

107TH CONGRESS
1ST SESSION

H. R. 2694

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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2001

Mr. HORN introduced the following bill; which was referred to the Committee on Government Reform

A BILL

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

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

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

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

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Disclaimer.

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

- Sec. 101. Redesignation of Environmental Protection Agency as Department of Environmental Protection.
- Sec. 102. Assistant Secretaries.
- Sec. 103. Deputy Assistant Secretaries.
- Sec. 104. Office of the General Counsel.
- Sec. 105. Office of Inspector General.
- Sec. 106. Regional offices.
- Sec. 107. Continuing performance of functions.
- Sec. 108. Strategic management, planning, performance measurement, and reporting to Congress.
- Sec. 109. Information resources management.
- Sec. 110. Public access to and use of information resources.
- Sec. 111. Bureau of Environmental Statistics.
- Sec. 112. Office of Environmental Justice.
- Sec. 113. Scientific integrity.
- Sec. 114. Conflicts of interest of members of advisory committees.
- Sec. 115. Limitation on scope of certain umbrella contracts by Department for advisory and assistance services.
- Sec. 116. Prohibition on transferring to contractors inherently governmental functions of Department.
- Sec. 117. Disallowance of, and penalties for, improperly claimed costs under Department contracts and regulations.
- Sec. 118. Contractor employee gift, entertainment, or recreation costs specifically unallowable under Department contracts.
- Sec. 119. Documentation of contractor travel costs.
- Sec. 120. Risk estimate and analysis.
- Sec. 121. Science Advisory Board.
- Sec. 122. Effective dates; limitations on application.
- Sec. 123. Regulations.
- Sec. 124. References.
- Sec. 125. Savings provisions.
- Sec. 126. Conforming amendments.
- Sec. 127. Additional conforming amendments.

TITLE II—ADMINISTRATIVE PROVISIONS

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

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act:

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

1 (2) INDIAN TRIBE.—The term “Indian tribe”
2 has the same meaning as provided by section 4(e) of
3 the Indian Self-Determination and Education Assist-
4 ance Act (25 U.S.C. 450b(e)).

5 (3) STATE.—The term “State” means a State,
6 the District of Columbia, the Commonwealth of
7 Puerto Rico, the Virgin Islands, Guam, American
8 Samoa, the Commonwealth of the Northern Mariana
9 Islands, and any other territory or possession of the
10 United States.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of the Environment appointed under
13 section 101(b).

14 **SEC. 3. DISCLAIMER.**

15 Nothing in this Act or the amendments made by this
16 Act shall be construed by the Secretary, any officer or em-
17 ployee of the Department, or by any court as altering, af-
18 fecting, amending, modifying, or changing, directly or in-
19 directly, any law which on the day before the date of the
20 enactment of this Act referred to and provided authorities
21 or responsibilities for, or was administered by, the Envi-
22 ronmental Protection Agency or the Administrator of the
23 Environmental Protection Agency, including the Federal
24 Water Pollution Control Act, title XIV of the Public
25 Health Service Act (the Safe Drinking Water Act), the

1 Clean Air Act, the Pollution Prevention Act of 1990, the
2 Toxic Substances Control Act, the Federal Insecticide,
3 Fungicide, and Rodenticide Act, the Federal Food, Drug,
4 and Cosmetic Act, the Motor Vehicle Information and
5 Cost Savings Act, the Federal Hazardous Substances Act,
6 the Atomic Energy Act, the Noise Control Act of 1972,
7 the Solid Waste Disposal Act, the Comprehensive Environ-
8 mental Response, Compensation, and Liability Act of
9 1980, the Superfund Amendments and Reauthorization
10 Act of 1986, the Ocean Dumping Act, the Environmental
11 Research, Development, and Demonstration Authorization
12 Act, the Pollution Prosecution Act of 1990, and the Fed-
13 eral Facility Compliance Act of 1992, or any statute con-
14 taining amendment to any of such Acts. The provisions
15 of section 112 (relating to environmental justice) shall not
16 be construed to alter, affect, amend, or change such Acts,
17 and to the extent that the authorities provided under such
18 provisions are made applicable by the Secretary to pro-
19 grams, standards, or regulations under such Acts, the Sec-
20 retary shall ensure that such provisions do not alter, af-
21 fect, amend, modify, or change the objectives, require-
22 ments, procedures, or limitations of such Acts or make
23 them more or less stringent.

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.—

10 (1) IN GENERAL.—The Environmental Protec-
11 tion Agency is redesignated as the Department of
12 Environmental Protection, and shall be an executive
13 department in the executive branch of the Govern-
14 ment.

15 (2) HEADQUARTERS.—The Department shall be
16 headquartered at the seat of Government.

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

19 (b) SECRETARY OF THE ENVIRONMENT.—

20 (1) IN GENERAL.—There shall be at the head
21 of the Department a Secretary of the Environment
22 who shall be appointed by the President, by and
23 with the advice and consent of the Senate.

24 (2) OFFICE OF THE SECRETARY.—The Office
25 of the Secretary shall consist of—

1 (A) the Secretary and the Deputy Sec-
2 retary appointed under subsection (d); and

3 (B) such other officers as the Secretary
4 may determine to be necessary, who may in-
5 clude an Executive Secretary appointed by the
6 Secretary.

7 (c) TRANSFER OF FUNCTIONS, POWERS, AND DU-
8 TIES.—

9 (1) IN GENERAL.—The functions, powers, and
10 duties of each officer and employee of the Environ-
11 mental Protection Agency are transferred to, and
12 vested in, the corresponding officer or employee of
13 the Department.

14 (2) CONSTRUCTION.—This subsection may not
15 be construed to prohibit the delegation or redelega-
16 tion by the Secretary of functions, powers, or duties
17 transferred by paragraph (1).

