administrator of the Environmental Protection
20 Agency, or by a court of competent jurisdiction, in
21 the performance of functions of the Administrator or
22 the Environmental Protection Agency, and

23 (2) which are in effect at the time this Act
24 takes effect, or were final before the effective date

1 of this Act and are to become effective on or after
2 the effective date of this Act,
3 shall continue in effect according to their terms until
4 modified, terminated, superseded, set aside, or revoked in
5 accordance with law by the President, the Secretary of the
6 Environment, or other authorized official, a court of com-
7 petent jurisdiction, or by operation of law.

8 (b) PROCEEDINGS NOT AFFECTED.—The provisions
9 of this Act shall not affect any proceedings or any applica-
10 tion for any license, permit, certificate, or financial assist-
11 ance pending before the Environmental Protection Agency
12 at the time this Act takes effect, but such proceedings and
13 applications shall be continued. Orders shall be issued in
14 such proceedings, appeals shall be taken therefrom, and
15 payments shall be made pursuant to such orders, as if this
16 Act had not been enacted, and orders issued in any such
17 proceedings shall continue in effect until modified, termi-
18 nated, superseded, or revoked by a duly authorized official,
19 by a court of competent jurisdiction, or by operation of
20 law. Nothing in this subsection shall be deemed to prohibit
21 the discontinuance or modification of any such proceeding
22 under the same terms and conditions and to the same ex-
23 tent that such proceeding could have been discontinued
24 or modified if this Act had not been enacted.

1 (c) ~~SUITS NOT AFFECTED.~~—The provisions of this
2 Act shall not affect suits commenced before the date this
3 Act takes effect, and in all such suits, proceedings shall
4 be had, appeals taken, and judgments rendered in the
5 same manner and with the same effect as if this Act had
6 not been enacted.

7 (d) ~~NONABATEMENT OF ACTIONS.~~—No suit, action,
8 or other proceeding commenced by or against the Environ-
9 mental Protection Agency, or by or against any individual
10 in the official capacity of such individual as an officer of
11 the Environmental Protection Agency, shall abate by rea-
12 son of the enactment of this Act.

13 (e) ~~ADMINISTRATIVE ACTIONS RELATING TO PRO-~~
14 ~~MULGATION OF REGULATIONS.~~—Any administrative ac-
15 tion relating to the preparation or promulgation of a regu-
16 lation by the Environmental Protection Agency may be
17 continued by the Department with the same effect as if
18 this Act had not been enacted.

19 (f) ~~PROPERTY AND RESOURCES.~~—The contracts, li-
20 abilities, records, property, and other assets and interests
21 of the Environmental Protection Agency shall, after the
22 effective date of this Act, be considered to be the con-
23 tracts, liabilities, records, property, and other assets and
24 interests of the Department.

1 (g) SAVINGS.—The Department of the Environment
2 and its officers, employees, and agents shall have all the
3 powers and authorities of the Environmental Protection
4 Agency.

5 **SEC. 116. CONFORMING AMENDMENTS.**

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

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

14 (c) COMPENSATION, LEVEL I.—Section 5312 of title
15 5, United States Code, is amended by adding at the end
16 thereof the following: “Secretary of the Environment”.

17 (d) COMPENSATION, LEVEL II.—Section 5313 of title
18 5, United States Code, is amended by striking out “Ad-
19 ministrator of Environmental Protection Agency” and in-
20 serting in lieu thereof “Deputy Secretary of the Environ-
21 ment”.

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

24 (1) by striking out “Inspector General, Envi-
25 ronmental Protection Agency” and inserting in lieu

1 thereof “Inspector General, Department of the Envi-
2 ronment”; and

3 (2) by striking each reference to an Assistant
4 Administrator of the Environmental Protection
5 Agency and by adding at the end thereof the follow-
6 ing: “Assistant Secretaries, Department of the Envi-
7 ronment (10). “General Counsel, Department of the
8 Environment.”.

9 (f) COMPENSATION, LEVEL V.—Section 5316 of title
10 5, United States Code, is amended by adding at the end
11 thereof the following:

12 “Director of the Bureau of Environmental Sta-
13 tistics, Department of the Environment.

14 “Executive Director of the Commission on Im-
15 proving Environmental Protection.”.

16 (g) INSPECTOR GENERAL ACT.—The Inspector Gen-
17 eral Act of 1978 is amended—

18 (1) in section 2(1)—

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

21 (B) by striking out “The Environmental
22 Protection Agency,”;

23 (2) in section 11(1) by striking out “or Veter-
24 ans Affairs” and inserting “Veterans Affairs, or the
25 Environment,”; and

1 (3) in section 11(2) by striking out “or Veter-
2 ans Affairs” and inserting “Veterans Affairs, or the
3 Environment,”.

4 **SEC. 117. ADDITIONAL CONFORMING AMENDMENTS.**

5 After consultation with the Committee on Govern-
6 mental Affairs and the Committee on Environment and
7 Public Works and other appropriate committees of the
8 United States Senate and the appropriate committees of
9 the House of Representatives, the Secretary of the Envi-
10 ronment shall prepare and submit to the Congress pro-
11 posed legislation containing technical and conforming
12 amendments to the United States Code, and to other pro-
13 visions of law, to reflect the changes made by this Act.
14 Such legislation shall be submitted not later than 6
15 months after the effective date of this Act.

16 **TITLE II—ENVIRONMENTAL**
17 **ROLE OF THE UNITED STATES**
18 **IN INTERNATIONAL ORGANI-**
19 **ZATIONS TO WHICH IT BE-**
20 **LONGS**

21 **SEC. 201. INTERNATIONAL ENERGY CONFERENCE.**

22 The Secretary of State, in consultation with the Sec-
23 retary of Energy and the Secretary of the Environment,
24 and with the advice of the Committee on Earth and Envi-
25 ronmental Sciences, is authorized and strongly urged to

1 convene an international meeting to be held in the United
2 States with invitations to representatives of all countries
3 of the world, the purpose of which shall be to encourage
4 the exchange of information concerning energy efficiency
5 and renewable energy resources that are environmentally
6 acceptable and ecologically sustainable.

7 **SEC. 202. INTERNATIONAL GREENHOUSE GAS MONITORING**
8 **PROGRAM.**

9 The President, with the advice of the Committee on
10 Earth and Environmental Sciences, shall encourage the
11 establishment of an office of the United Nations Environ-
12 ment Programme (UNEP) and the World Meteorological
13 Organization (WMO) to monitor annual estimated genera-
14 tion and removal of carbon dioxide and other trace gases
15 on a country-by-country basis.

