

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 380

To establish a Department of Environmental Protection, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 17 (legislative day, JANUARY 5), 1993

Mr. ROTH (for himself, Mr. WELLSTONE, Mr. CHAFEE, and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To establish a Department of Environmental Protection, and for other purposes.

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

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Department of Envi-  
5        ronmental Protection Act”.

1 **TITLE I—REDESIGNATION OF**  
2 **ENVIRONMENTAL PROTEC-**  
3 **TION AGENCY AS DEPART-**  
4 **MENT OF ENVIRONMENTAL**  
5 **PROTECTION**

6 **SEC. 101. REDESIGNATION OF ENVIRONMENTAL PROTEC-**  
7 **TION AGENCY AS DEPARTMENT OF ENVIRON-**  
8 **MENTAL PROTECTION.**

9 (a) REDESIGNATION.—The Environmental Protec-  
10 tion Agency is redesignated as the Department of Envi-  
11 ronmental Protection (hereinafter in this Act referred to  
12 as the “Department”), and shall be an executive depart-  
13 ment in the executive branch of the Government. The De-  
14 partment shall be headquartered at the seat of Govern-  
15 ment. The official acronym of the Department shall be  
16 “D.E.P.”.

17 (b) SECRETARY OF THE ENVIRONMENT.—(1) There  
18 shall be at the head of the Department a Secretary of En-  
19 vironmental Protection (hereinafter in this Act referred to  
20 as the “Secretary”) who shall be appointed by the Presi-  
21 dent, by and with the advice and consent of the Senate.

22 (2) OFFICE OF THE SECRETARY.—The Office of the  
23 Secretary shall consist of the Secretary and the Deputy  
24 Secretary appointed under subsection (d), and may in-  
25 clude an Executive Secretary.

1       (c) TRANSFER.—The functions, powers, and duties of  
2 the Administrator, other officers and employees of the En-  
3 vironmental Protection Agency, and the various offices  
4 and agencies of the Environmental Protection Agency are  
5 transferred to and vested in the Secretary.

6       (d) DEPUTY SECRETARY.—There shall be in the De-  
7 partment a Deputy Secretary of Environmental Protec-  
8 tion, who shall be appointed by the President, by and with  
9 the advice and consent of the Senate. The Deputy Sec-  
10 retary shall perform such functions as the Secretary shall  
11 prescribe, and shall act as the Secretary during the ab-  
12 sence or disability of the Secretary or in the event of a  
13 vacancy in the Office of the Secretary.

14       (e) DELEGATION OF AUTHORITY.—Except as pro-  
15 vided in this Act and other existing laws, the Secretary  
16 may delegate any functions, including the making of regu-  
17 lations, to such officers and employees of the Department  
18 as the Secretary may designate, and may authorize such  
19 successive redelegations of such functions within the De-  
20 partment as the Secretary considers to be necessary or  
21 appropriate.

22 **SEC. 102. ASSISTANT SECRETARIES.**

23       (a) ESTABLISHMENT OF POSITIONS.—There shall be  
24 in the Department such number of Assistant Secretaries,

1 not to exceed 10, as the Secretary shall determine, each  
2 of whom—

3 (1) shall be appointed by the President, by and  
4 with the advice and consent of the Senate; and

5 (2) shall perform such functions as the Sec-  
6 retary shall prescribe.

7 (b) FUNCTIONS.—The Secretary shall assign to each  
8 Assistant Secretary of the Department such functions as  
9 the Secretary considers appropriate.

10 (c) DESIGNATION OF FUNCTIONS PRIOR TO CON-  
11 FIRMATION.—Whenever the President submits the name  
12 of an individual to the Senate for confirmation as an As-  
13 sistant Secretary under this section, the President shall  
14 state the particular functions of the Department (as as-  
15 signed by the Secretary under subsection (b)) such individ-  
16 ual will exercise upon taking office.

17 **SEC. 103. DEPUTY ASSISTANT SECRETARIES.**

18 (a) ESTABLISHMENT OF POSITIONS.—There shall be  
19 in the Department 20 Deputy Assistant Secretaries, or  
20 such number as the Secretary determines is appropriate.

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

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

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

1 (c) FUNCTIONS.—Functions assigned to an Assistant  
2 Secretary under section 102(b) may be performed by one  
3 or more Deputy Assistant Secretaries appointed to assist  
4 such Assistant Secretary.

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

6 (a) GENERAL COUNSEL.—There shall be in the De-  
7 partment the Office of the General Counsel. There shall  
8 be at the head of such office a General Counsel who shall  
9 be appointed by the President, by and with the advice and  
10 consent of the Senate. The General Counsel shall be the  
11 chief legal officer of the Department and shall provide  
12 legal assistance to the Secretary concerning the programs  
13 and policies of the Department.

14 **SEC. 105. OFFICE OF 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 (5 U.S.C. App.), is redesi-  
18 gnated as the Office of Inspector General of the Depart-  
19 ment of Environmental Protection.