18 (d) DEPUTY SECRETARY.—

19 (1) IN GENERAL.—There shall be in the De-
20 partment a Deputy Secretary of the Environment,
21 who shall be appointed by the President, by and
22 with the advice and consent of the Senate.

23 (2) FUNCTIONS.—The Deputy Secretary shall
24 perform such functions as the Secretary shall pre-
25 scribe, and shall act as the Secretary during the ab-

1 sence or disability of the Secretary or in the event
2 of a vacancy in the position of the Secretary.

3 (e) DELEGATION OF AUTHORITY.—

4 (1) IN GENERAL.—Except as provided in this
5 Act or other laws administered by the Department,
6 the Secretary may, consistent with other applicable
7 laws—

8 (A) delegate any functions, powers, or du-
9 ties, including with respect to the making of
10 regulations, to such officers and employees of
11 the Department as the Secretary may des-
12 ignate; and

13 (B) authorize such successive redelegations
14 of such functions within the Department as the
15 Secretary considers to be necessary or appro-
16 priate.

17 (2) CONSIDERATIONS.—In acting under this
18 subsection or subsection (c) to delegate or authorize
19 the redelegation of functions, the Secretary shall
20 take into consideration the need to ensure that regu-
21 lations, standards, and policies of the Department
22 (including changes and revisions to regulations,
23 standards, and policies) are promulgated and issued
24 by the Secretary or other officers of the Department.

25 (3) NOTICE; REVIEW.—The Secretary shall—

1 (A) maintain, in a central location that is
2 available to the public, copies of all orders and
3 other instruments making delegations and re-
4 delegations of function under this subsection
5 (including all revisions to such delegations); and

6 (B) periodically review all such delegations
7 and redelegations.

8 **SEC. 102. ASSISTANT SECRETARIES.**

9 (a) ESTABLISHMENT OF POSITIONS.—There shall be
10 in the Department such number of Assistant Secretaries,
11 not to exceed 8, as the Secretary shall determine, each
12 of whom—

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

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

17 (b) FUNCTIONS.—

18 (1) IN GENERAL.—The Secretary shall assign
19 to the Assistant Secretaries of the Department such
20 functions as the Secretary considers appropriate, in-
21 cluding, subject to the discretion of and modification
22 by the Secretary—

23 (A) pollution prevention;

24 (B) resource recovery, recycling, and reuse;

25 (C) education;

- 1 (D) policy, planning, and evaluation;
- 2 (E) administration;
- 3 (F) resources management, including fi-
- 4 nancial and budget management;
- 5 (G) information resources management;
- 6 (H) procurement and assistance manage-
- 7 ment;
- 8 (I) personnel and labor relations;
- 9 (J) enforcement;
- 10 (K) compliance monitoring;
- 11 (L) research and development;
- 12 (M) air;
- 13 (N) radiation;
- 14 (O) water;
- 15 (P) pesticides;
- 16 (Q) toxic substances;
- 17 (R) solid wastes;
- 18 (S) hazardous waste;
- 19 (T) hazardous waste cleanup;
- 20 (U) emergency response;
- 21 (V) congressional affairs and public af-
- 22 fairs;
- 23 (W) intergovernmental affairs;
- 24 (X) Indian affairs, including Indian tribes;
- 25 (Y) international affairs; and

1 (Z) noise pollution control and abatement.

2 (2) NOTIFICATION REGARDING MODIFICA-
3 TIONS.—The Secretary may not modify the respon-
4 sibilities of any Assistant Secretary without prior
5 written notification, with explanation, of such modi-
6 fication to the appropriate committees of the Senate
7 and the House of Representatives.

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

15 **SEC. 103. DEPUTY ASSISTANT SECRETARIES.**

16 (a) ESTABLISHMENT OF POSITIONS.—There is au-
17 thorized in the Department such number of Deputy As-
18 sistant Secretaries as the Secretary determines is appro-
19 priate, not to exceed 20.

20 (b) APPOINTMENTS AND FUNCTIONS.—Each Deputy
21 Assistant Secretary—

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

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

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

2 (a) OFFICE.—There shall be in the Department the
3 Office of the General Counsel.

4 (b) GENERAL COUNSEL.—There shall be at the head
5 of such office a General Counsel who shall be appointed
6 by the President, by and with the advice and consent of
7 the Senate.

8 (c) FUNCTIONS.—The General Counsel shall be the
9 chief legal officer of the Department and shall provide
10 legal assistance to the Secretary concerning the programs
11 and policies of the Department.

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

13 The Office of Inspector General of the Environmental
14 Protection Agency, established in accordance with the In-
15 spector General Act of 1978 (5 U.S.C. App.), is redesi-
16 gnated as the Office of Inspector General of the Depart-
17 ment of Environmental Protection.

18 **SEC. 106. REGIONAL OFFICES.**

19 (a) REGIONAL OFFICES.—

20 (1) ESTABLISHMENT; NUMBER.—The Secretary
21 shall establish such Regional Offices of the Depart-
22 ment as the Secretary determines to be necessary to
23 carry out in an efficient and economic manner the
24 functions vested in the Secretary or other officials of
25 the Department. The number of such Regional Of-
26 fices may not exceed 10.

1 (2) ALTERATION, CONSOLIDATION, AND RELO-
2 CATION.—The Secretary may alter, consolidate, or
3 relocate any Regional Office taking into consider-
4 ation the needs of the Department and economy and
5 efficiency.

6 (b) REGIONAL ADMINISTRATORS.—

7 (1) IN GENERAL.—There shall be in each Re-
8 gional Office established under subsection (a) a Re-
9 gional Administrator, who shall be the head of the
10 Regional Office.

11 (2) APPOINTMENT.—Each Regional Adminis-
12 trator shall be appointed by, and serve at the pleas-
13 ure of, the Secretary.