16 **TITLE III—ESTABLISHMENT OF**
17 **THE COMMISSION ON IM-**
18 **PROVING ENVIRONMENTAL**
19 **PROTECTION**

20 **SEC. 301. ESTABLISHMENT; MEMBERSHIP.**

21 (a) **ESTABLISHMENT.**—There is established the Com-
22 mission on Improving Environmental Protection (here-
23 after referred to as “the Commission”) whose 13 members
24 including the Chairman shall be composed of experts in
25 governmental organization (with emphasis on environ-

1 mental organization); management of organizations and
2 environmental regulation and improved environmental
3 governmental service delivery, consisting of—

4 (1) seven members to be appointed by the
5 President;

6 (2) three members to be appointed by the
7 Speaker of the House; and

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

10 (b) CHAIRMAN.—The Chairman of the Commission
11 shall be appointed by the President in consultation with
12 the Congress.

13 **SEC. 302. COMMISSION RESPONSIBILITIES.**

14 (a) RESPONSIBILITIES.—The Commission shall be
15 responsible for examining and making recommendations
16 on the management and implementation of the environ-
17 mental laws and programs within the jurisdiction of the
18 Department of the Environment in order to enhance the
19 ability of the Department to preserve and protect human
20 health and the environment. The Commission shall make
21 recommendations and otherwise advise the President and
22 the Congress on the need to—

23 (1) enhance and strengthen the management
24 and implementation of existing programs within the
25 Department;

1 (2) enhance the organization of the Department
2 to eliminate duplication and overlap between dif-
3 ferent programs;

4 (3) enhance the coordination between different
5 programs and offices within the Department; and

6 (4) enhance the consistency of policies through-
7 out the Department.

8 (b) **RECOMMENDATIONS.**—The Commission shall
9 provide specific steps and proposals for implementing the
10 Commission’s recommendations including an estimate of
11 the costs of implementing such recommendations, except
12 that the Commission shall not suggest substantive changes
13 in the policy expressed by existing laws.

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

15 The Commission shall report to the President and the
16 Congress on its investigation, findings, and recommenda-
17 tions in an interim report no later than 12 months after
18 the effective date of this title, and in a final report no
19 later than 24 months after the effective date of this title.
20 The interim report shall be made available for public re-
21 view and comment, and the comments taken into account
22 in finalizing the report.

23 **SEC. 304. COMMISSION STAFF.**

24 The Commission shall appoint an Executive Director
25 who shall be compensated at a rate not to exceed the rate

1 of basic pay prescribed for level V of the Executive Sched-
2 ule under section 5316 of title 5, United States Code.
3 With the approval of the Commission the Executive Direc-
4 tor may appoint and fix the compensation of staff suffi-
5 cient to enable the Commission to carry out its duties.

6 **SEC. 305. ADVISORY GROUPS.**

7 The Chairman shall convene at least one advisory
8 group to assist the Commission in developing its rec-
9 ommendations. One advisory group shall be composed of
10 past staff of the Department of the Environment and its
11 predecessor Environmental Protection Agency, other Fed-
12 eral and State officials experienced in administering envi-
13 ronmental protection programs, members of the regulated
14 community and members of public interest groups orga-
15 nized to further the goals of environmental protection. The
16 Executive Director is authorized to pay members of advi-
17 sory committees and others who perform services as au-
18 thorized under section 3109 of title 5, United States Code,
19 at rates for individuals not to exceed the per diem rate
20 equivalent to the rate for level V of the Executive Schedule
21 under section 5316 of title 5, United States Code. The
22 advisory group shall be subject to the provisions of the
23 Federal Advisory Committee Act.

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

2 There are authorized to be appropriated \$5,000,000
3 in fiscal year 1993 and \$5,000,000 in fiscal year 1994
4 to carry out the provisions of this title.

5 **TITLE IV—EFFECTIVE DATE**

6 **SEC. 401. EFFECTIVE DATE.**

7 This Act and the amendments made by this Act shall
8 take effect on such date during the 6-month period begin-
9 ning on the date of enactment, as the President may direct
10 in an Executive order. If the President fails to issue an
11 Executive order for the purpose of this section, this Act
12 and such amendments shall take effect 6 months after the
13 date of the enactment of this Act.

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

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

17 (b) *TABLE OF CONTENTS.*—The table of contents is as
18 follows:

Sec. 1. Short title and table of contents.

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

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Establishment of the Department of the Environment.

Sec. 104. Assistant Secretaries.

Sec. 105. Deputy Assistant Secretaries.

Sec. 106. Office of the General Counsel.

Sec. 107. Office of the Inspector General.

Sec. 108. Bureau of Environmental Statistics.

Sec. 109. Grant and contract authority for certain activities.

Sec. 110. Study of data needs.

Sec. 111. Miscellaneous employment restrictions.

- Sec. 112. Termination of the Council on Environmental Quality and transfer of functions.*
Sec. 113. Administrative provisions.
Sec. 114. Inherently governmental functions.
Sec. 115. References.
Sec. 116. Savings provisions.
Sec. 117. Conforming amendments.
Sec. 118. Additional conforming amendments.

TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

- Sec. 201. Establishment; membership.*
Sec. 202. Commission responsibilities.
Sec. 203. Report to the President and Congress.
Sec. 204. Commission staff.
Sec. 205. Advisory groups.
Sec. 206. Termination of Commission.
Sec. 207. Funding; authorization of appropriations.

TITLE III—EFFECTIVE DATE

- Sec. 301. Effective date.*

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

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

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

7 ***SEC. 102. FINDINGS.***

8 *The Congress finds that—*

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

14 *(2) protection of the environment increasingly*
 15 *involves cooperation with foreign states, including the*

1 *most highly industrialized states all of whose top en-*
2 *vironmental officials have ministerial status;*

3 *(3) the size of the budget and the number of Fed-*
4 *eral civil servants devoted to tasks associated with en-*
5 *vironmental protection at the Environmental Protec-*
6 *tion Agency is commensurate with departmental sta-*
7 *tus; and*

8 *(4) a cabinet-level Department of the Environ-*
9 *ment should be established.*

10 **SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE**
11 **ENVIRONMENT.**

12 *(a) REDESIGNATION.—The Environmental Protection*
13 *Agency is hereby redesignated as the Department of the En-*
14 *vironment (hereafter referred to as the “Department”) and*
15 *shall be an executive department in the executive branch*
16 *of the Government. The official acronym of the Department*
17 *shall be the “U.S.D.E.”.*

18 *(b) SECRETARY OF THE ENVIRONMENT.—(1) There*
19 *shall be at the head of the Department a Secretary of the*
20 *Environment who shall be appointed by the President, by*
21 *and with the advice and consent of the Senate. The Depart-*
22 *ment shall be administered under the supervision and direc-*
23 *tion of the Secretary.*

24 *(2) The Secretary may not assign duties for or delegate*
25 *authority for the supervision of the Assistant Secretaries,*

1 *the General Counsel, the Director of Environmental Statis-*
2 *tics, or the Inspector General of the Department to any offi-*
3 *cer of the Department other than the Deputy Secretary.*