20 **SEC. 106. REGIONAL ADMINISTRATORS.**

21 There shall be in the Department not more than 11  
22 regional administrators, each of whom shall be appointed  
23 by the Secretary. Political affiliation or political qualifica-  
24 tion may not be the primary factor taken into account in  
25 connection with the appointment of any person to a posi-

1 tion as a regional administrator of the Department. Each  
2 regional administrator shall—

3 (1) perform in accordance with applicable law  
4 such of the functions transferred or delegated to or  
5 vested in the Secretary as the Secretary shall pre-  
6 scribe in accordance with the provisions of this Act  
7 and other applicable law; and

8 (2) implement program policies and priorities  
9 as established by the Secretary, Assistant Secretar-  
10 ies, and Deputy Secretaries.

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

12 (a) REDESIGNATION OF POSITIONS.—(1) The Ad-  
13 ministrator of the Environmental Protection Agency is re-  
14 designated as the Secretary of the Department of Environ-  
15 mental Protection.

16 (2) The Deputy Administrator of such agency is re-  
17 designated as the Deputy Secretary of the Department of  
18 Environmental Protection.

19 (3) Each Assistant Administrator of such agency is  
20 redesignated as an Assistant Secretary of the Department.

21 (4) The General Counsel of such agency is redesi-  
22 gnated as the General Counsel of the Department.

23 (5) The Inspector General of such agency is redesi-  
24 gnated as the Inspector General of the Department.

1 (b) NOT SUBJECT TO RENOMINATION OR RECON-  
2 FIRMATION.—An individual serving at the pleasure of the  
3 President in a position that is redesignated by subsection  
4 (a) may continue to serve in and perform functions of that  
5 position after the date of the enactment of this Act with-  
6 out renomination by the President or reconfirmation by  
7 the Senate.

8 **SEC. 108. REFERENCES.**

9 Reference in any other Federal law, Executive order,  
10 rule, regulation, reorganization plan, or delegation of au-  
11 thority, or in any document—

12 (1) to the Environmental Protection Agency is  
13 deemed to refer to the Department of Environmental  
14 Protection;

15 (2) to the Administrator of the Environmental  
16 Protection Agency is deemed to refer to the Sec-  
17 retary of Environmental Protection;

18 (3) to the Deputy Administrator of the Envi-  
19 ronmental Protection Agency is deemed to refer to  
20 the Deputy Secretary of Environmental Protection;  
21 and

22 (4) to an Assistant Administrator of the Envi-  
23 ronmental Protection Agency is deemed to refer to  
24 the corresponding Assistant Secretary of the Depart-

1       ment of Environmental Protection who is assigned  
2       the functions of that Assistant Administrator.

3       **SEC. 109. SAVINGS PROVISIONS.**

4       (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

5 All orders, determinations, rules, regulations, permits,  
6 grants, contracts, certificates, licenses, privileges, and  
7 other administrative actions—

8           (1) which have been issued, made, granted or  
9       allowed to become effective by the President, the Ad-  
10      ministrators or other authorized official of the Envi-  
11      ronmental Protection Agency, or by a court of com-  
12      petent jurisdiction, which relate to functions of the  
13      Administrator or any other officer or agent of the  
14      Environmental Protection Agency actions; and

15           (2) which are in effect at the time this Act  
16      takes effect;

17 shall continue in effect according to their terms until  
18 modified, terminated, superseded, set aside, or revoked in  
19 accordance with law by the President, the Secretary, or  
20 other authorized official, by a court of competent jurisdic-  
21 tion, or by operation of law.

22       (b) PROCEEDINGS NOT AFFECTED.—This Act shall  
23 not affect any proceeding, proposed rule, or application  
24 for any license, permit, certificate, or financial assistance  
25 pending before the Environmental Protection Agency at

1 the time this Act takes effect, and such proceedings and  
2 applications shall be continued. Orders shall be issued in  
3 such proceedings, appeals shall be taken therefrom, and  
4 payments shall be made pursuant to such orders, as if this  
5 Act had not been enacted, and orders issued in any such  
6 proceedings shall continue in effect until modified, termi-  
7 nated, superseded, or revoked by a duly authorized official,  
8 by a court of competent jurisdiction, or by operation of  
9 law. Nothing in this subsection prohibits the discontinu-  
10 ance or modification of any such proceeding under the  
11 same terms and conditions and to the same extent that  
12 such proceeding could have been discontinued or modified  
13 if this Act had not been enacted.

14 (c) SUITS NOT AFFECTED.—This Act shall not affect  
15 suits commenced before the effective date of this Act, and  
16 in all such suits proceedings shall be had, appeals taken,  
17 and judgments rendered in the same manner and with the  
18 same effect as if this Act had not been enacted.

19 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
20 or other proceeding commenced by or against the Environ-  
21 mental Protection Agency, or by or against any individual  
22 in the official capacity of such individual as an officer of  
23 the Environmental Protection Agency, shall be abated by  
24 reason of the enactment of this Act.