14 (3) FUNCTIONS.—Each Regional Administrator
15 shall implement, execute, and enforce the national
16 program priorities and policies established, in ac-
17 cordance with this Act and other laws applicable to
18 the Department, by the Secretary, or by the Deputy
19 Secretary or an Assistant Secretary pursuant to a
20 delegation from the Secretary.

21 (c) INFORMATION REGARDING REGIONAL OFFICE
22 PERFORMANCE.—The Secretary shall periodically assess
23 the performance of each Regional Office in meeting the
24 program and enforcement priorities established or dele-
25 gated by the Secretary, and inform the appropriate com-

1 mittees of the Congress about that performance. The first
2 such assessment shall be completed within 2 years after
3 the date of the enactment of this Act.

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

5 (a) REDESIGNATION OF POSITIONS.—

6 (1) ADMINISTRATOR.—The Administrator of
7 the Environmental Protection Agency is redesignated as the Secretary of the Environment.

9 (2) DEPUTY ADMINISTRATOR.—The Deputy
10 Administrator of the Environmental Protection
11 Agency is redesignated as the Deputy Secretary of
12 the Environment.

13 (3) ASSISTANT ADMINISTRATORS.—Each As-
14 sistant Administrator of the Environmental Protec-
15 tion Agency is redesignated as an Assistant Sec-
16 retary of the Department.

17 (4) GENERAL COUNSEL.—The General Counsel
18 of the Environmental Protection Agency is redesignated as the General Counsel of the Department.

20 (5) INSPECTOR GENERAL.—The Inspector Gen-
21 eral of the Environmental Protection Agency is re-
22 designated as the Inspector General of the Depart-
23 ment.

24 (b) NOT SUBJECT TO RENOMINATION OR RECON-
25 FIRMATION.—An individual serving at the pleasure of the

1 President in a position that is redesignated by subsection
2 (a) may continue to serve in and perform functions of that
3 position after the date of the enactment of this Act with-
4 out renomination by the President or reconfirmation by
5 the Senate.

6 **SEC. 108. STRATEGIC MANAGEMENT, PLANNING, PERFORM-**
7 **ANCE MEASUREMENT, AND REPORTING TO**
8 **CONGRESS.**

9 (a) **RESPONSIBILITIES OF THE SECRETARY.**—The
10 Secretary shall—

11 (1) develop and maintain, in accordance with
12 the statutes that authorize programs of the Depart-
13 ment, a strategic business plan for the Department
14 that clearly and specifically defines the mission of
15 the Department;

16 (2) establish and maintain a performance meas-
17 urement system to measure and report on specific
18 program performance from a policy, operational, and
19 economic standpoint, including information resources
20 management; and

21 (3) establish a permanent departmental senior
22 management committee, which shall—

23 (A) be chaired by the Secretary;

24 (B) consist of senior program managers of
25 the Department; and

1 (C) assist the Secretary in carrying out the
2 responsibilities of the Secretary in managing
3 the Department.

4 (b) REPORT TO THE CONGRESS.—Concurrently with
5 the submission to the Congress of the budget of the
6 United States Government for each fiscal year under sec-
7 tion 1105 of title 31, United States Code, the Secretary
8 shall report to the Congress on the extent to which the
9 strategic business plan required by subsection (a) has been
10 implemented, especially with regard to the specific per-
11 formance measures established under subsection (a)(2).

12 **SEC. 109. INFORMATION RESOURCES MANAGEMENT.**

13 (a) RESPONSIBILITIES OF THE SECRETARY.—The
14 Secretary, consistent with section 111 and other provi-
15 sions of law, shall—

16 (1) manage information resources and informa-
17 tion technology so as to ensure—

18 (A) maximum net benefits from the appli-
19 cation of such resources and technology, and

20 (B) maximum accountability to the public;

21 (2) develop policies and mechanisms to commu-
22 nicate information management goals, priorities, and
23 practices effectively throughout the Department, in-
24 cluding policy guidance that describes the process by
25 which the Department shall initiate, approve, proc-

1 ess, and evaluate major automated information sys-
2 tems at key milestones;

3 (3) ensure that program management officials,
4 the Chief Financial Officer of the Department, the
5 Chief Information Officer of the Department, and
6 the Director of Environmental Statistics collaborate
7 in—

8 (A) defining the specific information and
9 developing the systems capabilities necessary to
10 meet program missions and goals;

11 (B) identifying specific opportunities to re-
12 design business practices and supporting infor-
13 mation systems;

14 (C) estimating the life-cycle costs of pro-
15 posed automated information systems and ob-
16 taining independent cost evaluations; and

17 (D) assuring that information included in
18 the annual budget request of the Department
19 includes life-cycle cost estimates for automated
20 information systems;

21 (4) develop management processes that assign
22 priority to information technology acquisitions and
23 measure the effect of those acquisitions on mission
24 performance;

1 (5) ensure substantive involvement of program
2 management and systems users with information re-
3 sources management staff in all information systems
4 projects;

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

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

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

11 (7) in accordance with all laws applicable to the
12 Department, make efforts to reduce unnecessary
13 burdens and promote greater integration of informa-
14 tion by working to coordinate the data collection and
15 dissemination efforts of the Department with other
16 relevant Federal, State, and local agencies.

17 (b) INFORMATION RESOURCES MANAGEMENT
18 STEERING COMMITTEE.—

19 (1) ESTABLISHMENT.—The Secretary shall es-
20 tablish a permanent information resources manage-
21 ment steering committee, which shall—

22 (A) consist of senior program managers or
23 their representatives, and

1 (B) include the Chief Information Officer
2 of the Department and the Director of Environ-
3 mental Statistics.