4 (3) *Except as described under paragraph (2) of this*
5 *section and section 104(b)(2), and notwithstanding any*
6 *other provision of law, the Secretary may delegate any*
7 *functions including the making of regulations to such offi-*
8 *cers and employees of the Department as the Secretary may*
9 *designate, and may authorize such successive redelegations*
10 *of such functions within the Department as determined to*
11 *be necessary or appropriate.*

12 (c) *DEPUTY SECRETARY.—There shall be in the De-*
13 *partment a Deputy Secretary of the Environment, who*
14 *shall be appointed by the President, by and with the advice*
15 *and consent of the Senate. The Deputy Secretary shall per-*
16 *form such responsibilities as the Secretary shall prescribe*
17 *and shall act as the Secretary during the absence or disabil-*
18 *ity of the Secretary or in the event of a vacancy in the*
19 *position of Secretary.*

20 (d) *OFFICE OF THE SECRETARY.—The Office of the*
21 *Secretary shall consist of a Secretary and a Deputy Sec-*
22 *retary and may include an Executive Secretary and such*
23 *other executive officers as the Secretary may determine nec-*
24 *essary.*

1 (e) *REGIONAL OFFICES.*—*The Secretary is authorized*
2 *to establish, alter, discontinue, or maintain such regional*
3 *or other field offices as he may determine necessary to carry*
4 *out the functions vested in him or other officials of the*
5 *Department.*

6 (f) *INTERNATIONAL RESPONSIBILITIES OF THE SEC-*
7 *RETARY.*—(1) *In addition to exercising other international*
8 *responsibilities under existing provisions of law, the*
9 *Secretary is—*

10 (A) *encouraged to assist the Secretary of State to*
11 *carry out his primary responsibilities for coordinat-*
12 *ing, negotiating, implementing and participating in*
13 *international agreements, including participation in*
14 *international organizations, relevant to environ-*
15 *mental protection; and*

16 (B) *authorized and encouraged to—*

17 (i) *conduct research on and apply existing*
18 *research capabilities to the nature and impacts*
19 *of international environmental problems and de-*
20 *velop responses to such problems; and*

21 (ii) *provide technical and other assistance*
22 *to foreign countries and international bodies to*
23 *improve the quality of the environment.*

24 (2) *The Secretary of State shall consult with the Sec-*
25 *retary of the Environment and such other persons as he*

1 *determines appropriate on such negotiations, implementa-*
2 *tions, and participations described under paragraph*
3 *(1)(A).*

4 *(g) AUTHORITY OF THE SECRETARY WITHIN THE DE-*
5 *PARTMENT.—Except as provided under section 112, nothing*
6 *in the provisions of this Act—*

7 *(1) authorizes the Secretary of the Environment*
8 *to require any action by any officer of any executive*
9 *department or agency other than officers of the De-*
10 *partment of the Environment, except that this para-*
11 *graph shall not affect any authority provided for by*
12 *any other provision of law authorizing the Secretary*
13 *of the Environment to require any such actions;*

14 *(2) modifies any Federal law that is adminis-*
15 *tered by any executive department or agency; or*

16 *(3) transfers to the Department of the Environ-*
17 *ment any authority exercised by any other Federal*
18 *executive department or agency prior to the date of*
19 *the enactment of this Act, except the authority exer-*
20 *cised by the Environmental Protection Agency.*

21 *(h) APPLICATION TO THE DEPARTMENT OF THE ENVI-*
22 *RONMENT.—The provisions of this Act apply only to activi-*
23 *ties of the Department of the Environment, except where*
24 *expressly provided otherwise.*

1 **SEC. 104. ASSISTANT SECRETARIES.**

2 (a) *ESTABLISHMENT OF POSITIONS.*—There shall be in
3 the Department such number of Assistant Secretaries, not
4 to exceed 12, as the Secretary shall determine, each of whom
5 shall be appointed by the President, by and with the advice
6 and consent of the Senate.

7 (b) *RESPONSIBILITIES OF ASSISTANT SECRETAR-*
8 *IES.*—(1) The Secretary shall assign to Assistant Secretar-
9 ies such responsibilities as the Secretary considers appro-
10 priate, including, but not limited to—

- 11 (A) enforcement;
- 12 (B) compliance monitoring;
- 13 (C) research and development;
- 14 (D) air;
- 15 (E) radiation;
- 16 (F) water;
- 17 (G) pesticides;
- 18 (H) toxic substances;
- 19 (I) solid waste;
- 20 (J) hazardous waste;
- 21 (K) hazardous waste cleanup;
- 22 (L) emergency response;
- 23 (M) international affairs;
- 24 (N) policy, planning, and evaluation;
- 25 (O) pollution prevention;
- 26 (P) congressional affairs;

1 (Q) *intergovernmental affairs;*

2 (R) *public affairs; and*

3 (S) *administration and resources management,*
4 *information resources management, procurement and*
5 *assistance management, and personnel and labor rela-*
6 *tions.*

7 (2) *The Secretary may assign and modify any respon-*
8 *sibilities at his discretion under paragraph (1), except that*
9 *the Secretary may not modify the responsibilities of any*
10 *Assistant Secretary without prior written notification with*
11 *explanation of such modification to the appropriate com-*
12 *mittees of the Senate and the House of Representatives.*

13 (c) *DESIGNATION OF RESPONSIBILITIES PRIOR TO*
14 *CONFIRMATION.—Whenever the President submits the name*
15 *of an individual to the Senate for confirmation as Assistant*
16 *Secretary under this section, the President shall state the*
17 *particular responsibilities of the Department such individ-*
18 *ual shall exercise upon taking office.*

19 (d) *CONTINUING PERFORMANCE OF FUNCTIONS.—On*
20 *the effective date of this Act, the Administrator and Deputy*
21 *Administrator of the Environmental Protection Agency*
22 *shall be redesignated as the Secretary and Deputy Secretary*
23 *of the Department of the Environment, Assistant Adminis-*
24 *trators of the Agency shall be redesignated as Assistant Sec-*
25 *retaries of the Department, the General Counsel and the In-*

1 *spector General of the Agency shall be redesignated as the*
2 *General Counsel and the Inspector General of the Depart-*
3 *ment, and the Chief Financial Officer of the Agency shall*
4 *be redesignated as the Chief Financial Officer of the Depart-*
5 *ment, without renomination or reconfirmation.*

6 *(e) CHIEF INFORMATION RESOURCES OFFICER.—(1)*
7 *The Secretary shall designate the Assistant Secretary whose*
8 *responsibilities include information resource management*
9 *functions as required by section 3506 of title 44, United*
10 *States Code, as the Chief Information Resources Officer of*
11 *the Department.*