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

7 **SEC. 110. CONFORMING AMENDMENTS.**

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

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

15 “The Department of Environmental Protec-  
16 tion.”.

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

20 “Secretary of Environmental Protection.”.

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

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

3 (1) by striking “Inspector General, Environ-  
4 mental Protection Agency” and inserting in lieu  
5 thereof “Inspector General, Department of Environ-  
6 mental Protection”;

7 (2) by striking each reference to an Assistant  
8 Administrator, or Assistant Administrators, of the  
9 Environmental Protection Agency; and

10 (3) by adding at the end thereof the following:

11 “Assistant Secretaries, Department of Environ-  
12 mental Protection.

13 “General Counsel, Department of Environ-  
14 mental Protection.”.

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

17 (1) in section 11(1)—

18 (A) by inserting “Environmental Protec-  
19 tion,” after “Energy,”; and

20 (B) by striking “Environmental Protec-  
21 tion,”; and

22 (2) in section 11(2)—

23 (A) by inserting “Environmental Protec-  
24 tion,” after “Energy,”; and

1 (B) by striking “the Environmental Pro-  
2 tection Agency,”.

3 **SEC. 111. ADDITIONAL CONFORMING AMENDMENTS.**

4 After consultation with the Committee on Govern-  
5 ment Operations of the House of Representatives, the  
6 Committee on Governmental Affairs of the Senate, and  
7 other appropriate committees of the Congress, the Sec-  
8 retary shall prepare and submit to the Congress proposed  
9 legislation containing technical and conforming amend-  
10 ments to the laws of the United States, to reflect the  
11 changes made by this Act. Such proposed legislation shall  
12 be submitted not later than 1 year after the effective date  
13 of this Act.

14 **TITLE II—ADMINISTRATIVE**  
15 **PROVISIONS**

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

17 The Secretary may acquire any of the following rights  
18 if the property acquired thereby is for use by or for, or  
19 useful to, the Department:

20 (1) Copyrights, patents, and applications for  
21 patents, designs, processes, and manufacturing data.

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

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

1 **SEC. 202. GIFTS AND BEQUESTS.**

2 The Secretary may accept, hold, administer, and uti-  
3 lize gifts, bequests, and devises of real or personal prop-  
4 erty for the purpose of aiding or facilitating the work of  
5 the Department. Gifts, bequests, and devises of money and  
6 proceeds from sales of other property received as gifts, be-  
7 quests, or devises shall be deposited in the Treasury and  
8 shall be available for disbursement upon the order of the  
9 Secretary.

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

11 On and after the effective date of this Act, the seal  
12 of the Environmental Protection Agency, with appropriate  
13 changes, shall be the official seal of the Department, until  
14 such time as the Secretary may cause an official seal to  
15 be made for the Department of such design as the Sec-  
16 retary shall approve.

17 **SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPART-**  
18 **MENT.**

19 (a) DISPLAY OF SEAL.—Whoever knowingly displays  
20 any printed or other likeness of the official seal of the De-  
21 partment, or any facsimile thereof, in or in connection  
22 with, any advertisement, poster, circular, book, pamphlet,  
23 or other publication, public meeting, play, motion picture,  
24 telecast, or other production, or on any building, monu-  
25 ment, or stationery, for the purpose of conveying, or in  
26 a manner reasonably calculated to convey, a false impres-

1 sion of sponsorship or approval by the Government of the  
2 United States or by any department, agency, or instru-  
3 mentality thereof, shall be fined not more than \$250 or  
4 imprisoned not more than 6 months, or both.

5 (b) MANUFACTURE, REPRODUCTION, SALE, OR PUR-  
6 CHASES FOR RESALE.—Except as authorized under regu-  
7 lations promulgated by the Secretary and published in the  
8 Federal Register, whoever knowingly manufactures, repro-  
9 duces, sells, or purchases for resale, either separately or  
10 appended to any article manufactured or sold, any likeness  
11 of the official seal of the Department or any substantial  
12 part thereof (except for manufacture or sale of the article  
13 for the official use of the Government of the United  
14 States), shall be fined not more than \$250 or imprisoned  
15 not more than 6 months, or both.

16 (c) INJUNCTIONS.—A violation of subsection (a) or  
17 (b) may be enjoined by an action brought by the Attorney  
18 General in the appropriate district court of the United  
19 States. The Attorney General shall file such an action  
20 upon request of the Secretary or any authorized represent-  
21 ative of the Secretary.

1 **SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUP-**  
2 **PLIES OF ENVIRONMENTAL PROTECTION**  
3 **AGENCY.**

4 The Secretary shall ensure that, to the extent prac-  
5 ticable, existing stationery, printed forms, and other sup-  
6 plies of the Environmental Protection Agency are used to  
7 carry out functions of the Department before procuring  
8 new stationery, printed forms, and other supplies for the  
9 Department.

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