4 (2) FUNCTIONS.—The committee established
5 under paragraph (1) shall—

6 (A) assist and advise the Secretary in car-
7 rying out information resources management
8 responsibilities of the Secretary under sub-
9 section (a);

10 (B) present Department-wide information
11 resources management issues to the depart-
12 mental senior management committee estab-
13 lished under section 108(a)(3) for resolution;

14 (C) establish specific performance meas-
15 ures for information resources management
16 that relate specifically to program missions;

17 (D) review and make recommendations to
18 the Secretary with regard to major automated
19 information systems of the Department at
20 predefined milestones throughout their life cy-
21 cles; and

22 (E) evaluate and make recommendations
23 to the Secretary with regard to information
24 technology that is used by or could be used by
25 the Department to increase efficiency, reduce

1 paperwork, and improve coordination with other
2 agencies.

3 (c) CHIEF INFORMATION OFFICER.—

4 (1) DESIGNATION AND PRIMARY RESPONSIBILITIES.—
5

6 (A) IN GENERAL.—The Secretary shall
7 designate a Chief Information Officer of the
8 Department, whose primary responsibilities
9 shall include providing assistance to senior
10 agency management in ensuring that informa-
11 tion and technology resources are managed to
12 maximize benefits to the Department and ac-
13 countability to the public served by the Depart-
14 ment, and overseeing the security of informa-
15 tion systems of the Department.

16 (B) INFORMATION COORDINATION FUNC-
17 TIONS.—The Chief Information Officer shall
18 serve as the senior official required to be des-
19 ignated for the Department under section
20 3506(b) of title 44, United States Code.

21 (2) QUALIFICATIONS.—To the maximum ex-
22 tent, the individual designated as Chief Information
23 Officer shall be selected from individuals who have—

24 (A) direct and substantial experience in
25 successfully achieving major improvements in

1 organizational performance through the use of
2 information technology; and

3 (B) demonstrated technical competence
4 and ability to work effectively with senior pro-
5 gram managers.

6 (3) RANK; LIMITATION ON DUTIES.—The Chief
7 Information Officer shall—

8 (A) hold a rank in the Department equiva-
9 lent to Assistant Secretary;

10 (B) report directly to the Secretary; and

11 (C) not be assigned any permanent duties
12 that are not related to information resources
13 management.

14 (d) RESPONSIBILITIES OF THE CHIEF INFORMATION
15 OFFICER.—The Chief Information Officer, consistent with
16 section 111 and other provisions of law, shall—

17 (1) design, develop, implement, and facilitate a
18 strategic information resources management process
19 for the Department that—

20 (A) establishes what information resources
21 management capabilities are necessary to sup-
22 port programs for accomplishing the mission of
23 the Department, including information re-
24 sources management policies, architectures, and
25 standards;

1 (B) includes information plans that set
2 forth what information systems and programs
3 will support the various programmatic and
4 management information requirements of the
5 Department;

6 (C) includes the development of annual op-
7 erating plans, coordinated with departmental
8 budgets, setting forth resource allocations for
9 specific information systems and programs that
10 support Department missions and goals; and

11 (D) includes performance review and re-
12 porting that identifies net benefits actually real-
13 ized from information system investments;

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

16 (3) develop a comprehensive process for control-
17 ling information systems development and operations
18 life cycle, including explicit decision criteria and
19 early decision points for all information systems
20 projects;

21 (4) be responsible for assuring the effective and
22 efficient design, development, and delivery of infor-
23 mation products and services that support key pro-
24 gram responsibilities;

1 (5) in cooperation with the Chief Financial Of-
2 ficer of the Department, ensure that—

3 (A) Department-wide and component ac-
4 counting, financial, and asset management sys-
5 tems and other information systems that pro-
6 vide, at least in part, financial or program per-
7 formance data used in financial statements are
8 effectively designed, developed, and imple-
9 mented; and

10 (B) financial and related program perform-
11 ance data are provided on a reliable, consistent,
12 and timely basis to agency financial manage-
13 ment systems;

14 (6) identify, in cooperation with program man-
15 agers and the Chief Financial Officer of the Depart-
16 ment, specific opportunities to redesign business
17 practices and supporting information systems to im-
18 prove agency performance;

19 (7) regularly complete accurate post-implemen-
20 tation reviews for all information systems projects of
21 the Department;

22 (8) develop, in cooperation with the Chief Fi-
23 nancial Officer of the Department, full and accurate
24 information on—

1 (A) information technology expenditures
2 (including capital investment and expenses) by
3 the Department; and

4 (B) all expenses for Department staff who
5 carry out information resources management
6 responsibilities;

7 (9) develop requirements and mechanisms for
8 comprehensive information resources management
9 training and professional development of Depart-
10 ment staff;

11 (10) establish policies for communicating De-
12 partment-wide and component information systems
13 requirements and acquisition plans with industry, in-
14 cluding by—

15 (A) working with program managers and
16 component information resources management
17 officials to ensure that each major acquisition
18 plan contains an industry communications seg-
19 ment that informs industry of the acquisition,
20 presents its purpose, and solicits industry feed-
21 back on technology, schedule, and other signifi-
22 cant issues; and

23 (B) establishing Department-wide policies
24 for the use of requests for information, requests
25 for comment, and draft requests for procure-

1 ment proposals, as mechanisms for improving
2 acquisition effectiveness and increasing competi-
3 tion; and

4 (11) work cooperatively with the Director of
5 Environmental Statistics, providing the technical
6 and other support necessary to fulfill the informa-
7 tion systems and other information requirements
8 identified by the Director as needed to carry out the
9 functions of the Bureau of Environmental Statistics.

10 (e) DEFINITIONS.—Terms used in this section have
11 the meanings set forth in section 3502 of title 44, United
12 States Code, to the extent the terms are defined in that
13 section.