12 *(2) The Chief Information Resources Officer shall—*

13 *(A) advise the Secretary on information resource*
14 *management activities of the Department as required*
15 *by section 3506 of title 44, United States Code;*

16 *(B) develop and maintain an information re-*
17 *sources management system for the Department which*
18 *provides for—*

19 *(i) the conduct of and accountability for*
20 *any acquisitions made pursuant to a delegation*
21 *of authority under section 111 of the Federal*
22 *Property and Administrative Services Act of*
23 *1949 (40 U.S.C. 759);*

24 *(ii) the implementation of all applicable*
25 *government-wide and Department information*

1 *policies, principles, standards, and guidelines*
2 *with respect to information collection, paperwork*
3 *reduction, privacy and security of records, shar-*
4 *ing and dissemination of information, acquisi-*
5 *tion and use of information technology, and*
6 *other information resource management func-*
7 *tions;*

8 *(iii) the periodic evaluation of and, as need-*
9 *ed, the planning and implementation of im-*
10 *provements in the accuracy, completeness, and*
11 *reliability of data and records contained with*
12 *Department information systems; and*

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

16 *(C) report to the Secretary as required under sec-*
17 *tion 3506 of title 44, United States Code.*

18 **SEC. 105. DEPUTY ASSISTANT SECRETARIES.**

19 *(a) ESTABLISHMENT OF POSITIONS.—There shall be in*
20 *the Department such number of Deputy Assistant Secretar-*
21 *ies as the Secretary may determine.*

22 *(b) APPOINTMENTS.—Each Deputy Assistant Sec-*
23 *retary—*

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

1 (2) shall perform such functions as the Secretary
2 shall prescribe.

3 (c) *FUNCTIONS.*—Functions assigned to an Assistant
4 Secretary under section 104(b) may be performed by one
5 or more Deputy Assistant Secretaries appointed to assist
6 such Assistant Secretary.

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

8 There shall be in the Department the Office of the Gen-
9 eral Counsel. There shall be at the head of such office a Gen-
10 eral Counsel who shall be appointed by the President, by
11 and with the advice and consent of the Senate. The General
12 Counsel shall be the chief legal officer of the Department
13 and shall provide legal assistance to the Secretary concern-
14 ing the programs and policies of the Department.

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

16 The Office of Inspector General of the Environmental
17 Protection Agency, established in accordance with the In-
18 spector General Act of 1978, is hereby redesignated as the
19 Office of Inspector General of the Department of the
20 Environment.

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

22 (a) *ESTABLISHMENT.*—(1) There is established within
23 the Department a Bureau of Environmental Statistics
24 (hereafter referred to as the “Bureau”). The Bureau shall
25 be responsible for—

1 (A) *compiling, analyzing, and publishing a com-*
2 *prehensive set of environmental quality statistics*
3 *which should provide timely summary in the form of*
4 *industrywide aggregates, multiyear averages, or totals*
5 *or some similar form and include information on—*

6 (i) *the nature, source, and amount of pol-*
7 *lutants in the environment; and*

8 (ii) *the effects on the public and the envi-*
9 *ronment of those pollutants;*

10 (B) *promulgating guidelines for the collection of*
11 *information by the Department required for the sta-*
12 *tistics under this paragraph to assure that the infor-*
13 *mation is accurate, reliable, relevant, and in a form*
14 *that permits systematic analysis;*

15 (C) *coordinating the collection of information by*
16 *the Department for developing such statistics with re-*
17 *lated information-gathering activities conducted by*
18 *other Federal agencies;*

19 (D) *making readily accessible the statistics pub-*
20 *lished under this paragraph; and*

21 (E) *identifying missing information of the kind*
22 *described under subparagraph (A) (i) and (ii), re-*
23 *viewing these information needs at least annually*
24 *with the Science Advisory Board, and making rec-*
25 *ommendations to the appropriate Department of En-*

1 *vironment officials concerning extramural and intra-*
2 *mural research programs to provide such information.*

3 *(2) Nothing in the provisions of paragraph (1) shall*
4 *authorize the Bureau to require the collection of any data*
5 *by any other Department, State or local government, or to*
6 *establish observation or monitoring programs. The Bureau*
7 *shall not duplicate the information collection functions of*
8 *other Federal agencies.*

9 *(3) Information compiled by the Bureau of Environ-*
10 *mental Statistics, which has been submitted for purposes*
11 *of statistical reporting requirements of this law, shall not*
12 *be disclosed publicly in a manner that would reveal the*
13 *identity of the submitter, including submissions by Federal,*
14 *State, or local governments, or reveal the identity of any*
15 *individual consistent with the provisions of section 552a of*
16 *title 5, United States Code (the Privacy Act of 1974). This*
17 *paragraph shall not affect the availability of data provided*
18 *to the Department under any other provision of law admin-*
19 *istered by the Department. The confidentiality provisions*
20 *of other statutes authorizing the collection of environmental*
21 *statistics shall also apply, including but not limited to, sec-*
22 *tion 14 of the Toxic Substances Control Act (15 U.S.C.*
23 *2613), section 2(h) of the Federal Insecticide, Fungicide,*
24 *and Rodenticide Act (7 U.S.C. 136h), section 114(c) of the*

1 *Clean Air Act (42 U.S.C. 741(c)), and section 1905 of title*
2 *18, United States Code.*

3 **(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.**—The
4 *Bureau shall be under the direction of a Director of Envi-*
5 *ronmental Statistics (hereafter referred to as the “Direc-*
6 *tor”)* who shall be appointed by the President, by and with
7 *the advice and consent of the Senate. The term of the Direc-*
8 *tor shall be 4 years. The Director shall be a qualified indi-*
9 *vidual with experience in the compilation and analysis of*
10 *environmental statistics. The Director shall report directly*
11 *to the Secretary. The Director shall be compensated at the*
12 *rate provided for at level V of the Executive Schedule under*
13 *section 5316 of title 5, United States Code.*

14 **(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.**—
15 *On July 1, 1995, and each July 1 thereafter, the Director*
16 *shall submit to the President an Environmental Statistics*
17 *Annual Report (hereafter referred to as the “Report”). The*
18 *Report shall include, but not be limited to—*

19 **(1) statistics on environmental quality includ-**
20 *ing—*

21 **(A) The environmental quality of the Na-**
22 *tion with respect to all aspects of the environ-*
23 *ment, including, but not limited to, the air,*
24 *aquatic ecosystems, including marine, estuarine,*
25 *and fresh water, and the terrestrial ecosystems,*

1 *including, but not limited to, the forest, dry-*
2 *land, wetland, range, urban, suburban, and*
3 *rural environment; and*

4 *(B) changes in the natural environment, in-*
5 *cluding the plant and animal systems, and other*
6 *information for a continuing analysis of these*
7 *changes or trends and an interpretation of their*
8 *underlying causes;*