14 (f) CONSTRUCTION.—This section may not be con-
15 strued as affecting or limiting in any way the functions
16 and authorities of the Director of the Bureau of Environ-
17 mental Statistics relating to—

18 (1) collecting, compiling, evaluating, analyzing,
19 reporting, preparing, and publishing data, statistics,
20 or other environmental and public health informa-
21 tion, or

22 (2) the making of grants or the conduct of any
23 related activities.

1 **SEC. 110. PUBLIC ACCESS TO AND USE OF INFORMATION**
2 **RESOURCES.**

3 (a) ENCOURAGING PUBLIC ACCESS AND USE.—

4 (1) POLICIES AND METHODS.—The Secretary
5 shall, in accordance with all provisions of law appli-
6 cable to the Department—

7 (A) identify and develop policies and meth-
8 ods for encouraging greater public access to,
9 and use of, departmental information collected,
10 stored, retained, or disseminated and available
11 to the public under such provisions of law; and

12 (B) make such public information available
13 in a variety of formats and through systems
14 that permit and encourage widespread use and
15 analysis.

16 (2) BUREAU OF ENVIRONMENTAL STATIS-
17 TICS.—For the purpose of the application of this
18 section to the Bureau of Environmental Statistics,
19 the Director of Environmental Statistics shall have
20 the responsibilities of the Secretary.

21 (b) INVENTORY AND LOCATOR OF INFORMATION
22 SERVICES.—The Secretary shall, in accordance with all
23 laws applicable to the Department, develop and maintain
24 a public access system providing a current, comprehensive,
25 and detailed inventory of the Department's public infor-

1 mation services, products, systems, and other holdings.

2 The system shall include the following:

3 (1) An inventory that lists each such service,
4 product, and system, and describes the type of infor-
5 mation available, the cost and other terms of public
6 access, and details about sources and methodology
7 used in preparation of the information. The inven-
8 tory shall—

9 (A) be updated regularly;

10 (B) be disseminated as widely as possible
11 in electronic and hard copy formats; and

12 (C) be printed at least annually.

13 (2) Provision of access to selected public infor-
14 mation holdings and databases. Such access shall—

15 (A) allow users to download information;

16 (B) include easy to use menus and other
17 enhancements to improve use; and

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

20 (3) A means for the public and other agencies
21 to communicate with the Department about public
22 information available through the system and about
23 improvements to the system.

24 (c) INTEGRATION AND AVAILABILITY OF SERV-
25 ICES.—In order to enhance public access and encourage

1 use of public information, improve the management of in-
2 formation resources, and assist Departmental multimedia
3 permitting and enforcement initiatives, the Secretary
4 shall, in accordance with all laws applicable to the Depart-
5 ment, develop policies, programs, and methods for inte-
6 grating and linking public information pertaining to the
7 environment, public health, environmental justice, and
8 other public policy concerns within the jurisdiction of the
9 Department.

10 (d) STRATEGIC PLAN AND REPORTS ON PUBLIC AC-
11 CESS TO AND USE OF INFORMATION.—

12 (1) STRATEGIC PLAN.—As part of the strategic
13 information resources management plan required
14 under section 109(d)(2), the Chief Information Offi-
15 cer shall develop a strategic plan on the use of infor-
16 mation technology to provide for dissemination of,
17 and public access to, departmental information that
18 is available to the public in accordance with applica-
19 ble provisions of law, and to facilitate implementa-
20 tion of subsections (b) and (c).

21 (2) CONTENTS OF PLAN.—The strategic plan
22 required by paragraph (1), where appropriate, shall
23 include—

24 (A) a description of current activities and
25 future initiatives to carry out requirements for

1 promoting public access to, and use of, publicly
2 available information under this section, includ-
3 ing a discussion of efforts to implement sub-
4 sections (b) and (c);

5 (B) an evaluation of the use of geo-
6 graphical information systems and spatial dis-
7 play technologies in fulfilling the public dissemi-
8 nation objectives of this section;

9 (C) an evaluation of the role of emerging
10 computer technologies, including CD-ROM
11 (compact-disk—read only memory) and other
12 suitable machine readable storage alternatives,
13 and online transaction-based reporting, in ful-
14 filling the public dissemination objectives of this
15 section;

16 (D) a plan for one or more pilot programs
17 to expand existing online information dissemi-
18 nation programs to include additional data
19 bases;

20 (E) efforts for considering and imple-
21 menting an electronic data interchange;

22 (F) the role of the existing or planned enti-
23 ties, including depository libraries and the Na-
24 tional Research and Educational Network, in
25 aiding dissemination objectives of this section;

1 (G) a review of alternatives and possibili-
2 ties for conversion of print material to machine
3 readable formats;

4 (H) an evaluation of a system linked to the
5 inventory established under subsection (b), for
6 indexing, locating, and obtaining publicly avail-
7 able information about facilities and substances
8 regulated by the Department; and

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

11 (e) OBTAINING PUBLIC ADVICE AND GUIDANCE.—

12 The Secretary shall establish an ongoing balanced process
13 for obtaining public advice, guidance, and recommenda-
14 tions on improving public access to, and use of, Depart-
15 mental information that is available to the public under
16 applicable provisions of law.

17 (f) USER FEES.—Fees for dissemination of Depart-
18 ment information products or services may be set at a level
19 sufficient to recover the cost of the dissemination, but no
20 higher.

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

22 (a) ESTABLISHMENT.—There is established within
23 the Department the Bureau of Environmental Statistics
24 (hereinafter in this section referred to as the “Bureau”).
25 The purpose of the Bureau is to provide in accordance

1 with this section such environmental quality and related
2 public health and economic information, and such evalua-
3 tion and analyses of such information, as may be appro-
4 priate, to meet adequately and fully the needs of the De-
5 partment in carrying out its functions under applicable
6 law, and the Congress.

7 (b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—

8 (1) IN GENERAL.—The Bureau shall be under
9 the direction of the Director of Environmental Sta-
10 tistics (hereinafter in this section referred to as the
11 “Director”), who shall report to the appropriate As-
12 sistant Secretary in the Department.

13 (2) APPOINTMENT, TERM, AND REMOVAL.—

14 (A) APPOINTMENT AND TERM.—The Di-
15 rector shall—

16 (i) be appointed by the Secretary for
17 a term of 4 years; and

18 (ii) be selected from individuals who
19 are well qualified through experience or
20 training in the collection and analysis of
21 environmental statistics.

22 (B) SERVICE AFTER EXPIRATION OF
23 TERM.—An individual may, at the request of
24 the Secretary, serve as Director after the expi-
25 ration of his or her term for not more than 3

1 months until his or her successor has taken of-
2 fice.

3 (C) REMOVAL.—An individual may be re-
4 moved as Director by the Secretary only for
5 malfeasance in office or neglect of duty.

6 (D) REAPPOINTMENT.—An individual
7 serving as Director may be reappointed for ad-
8 ditional terms.

9 (3) COMPENSATION.—The Director shall be
10 compensated at the rate provided for level V of the
11 Executive Schedule under section 5316 of title 5,
12 United States Code.

13 (c) FUNCTIONS OF DIRECTOR.—

14 (1) IN GENERAL.—The functions of the Direc-
15 tor shall include—

16 (A) collecting, compiling, analyzing, and
17 publishing a comprehensive set of environ-
18 mental quality and related public health, eco-
19 nomic, and statistical data for determining envi-
20 ronmental quality and related measures of pub-
21 lic health, over both the short- and long-term,
22 including assessing—

23 (i) ambient conditions and trends; and

24 (ii) the distribution of environmental
25 conditions and related public health condi-

1 tions across all affected populations, in-
2 cluding those populations identifiable on
3 the basis of income, race, ethnicity, or na-
4 tional origin;

5 (B) evaluating the adequacy of available
6 statistical measures to determine the Depart-
7 ment's success in fulfilling statutory require-
8 ments;

9 (C) ensuring that data and measures re-
10 ferred to in this subsection are accurate, reli-
11 able, relevant, and in a form that permits sys-
12 tematic analysis;

13 (D) collecting and analyzing such other
14 data as may be required by the Director to—

15 (i) efficiently and effectively fulfill the
16 Director's responsibilities, or

17 (ii) identify new environmental prob-
18 lems;

19 (E) conducting specialized analyses and
20 preparing special reports on particular subjects
21 whenever required to do so by the President, by
22 law, or by the Secretary, or when considered
23 appropriate by the Director; and

24 (F) making readily accessible or, to the ex-
25 tent practicable, disseminating all publicly avail-

1 able data collected under subparagraph (A) or
2 (B), in a timely manner and using dissemina-
3 tion methods that will maximize the utility of
4 such publicly available information to the pub-
5 lic.

6 (2) TECHNICAL CAPABILITIES TO PERFORM
7 ANALYSES.—The Director shall establish and main-
8 tain the scientific, engineering, statistical, and other
9 technical capability to perform analysis of environ-
10 mental quality and related public health and eco-
11 nomic data, to—

12 (A) verify the accuracy of items of environ-
13 mental quality and related public health and
14 economic data submitted to the Director; and

15 (B) ensure the coordination and com-
16 parability of that data.

17 (d) POWERS OF DIRECTOR.—

18 (1) IN GENERAL.—The Director is authorized
19 on a nonexclusive basis, to exercise and enforce any
20 authority vested in the Secretary by law that relates
21 to the collection, gathering, reporting, evaluating,
22 analysis, or dissemination of environmental quality
23 data and related measures of public health in order
24 to carry out fully the functions of the Director.

1 (2) ACTIONS NOT SUBJECT TO APPROVAL.—

2 The Director shall not be required to—

3 (A) obtain the approval of any other officer
4 or employee of the Department in connection
5 with the collection, compilation, evaluation,
6 analysis, or dissemination of any information;
7 or

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

12 (3) PROVIDING ASSISTANCE.—The Director
13 may, upon request, provide technical assistance to
14 offices of the Department and to other Federal
15 agencies for the purpose of assuring the technical
16 quality and the coordination of statistical activities
17 of the Department. Such assistance may include re-
18 viewing data collection plans, survey designs, and
19 pretests, management of data, and quality of data.
20 The Director shall, upon request, promptly provide
21 any information or analysis in the possession of the
22 Bureau to any office within the Department which
23 such office determines relates to the functions of
24 such office.

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

9 (5) USE OF DATA COLLECTED BY FEDERAL
10 AGENCIES.—

11 (A) IN GENERAL.—The Director may—

12 (i) use data collected by any Federal
13 agency, and

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

17 (B) PROVISION OF DATA TO DIRECTOR.—

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

24 (C) COOPERATIVE COLLECTION OF
25 DATA.—The Director may—

1 (i) arrange with any agency, organiza-
2 tion, or institution for the cooperative col-
3 lection of data for the purposes of this sec-
4 tion, and

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

8 (6) OBTAINING EMPLOYEES AND SERVICES.—

9 The Director—

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

14 (i) the provisions of title 5, United
15 States Code, governing appointments in
16 the competitive service, and

17 (ii) the provisions of chapter 51 and
18 subchapter III of chapter 53 of such title
19 relating to classification and General
20 Schedule pay rates; and

21 (B) may obtain services as authorized by
22 section 3109 of title 5, United States Code, at
23 a rate not to exceed the equivalent daily rate
24 payable for level V of the Executive Schedule
25 under section 5316 of such title.