9 *(2) statistics on the effects of changes in environ-*
10 *mental quality on human health and nonhuman spe-*
11 *cies and ecosystems;*

12 *(3) documentation of the method used to obtain*
13 *and assure the quality of the statistics presented in*
14 *the Report;*

15 *(4) economic information on the current and*
16 *projected costs and benefits of environmental protec-*
17 *tion; and*

18 *(5) recommendations on improving environ-*
19 *mental statistical information.*

20 *(d) CONTINUING PERFORMANCE OF THE FUNCTIONS*
21 *OF THE DIRECTOR PENDING CONFIRMATION.—An individ-*
22 *ual who, on the effective date of this Act, is performing any*
23 *of the functions required by this section to be performed by*
24 *the Director may continue to perform such functions until*

1 *such functions are assigned to an individual appointed as*
2 *the Director under this Act.*

3 (e) *ADVISORY COUNCIL ON ENVIRONMENTAL STATIS-*
4 *TICS.—The Director shall appoint an Advisory Council on*
5 *Environmental Statistics, comprised of no more than 6 pri-*
6 *vate citizens who have expertise in environmental statistics*
7 *and analysis (except that at least one of such appointees*
8 *should have expertise in economics) to advise the Director*
9 *on environmental statistics and analyses, including whether*
10 *the statistics and analyses disseminated by the Bureau are*
11 *of high quality and are based upon the best available objec-*
12 *tive information. The Council shall be subject to the provi-*
13 *sions of the Federal Advisory Committee Act.*

14 **SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CERTAIN**
15 **ACTIVITIES.**

16 *The Secretary may make grants to and enter into con-*
17 *tracts with State and local governments, Indian tribes, uni-*
18 *versities, and other organizations to assist them in meeting*
19 *the costs of collecting specific data and other short term ac-*
20 *tivities that are related to the responsibilities and functions*
21 *under section 108(a)(1) (A), (B), (C), and (D).*

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

23 (a) *STUDY OF DATA NEEDS.—(1) No later than 1 year*
24 *after the start of Bureau operations, the Secretary of the*
25 *Department of Environment, in consultation with the Di-*

1 *rector of the Bureau and the Assistant Secretary designated*
2 *as Chief Information Resources Officer, shall enter into an*
3 *agreement with the National Academy of Sciences for a*
4 *study, evaluation, and report on the adequacy of the data*
5 *collection procedures and capabilities of the Department. No*
6 *later than 18 months following an agreement, the National*
7 *Academy of Sciences shall report its findings to the Sec-*
8 *retary and the Congress. The report shall include an evalua-*
9 *tion of the Department's data collection resources, needs,*
10 *and requirements, and shall include an assessment and*
11 *evaluation of the following systems, capabilities, and proce-*
12 *dures established by the Department to meet those needs and*
13 *requirements:*

14 (A) *data collection procedures and capabilities;*

15 (B) *data analysis procedures and capabilities;*

16 (C) *the ability of data bases to integrate with*
17 *one another;*

18 (D) *computer hardware and software capabili-*
19 *ties;*

20 (E) *management information systems, including*
21 *the ability of management information systems to in-*
22 *tegrate with another;*

23 (F) *Department personnel; and*

24 (G) *the Department's budgetary needs and re-*
25 *sources for data collection, including an assessment of*

1 *the adequacy of the budgetary resources provided to*
2 *the Department and budgetary resources used by*
3 *the Department for data collection needs and*
4 *purposes.*

5 *(2) The report shall include recommendations for im-*
6 *proving the Department's data collection systems, capabili-*
7 *ties, procedures, data collection, and analytical hardware*
8 *and software, and for improving its management informa-*
9 *tion systems.*

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

13 **SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.**

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

21 *(b) REPORTS ON IMPLEMENTATION.—One year after*
22 *the date of the enactment of this title and again 3 years*
23 *after the date of the enactment of this title, the Secretary*
24 *shall report to the Senate Committees on Appropriations,*
25 *Governmental Affairs, and Environment and Public Works*

1 *and to the House of Representatives on the estimated addi-*
2 *tional cost of implementing this title over the cost as if this*
3 *title had not been implemented, including a justification*
4 *of increased staffing not required in the execution of this*
5 *title.*

6 **SEC. 112. TERMINATION OF THE COUNCIL ON ENVIRON-**
7 **MENTAL QUALITY AND TRANSFER OF FUNC-**
8 **TIONS.**

9 (a) *TRANSFER OF FUNCTIONS OF THE COUNCIL ON*
10 *ENVIRONMENTAL QUALITY.—(1) Except as provided under*
11 *paragraph (2), all functions of the Council on Environ-*
12 *mental Quality under titles I and II of the National Envi-*
13 *ronmental Policy Act (42 U.S.C. 4321 et seq.) and under*
14 *any other law, are transferred to the Secretary. The Sec-*
15 *retary is authorized to take all necessary action, including*
16 *the promulgation of regulations, to carry out these func-*
17 *tions.*

18 (2) *Referrals of interagency disagreements concerning*
19 *proposed major Federal actions significantly affecting the*
20 *quality of the human environment under section 102(2)(C)*
21 *of the National Environmental Policy Act (42 U.S.C.*
22 *102(2)(C)) and concerning matters under section 309(b) of*
23 *the Clean Air Act (42 U.S.C. 7609(b)) shall be made to the*
24 *President for resolution.*

1 *gradual and orderly termination of the Council and trans-*
2 *fer of Council functions as provided in this Act.*

3 *(e) SAVINGS PROVISIONS.—(1) All orders, determina-*
4 *tions, rules, regulations, permits, agreements, grants, con-*
5 *tracts, certificates, licenses, registrations, privileges, and*
6 *other administrative actions—*

7 *(A) which have been issued, made, granted, or*
8 *allowed to become effective by the President, by the*
9 *Council on Environmental Quality, or by a court of*
10 *competent jurisdiction, in the performance of func-*
11 *tions of the Council on Environmental Quality, and*

12 *(B) which are in effect at the time this Act takes*
13 *effect, or were final before the effective date of this Act*
14 *and are to become effective on or after the effective*
15 *date of this Act,*

16 *shall continue in effect according to their terms until modi-*
17 *fied, terminated, superseded, set aside, or revoked in accord-*
18 *ance with law by the President, the Secretary of the Envi-*
19 *ronment, or other authorized official, a court of competent*
20 *jurisdiction, or by operation of law.*

21 *(2) The provisions of this Act shall not affect any pro-*
22 *ceedings or any application for any license, permit, certifi-*
23 *cate, or financial assistance pending before the Council on*
24 *Environmental Quality at the time this Act takes effect, but*
25 *such proceedings and applications shall be continued. Or-*