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

5 (f) CONTINUING PERFORMANCE OF FUNCTIONS OF
6 DIRECTOR.—An individual who, on the effective date of
7 this Act, is performing any of the functions required by
8 this section to be performed by the Director may continue
9 to perform such functions until such functions are as-
10 signed to an individual appointed as the Director under
11 this Act.

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

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

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

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

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

8 (h) CONFIDENTIALITY OF INFORMATION.—

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

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

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

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

6 (3) OBTAINING INFORMATION TO WHICH AC-
7 CESS IS DENIED.—In any case in which the Director
8 is denied information that is necessary to achieve
9 the purposes of this Act, the Director shall take ap-
10 propriate action, pursuant to paragraph (2), to ob-
11 tain such information from the original sources of
12 the information or an alternate source. Such an al-
13 ternate source shall be notified of the reason for any
14 request under this paragraph for information.

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

20 (A) the General Accounting Office; and

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

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

1 rector under paragraph (4) shall continue thereafter
2 to be subject to any restriction, requirement, or con-
3 dition regarding the use or disclosure of the infor-
4 mation that applies to the Department.

5 (i) ESTABLISHMENT OF PUBLIC PARTICIPATION
6 PROCESS.—The Director shall establish an ongoing bal-
7 anced process for obtaining public advice, guidance, and
8 recommendations on the implementation of the functions
9 of the Director.

10 (j) PEER REVIEW OF BUREAU.—

11 (1) REVIEW REQUIREMENT.—The statistical
12 procedures and methodology of the Bureau shall be
13 subject to an annual peer review. Such review shall
14 be conducted by a Peer Review Team, which shall
15 prepare and submit to the President and the Con-
16 gress a report describing its investigation and find-
17 ings.

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

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

24 (B) one shall be designated by the Com-
25 missioner of Labor Statistics;

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

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

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

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

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

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

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

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

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

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

8 (2) a statement of the difference, if any, be-
9 tween the estimate under paragraph (1) and the ap-
10 propriation request for the fiscal year that is sub-
11 mitted to the President by the Director under sec-
12 tion 1108 of that title.

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

14 (a) OFFICE OF ENVIRONMENTAL JUSTICE.—The
15 Secretary shall establish in the Department an Office of
16 Environmental Justice (hereinafter in this section referred
17 to as the “Office”), which shall be independent of the De-
18 partment’s single-medium program offices but shall have
19 the authority to advise such offices about environmental
20 justice matters. The Office shall be under the direction
21 of a Director appointed by the President, with the advice
22 and consent of the Senate. The Director shall be com-
23 pensated at level V of the Executive Schedule under sec-
24 tion 5316 of title 5, United States Code.

1 (b) FUNCTIONS.—The Director shall develop and,
2 with the approval of the Secretary, implement a strategy
3 to promote, to the greatest extent practicable and con-
4 sistent with the provisions of this section and other provi-
5 sions of law applicable to the Department, environmental
6 justice for all people wherever they are located or work
7 in the United States, and regardless of income, race, eth-
8 nicity, or national origin.

9 (c) ENVIRONMENTAL JUSTICE ADVISORY COM-
10 MITTEE.—

11 (1) ESTABLISHMENT OF ADVISORY COM-
12 MITTEE.—The Secretary shall establish an Advisory
13 Committee on Environmental Justice (hereinafter in
14 this subsection referred to as the “Committee”),
15 which shall advise the Secretary and the Director on
16 matters relating to the strategic direction, policies,
17 and programs of the Department under this section.

18 (2) APPOINTMENTS.—

19 (A) MEMBERSHIP.—The Committee shall
20 be composed of not more than 15 members ap-
21 pointed by the Secretary. The Director and the
22 Secretary (or their designees) shall be ex officio
23 members of the Committee. The Secretary
24 shall, in appointing members of the
25 Committee—

1 (i) ensure that the Committee is fairly
2 balanced with respect to points of view rep-
3 resented and with regard to racial, gender,
4 ethnic, and geographic representation;

5 (ii) include individuals who have
6 knowledge of, and experience with, environ-
7 mental conditions in racial minority, ethnic
8 minority, or moderate- and low-income
9 communities;

10 (iii) include individuals who are recog-
11 nized experts in the fields of environmental
12 law, socioeconomic analysis, health and en-
13 vironmental effects, exposure evaluation,
14 and environmental health science research;
15 and

16 (iv) include individuals who represent
17 the regulated community, labor, commu-
18 nity-based groups, Federal, State, and
19 local governments, Indian tribes, and other
20 entities that the Secretary determines to be
21 appropriate.

22 (B) TERMS.—Except as provided in sub-
23 paragraph (C), members of the Committee shall
24 be appointed for a 3-year term, and may be re-
25 appointed for 1 additional term. Appointees to

1 vacancies shall serve for the remainder of the
2 original member's term.

3 (C) STAGGERED TERMS.—Of the members
4 first appointed to the Committee—

5 (i) $\frac{1}{3}$ shall be appointed for a 1-year
6 term; and

7 (ii) $\frac{1}{3}$ shall be appointed for a 2-year
8 term.

9 **SEC. 113. SCIENTIFIC INTEGRITY.**

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

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

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

1 pendent, and technical products that will be subject
2 to them.

3 (b) PRODUCTS DEFINED.—In subsection (a)(2), the
4 term products—

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

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

11 **SEC. 114. CONFLICTS OF INTEREST OF MEMBERS OF ADVI-**
12 **SORY COMMITTEES.**

13 (a) CONFLICTS OF INTEREST REPORTING REQUIRE-
14 MENTS.—Each member of an advisory committee of the
15 Department who is not an officer or employee of the Fed-
16 eral Government shall file with the Secretary an annual
17 written report disclosing—

18 (1) the member's principal employment;

19 (2) all other corporations, companies, firms,
20 partnerships, business enterprises, research organi-
21 zations, educational institutions, or other entities in
22 or to which the member serves as an employee, offi-
23 cer, adviser, director, owner, or consultant, including
24 a description of the nature of the member's service,
25 but only to the extent the entity or relationship is

1 relevant to the purposes and functions of the advisory committee; and

2
3 (3) the identity, but not the value or amount,
4 of any sources of income or financial interests of the
5 member that are or may be relevant to the purposes
6 and functions of the advisory committee.