1 *ders shall be issued in such proceedings, appeals shall be*
2 *taken therefrom, and payments shall be made pursuant to*
3 *such orders, as if this Act had not been enacted, and orders*
4 *issued in any such proceedings shall continue in effect until*
5 *modified, terminated, superseded, or revoked by a duly au-*
6 *thorized official, by a court of competent jurisdiction, or*
7 *by operation of law. Nothing in this paragraph shall be*
8 *deemed to prohibit the discontinuance or modification of*
9 *any such proceeding under the same terms and conditions*
10 *and to the same extent that such proceeding could have been*
11 *discontinued or modified if this Act had not been enacted.*

12 (3) *The provisions of this section shall not affect suits*
13 *commenced before the date this Act takes effect, and in all*
14 *such suits, proceedings shall be had, appeals taken, and*
15 *judgments rendered in the same manner and with the same*
16 *effect as if this Act had not been enacted.*

17 (4) *No suit, action, or other proceeding commenced by*
18 *or against the Council on Environmental Quality, or by*
19 *or against any individual in the official capacity of such*
20 *individual as an officer of the Council on Environmental*
21 *Quality, shall abate by reason of the enactment of this Act.*

22 (5) *Any administrative action relating to the prepara-*
23 *tion or promulgation of a regulation by the Council on En-*
24 *vironmental Quality may be continued by the Department*

1 *or the President with the same effect as if this Act had not*
2 *been enacted.*

3 *(6) The contracts, liabilities, records, property, and*
4 *other assets and interests of the Council on Environmental*
5 *Quality shall, after the effective date of this Act, be consid-*
6 *ered to be the contracts, liabilities, records, property, and*
7 *other assets and interests of the Department.*

8 **SEC. 113. ADMINISTRATIVE PROVISIONS.**

9 *(a) ACCEPTANCE OF MONEY AND PROPERTY.—(1) The*
10 *Secretary may accept and retain money, uncompensated*
11 *services, and other real and personal property or rights*
12 *(whether by gift, bequest, devise, or otherwise) for the pur-*
13 *pose of carrying out the Department's programs and activi-*
14 *ties, except that the Secretary shall not endorse any com-*
15 *pany, product, organization, or service. Gifts, bequests, and*
16 *devises of money and proceeds from sales of other property*
17 *received as gifts, bequests, or devises shall be credited in a*
18 *separate fund in the Treasury of the United States and*
19 *shall be available for disbursement upon the order of the*
20 *Secretary.*

21 *(2) The Secretary shall prescribe regulations and*
22 *guidelines setting forth the criteria the Department shall*
23 *use in determining whether to accept a gift, bequest, or de-*
24 *vises. Such criteria shall take into consideration whether the*
25 *acceptance of the property would reflect unfavorably upon*

1 *the Department's or any employee's ability to carry out its*
2 *responsibilities or official duties in a fair and objective*
3 *manner, or would compromise the integrity of or the ap-*
4 *pearance of the integrity of a Government program or any*
5 *official involved in that program.*

6 **(b) SEAL OF THE DEPARTMENT.**—(1) *On the effective*
7 *date of this Act, the seal of the Environmental Protection*
8 *Agency with appropriate changes shall be the seal of the*
9 *Department of the Environment, until such time as the Sec-*
10 *retary may cause a seal of office to be made for the Depart-*
11 *ment of the Environment of such design as the Secretary*
12 *shall approve.*

13 (2)(A) *Chapter 33 of title 18, United States Code, is*
14 *amended by adding at the end thereof the following new*
15 *section:*

16 **“§ 716. Department of the Environment Seal**

17 “(a) *Whoever knowingly displays any printed or other*
18 *likeness of the official seal of the Department of the Envi-*
19 *ronment, or any facsimile thereof, in, or in connection with,*
20 *any advertisement, poster, circular, book, pamphlet, or*
21 *other publication, public meeting, play, motion picture,*
22 *telecast, or other production, or on any building, monu-*
23 *ment, or stationery, for the purpose of conveying, or in a*
24 *manner reasonably calculated to convey, a false impression*
25 *of sponsorship or approval by the Government of the United*

1 *States or by any department, agency, or instrumentality*
2 *thereof, shall be fined not more than \$250 or imprisoned*
3 *not more than 6 months, or both.*

4 “(b) *Whoever, except as authorized under regulations*
5 *promulgated by the Secretary of the Environment and pub-*
6 *lished in the Federal Register, knowingly manufactures, re-*
7 *produces, sells, or purchases for resale, either separately or*
8 *appended to any article manufactured or sold, any likeness*
9 *of the official seal of the Department of the Environment,*
10 *or any substantial part thereof, except for manufacture or*
11 *sale of the article for the official use of the Government of*
12 *the United States, shall be fined not more than \$250 or*
13 *imprisoned not more than 6 months, or both.*

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

18 *(B) The table of sections for chapter 33 of title 18,*
19 *United States Code, is amended by adding at the end there-*
20 *of:*

“716. Department of the Environment Seal.”.

21 *(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The*
22 *Secretary is authorized to acquire any of the following de-*
23 *scribed rights if the property acquired thereby is for use*
24 *by or for, or useful to, the Department:*

1 (1) copyrights, patents, and applications for pat-
2 ents, designs, processes, and manufacturing data;

3 (2) licenses under copyrights, patents, and appli-
4 cations for patents; and

5 (3) releases, before suit is brought, for past in-
6 fringement of patents or copyrights.

7 (d) *ADVISORY COMMITTEE COMPENSATION.*—The Sec-
8 retary is authorized to pay members of advisory committees
9 and others who perform services as authorized under section
10 3109 of title 5, United States Code, at rates for individuals
11 not to exceed the per diem rate equivalent to the rate for
12 level V of the Executive Schedule under section 5316 of title
13 5, United States Code.

14 **SEC. 114. INHERENTLY GOVERNMENTAL FUNCTIONS.**

15 (a) *GOVERNMENT OFFICERS AND EMPLOYEES.*—(1)
16 Inherently governmental functions of the Department shall
17 be performed only by officers and employees of the United
18 States. For purposes of this section, the term “inherently
19 governmental function” means any activity which is so in-
20 timately related to the public interest as to mandate per-
21 formance by Government officers and employees. Inherently
22 governmental functions include those activities which re-
23 quire either the exercise of discretion in applying Govern-
24 ment authority or the use of value judgment in making de-
25 cisions for the Government. The Secretary shall promulgate

1 *regulations or internal guidance to implement this section.*
2 *This section is not intended, and may not be construed, to*
3 *create any right or benefit, substantive or procedural, en-*
4 *forceable at law by a party against the United States, the*
5 *Department, its officers, or any person.*

6 *(b) CONFLICTS OF INTEREST.—(1) The Secretary shall*
7 *by regulation require any person proposing to enter into*
8 *a contract, grant, or cooperative agreement whether by*
9 *sealed bid or negotiation, for the conduct of research, devel-*
10 *opment, evaluation activities, or for consulting services, to*
11 *provide the Secretary, prior to entering into any such con-*
12 *tract, agreement, or arrangement, with all relevant infor-*
13 *mation, as determined by the Secretary, bearing on whether*
14 *that person has a possible conflict of interest with respect*
15 *to—*

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

19 *(B) being given an unfair competitive advan-*
20 *tage.*

21 *(2) Such person shall ensure, in accordance with regu-*
22 *lations prescribed by the Secretary, compliance with this*
23 *section by subcontractors of such person who are engaged*
24 *to perform similar services.*

1 (3) For purposes of this subsection, the term “consult-
2 ing services” includes—

3 (A) management and professional support serv-
4 ices;

5 (B) studies, analyses, and evaluations;

6 (C) engineering and technical services, excluding
7 routine engineering services such as automated data
8 processing and architect and engineering contracts;
9 and

10 (D) research and development.

11 (c) *REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF*
12 *INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF*
13 *CONFLICTS.—(1) Subject to the provisions of paragraph*
14 *(2), the Secretary may not enter into any such contract,*
15 *agreement, or arrangement, unless he affirmatively finds,*
16 *after evaluating all such information and any other rel-*
17 *evant information otherwise available to him, either that—*

18 (A) *there is little or no likelihood that a conflict*
19 *of interest would exist; or*

20 (B) *that such conflict has been avoided after ap-*
21 *propriate conditions have been included in such con-*
22 *tract, agreement, or arrangement.*

23 (2) *If the Secretary determines that such conflict of*
24 *interest exists and that such conflict of interest cannot be*
25 *avoided by including appropriate conditions therein, the*

1 Secretary may enter into such contract, agreement, or ar-
2 rangement, if the Secretary—

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

5 (B) includes appropriate conditions in such con-
6 tract, agreement, or arrangement to mitigate such
7 conflict.

8 (d) *PUBLIC NOTICE REGARDING CONFLICTS OF INTER-*
9 *EST.*—The Secretary shall promulgate regulations which re-
10 quire public notice to be given whenever the Secretary deter-
11 mines that the award of a contract, agreement, or arrange-
12 ment may result in a conflict of interest which cannot be
13 avoided by including appropriate conditions therein.

14 (e) *DISCLAIMER.*—Nothing in this section shall pre-
15 clude the Department from promulgating regulations to
16 monitor potential conflicts after the contract award.

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

22 (g) *REGULATIONS.*—No later than 120 days after the
23 effective date of this Act, the Secretary shall promulgate reg-
24 ulations for the implementation of this section.

1 **SEC. 115. REFERENCES.**

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

5 *(1) to the Administrator of the Environmental*
6 *Protection Agency shall be deemed to refer to the Sec-*
7 *retary of the Environment;*

8 *(2) to the Environmental Protection Agency*
9 *shall be deemed to refer to the Department of the En-*
10 *vironment;*

11 *(3) to the Deputy Administrator of the Environ-*
12 *mental Protection Agency shall be deemed to refer to*
13 *the Deputy Secretary of the Environment; or*

14 *(4) to any Assistant Administrator of the Envi-*
15 *ronmental Protection Agency shall be deemed to refer*
16 *to an Assistant Secretary of the Department of the*
17 *Environment.*

18 **SEC. 116. SAVINGS PROVISIONS.**

19 *(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All*
20 *orders, determinations, rules, regulations, permits, agree-*
21 *ments, grants, contracts, certificates, licenses, registrations,*
22 *privileges, and other administrative actions—*

23 *(1) which have been issued, made, granted, or al-*
24 *lowed to become effective by the President, by the Ad-*
25 *ministrator of the Environmental Protection Agency,*
26 *or by a court of competent jurisdiction, in the per-*

1 *formance of functions of the Administrator or the En-*
2 *vironmental Protection Agency, and*

3 *(2) which are in effect at the time this Act takes*
4 *effect, or were final before the effective date of this Act*
5 *and are to become effective on or after the effective*
6 *date of this Act,*

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

12 *(b) PROCEEDINGS NOT AFFECTED.—The provisions of*
13 *this Act shall not affect any proceedings or any application*
14 *for any license, permit, certificate, or financial assistance*
15 *pending before the Environmental Protection Agency at the*
16 *time this Act takes effect, but such proceedings and applica-*
17 *tions shall be continued. Orders shall be issued in such pro-*
18 *ceedings, appeals shall be taken therefrom, and payments*
19 *shall be made pursuant to such orders, as if this Act had*
20 *not been enacted, and orders issued in any such proceedings*
21 *shall continue in effect until modified, terminated, super-*
22 *seded, or revoked by a duly authorized official, by a court*
23 *of competent jurisdiction, or by operation of law. Nothing*
24 *in this subsection shall be deemed to prohibit the dis-*
25 *continuance or modification of any such proceeding under*

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

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

9 (d) *NONABATEMENT OF ACTIONS.*—*No suit, action, or*
10 *other proceeding commenced by or against the Environ-*
11 *mental Protection Agency, or by or against any individual*
12 *in the official capacity of such individual as an officer of*
13 *the Environmental Protection Agency, shall abate by reason*
14 *of the enactment of this Act.*

15 (e) *ADMINISTRATIVE ACTIONS RELATING TO PROMUL-*
16 *GATION OF REGULATIONS.*—*Any administrative action re-*
17 *lating to the preparation or promulgation of a regulation*
18 *by the Environmental Protection Agency may be continued*
19 *by the Department with the same effect as if this Act had*
20 *not been enacted.*

21 (f) *PROPERTY AND RESOURCES.*—*The contracts, li-*
22 *abilities, records, property, and other assets and interests*
23 *of the Environmental Protection Agency shall, after the ef-*
24 *fective date of this Act, be considered to be the contracts,*

1 *liabilities, records, property, and other assets and interests*
2 *of the Department.*

3 (g) *SAVINGS.—The Department of the Environment*
4 *and its officers, employees, and agents shall have all the*
5 *powers and authorities of the Environmental Protection*
6 *Agency.*

7 **SEC. 117. CONFORMING AMENDMENTS.**

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

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

16 (c) *COMPENSATION, LEVEL I.—Section 5312 of title 5,*
17 *United States Code, is amended by adding at the end there-*
18 *of the following: “Secretary of the Environment”.*

19 (d) *COMPENSATION, LEVEL II.—Section 5313 of title*
20 *5, United States Code, is amended by striking out “Admin-*
21 *istrator of Environmental Protection Agency” and insert-*
22 *ing in lieu thereof “Deputy Secretary of the Environment”.*

23 (e) *COMPENSATION, LEVEL IV.—Section 5315 of title*
24 *5, United States Code, is amended—*

1 (1) by striking out “Inspector General, Environ-
2 mental Protection Agency” and inserting in lieu
3 thereof “Inspector General, Department of the Envi-
4 ronment”; and

5 (2) by striking each reference to an Assistant Ad-
6 ministrators of the Environmental Protection Agency
7 and by adding at the end thereof the following:

8 “Assistant Secretaries, Department of the Envi-
9 ronment (12).

10 “General Counsel, Department of the Environ-
11 ment.”; and

12 (3) by striking out “Chief Financial Officer, En-
13 vironmental Protection agency” and inserting in lieu
14 thereof “Chief Financial Officer, Department of the
15 Environment.”

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

19 “Director of the Bureau of Environmental Sta-
20 tistics, Department of the Environment.

21 “Executive Director of the Commission on Im-
22 proving Environmental Protection.”.

23 (g) INSPECTOR GENERAL ACT.—The Inspector General
24 Act of 1978 is amended—

25 (1) in section 2(1)—

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

3 (B) by striking out “The Environmental
4 Protection Agency,”;

5 (2) in section 11(1) by striking out “or Veterans
6 Affairs” and inserting “Veterans Affairs, or the Envi-
7 ronment,”; and

8 (3) in section 11(2) by striking out “or Veterans
9 Affairs” and inserting “Veterans Affairs, or the Envi-
10 ronment,”.

11 **SEC. 118. ADDITIONAL CONFORMING AMENDMENTS.**

12 After consultation with the Committee on Govern-
13 mental Affairs and the Committee on Environment and
14 Public Works and other appropriate committees of the Unit-
15 ed States Senate and the appropriate committees of the
16 House of Representatives, the Secretary of the Environment
17 shall prepare and submit to the Congress legislation which
18 the Secretary determines is necessary and appropriate con-
19 taining technical and conforming amendments to the Unit-
20 ed States Code, and to other provisions of law, to reflect
21 the changes made by this Act.

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

5 **SEC. 201. ESTABLISHMENT; MEMBERSHIP.**

6 (a) *ESTABLISHMENT.*—There is established the Com-
7 mission on Improving Environmental Protection (hereafter
8 referred to as “the Commission”) whose 13 members includ-
9 ing the Chairman shall be composed of experts in govern-
10 mental organization (with emphasis on environmental or-
11 ganization), management of organizations and environ-
12 mental regulation and improved environmental govern-
13 mental service delivery, consisting of—

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

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

18 (3) three members to be appointed by the Senate
19 Majority Leader.

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

23 **SEC. 202. COMMISSION RESPONSIBILITIES.**

24 (a) *RESPONSIBILITIES.*—The Commission shall be re-
25 sponsible for examining and making recommendations on

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

8 (1) *enhance and strengthen the management and*
9 *implementation of existing programs within the De-*
10 *partment;*

11 (2) *enhance the organization of the Department*
12 *to eliminate duplication and overlap between different*
13 *programs;*

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

16 (4) *enhance the consistency of policies throughout*
17 *the Department; and*

18 (5) *establish new and enhanced small business*
19 *and small governmental jurisdictions compliance as-*
20 *istance programs, and to strengthen organizational*
21 *mechanisms in the Department for providing better*
22 *compliance and technical assistance to small busi-*
23 *nesses and small governmental jurisdictions.*

24 (b) *RECOMMENDATIONS.—The Commission shall pro-*
25 *vide specific steps and proposals for implementing the Com-*

1 *mission's recommendations including an estimate of the*
2 *costs of implementing such recommendations, except that*
3 *the Commission shall not suggest substantive changes in the*
4 *policy expressed by existing laws.*

5 (c) *CONFLICT OF INTERESTS.*—*For purposes of the*
6 *provisions of chapter 11 of part I of title 18, United States*
7 *Code, a member of the Commission (to whom such provi-*
8 *sions would not otherwise apply except for this subsection)*
9 *shall be a special Government employee.*

10 ***SEC. 203. REPORT TO THE PRESIDENT AND CONGRESS.***

11 *The Commission shall report to the President and the*
12 *Congress on its investigation, findings, and recommenda-*
13 *tions in an interim report no later than 12 months after*
14 *the effective date of this title, and in a final report no later*
15 *than 24 months after the effective date of this title. The in-*
16 *terim report shall be made available for public review and*
17 *comment, and the comments taken into account in finaliz-*
18 *ing the report.*

19 ***SEC. 204. COMMISSION STAFF.***

20 *The Commission shall appoint an Executive Director*
21 *who shall be compensated at a rate not to exceed the rate*
22 *of basic pay prescribed for level V of the Executive Schedule*
23 *under section 5316 of title 5, United States Code. With the*
24 *approval of the Commission the Executive Director may ap-*

1 *point and fix the compensation of staff sufficient to enable*
2 *the Commission to carry out its duties.*

3 **SEC. 205. ADVISORY GROUPS.**

4 *The Chairman shall convene at least one advisory*
5 *group to assist the Commission in developing its rec-*
6 *ommendations. One advisory group shall be composed of*
7 *past staff of the Department of the Environment and its*
8 *predecessor Environmental Protection Agency, other Fed-*
9 *eral and State officials experienced in administering envi-*
10 *ronmental protection programs, members of the regulated*
11 *community and members of public interest groups orga-*
12 *nized to further the goals of environmental protection. The*
13 *Executive Director is authorized to pay members of advi-*
14 *sory committees and others who perform services as author-*
15 *ized under section 3109 of title 5, United States Code, at*
16 *rates for individuals not to exceed the per diem rate equiva-*
17 *lent to the rate for level V of the Executive Schedule under*
18 *section 5316 of title 5, United States Code. The advisory*
19 *group shall be subject to the provisions of the Federal Advi-*
20 *sory Committee Act.*

21 **SEC. 206. TERMINATION OF COMMISSION.**

22 *No later than 90 days after the date on which the Com-*
23 *mission submits its final report, the Commission shall ter-*
24 *minate unless otherwise directed by the President.*

1 **SEC. 207. FUNDING; AUTHORIZATION OF APPROPRIATIONS.**

2 *There are authorized to be appropriated \$2,000,000 in*
 3 *fiscal year 1993 and \$2,000,000 in fiscal year 1994 to carry*
 4 *out the provisions of this title.*

5 **TITLE III—EFFECTIVE DATE**

6 **SEC. 301. EFFECTIVE DATE.**

7 *This Act and the amendments made by this Act shall*
 8 *take effect on such date during the 6-month period begin-*
 9 *ning on the date of enactment, as the President may direct*
 10 *in an Executive order. If the President fails to issue an*
 11 *Executive order for the purpose of this section, this Act and*
 12 *such amendments shall take effect 6 months after the date*
 13 *of the enactment of this Act.*

S 171 RS2—2

S 171 RS2—3

S 171 RS2—4

S 171 RS2—5

S 171 RS2—6

S 171 RS2—7