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

12
13 (c) BALANCED REPRESENTATION REQUIREMENT.—

14
15 (1) IN GENERAL.—The membership of each advisory committee appointed by the Department shall
16 be balanced in terms of the points of view represented and the functions to be performed by the
17 advisory committee. In order to meet this requirement, each such advisory committee shall have representatives appointed from among the following
18 groups:
19
20
21
22

23 (A) The affected industry.

24 (B) Consumer, labor, environmental,
25 health, and public interest groups.

1 (C) State and local governments and In-
2 dian tribes.

3 (2) TREATMENT OF CATEGORIES.—The cat-
4 egories described in paragraphs (1) (A), (B), and
5 (C)—

6 (A) are not exclusive, and

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

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

13 (d) ADVISORY COMMITTEE COMPENSATION.—

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

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

23 (A) the services of the individual are con-
24 sidered by the Secretary to be essential;

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

4 (C) the individual has professional exper-
5 tise that may not be obtained without com-
6 pensation.

7 **SEC. 115. LIMITATION ON SCOPE OF CERTAIN UMBRELLA**
8 **CONTRACTS BY DEPARTMENT FOR ADVISORY**
9 **AND ASSISTANCE SERVICES.**

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

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

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

21 (B) in the case of any other contract—

22 (i) 5 years; or

23 (ii) such longer period as may be
24 specified by the Secretary, if the Secretary
25 determines in writing that unusual and

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

3 (2) Except as provided in subsection (e), the
4 contract is awarded pursuant to full and open com-
5 petition (as that term is defined in section 4 of the
6 Office Federal Procurement Policy Act (41 U.S.C.
7 403)), unless the Secretary determines in writing
8 that—

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

13 (B) the Department's need for the services
14 to be provided under the contract is of such an
15 unusual and compelling urgency that the Gov-
16 ernment would be seriously injured unless the
17 Department is permitted to limit the number of
18 sources from which it solicits bids or proposals.

19 (3) The contract does not authorize the con-
20 tractor to procure items on behalf of the Govern-
21 ment, except that the contract may authorize the
22 contractor to procure personal property if—

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

1 (B) it is procured for the performance of
2 the contract, and

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

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

6 (1) LIMITATION.—Task orders may be made
7 under an umbrella contract awarded by the Depart-
8 ment only to carry out the mission of the office,
9 function, or program that requested the umbrella
10 contract.

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

19 (A) the task order is within the scope of
20 the umbrella contract;

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

1 (C) there is no other contract available to
2 the office seeking the waiver that is suitable for
3 the task order.

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

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

16 (d) SUBCONTRACTORS.—

17 (1) IDENTIFICATION OF SUBCONTRACTORS.—
18 Any solicitation for an umbrella contract awarded by
19 the Department shall require that all offerors iden-
20 tify in their proposals all prospective subcontractors
21 and the qualifications of those subcontractors.

22 (2) RESTRICTION ON ELIGIBILITY FOR SUB-
23 CONTRACTS.—A person who is not identified as a
24 prospective subcontractor in accordance with para-
25 graph (1) by the prime contractor for an umbrella

1 contract awarded by the Department shall not be eli-
2 gible to perform any task order as a subcontractor
3 under the umbrella contract.

4 (3) WAIVER.—

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

16 (B) For purposes of subparagraph (A), the
17 term “unusual circumstances” means—

18 (i) insolvency, nonresponsibility, sus-
19 pension, or debarment of all subcontractors
20 identified pursuant to paragraph (1) that
21 are qualified to perform a task order for
22 which the waiver is granted;

23 (ii) a lack of any technical skills nec-
24 essary to perform the task order for which

1 the waiver is granted, by all subcontractors
2 identified pursuant to paragraph (1);

3 (iii) other circumstances similar to
4 those referred to in clauses (i) and (ii); or

5 (iv) any identifiable emergency or
6 other urgent requirement determined by
7 the Secretary in writing to exist.

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

15 (A) approves a noncompetitive award; and

16 (B) includes a finding that—

17 (i) an identifiable emergency or other
18 urgent requirement exists; or

19 (ii) no other qualified source is rea-
20 sonably available.

21 (5) LIMITATION ON APPLICATION.—This sub-
22 section shall not apply to a response action contract
23 (as that term is defined in section 119(e) of the
24 Comprehensive Environmental Response, Compensa-
25 tion, and Liability Act of 1980 (42 U.S.C. 9619(e)),

1 as in effect on the date of the enactment of this
2 Act).

3 (e) PROVISIONS NOT AFFECTED.—Nothing in this
4 section shall be construed as amending, modifying, or su-
5 perseding, or is intended to impair or restrict authorities
6 or responsibilities under—

7 (1) title IX of the Federal Property and Admin-
8 istrative Services Act of 1949 (40 U.S.C. 541 et
9 seq.), commonly referred to as the “Brooks Archi-
10 tect-Engineers Act”;

11 (2) the Small Business Act (15 U.S.C. 631 et
12 seq.), including section 8(a) of that Act (15 U.S.C.
13 637(a)); or

14 (3) title X of the Act of November 15, 1990
15 (42 U.S.C. 7601 note), popularly known as the
16 “Clean Air Act Amendments of 1990”, relating to
17 disadvantaged business concerns.

18 (f) DEFINITIONS.—In this section—

19 (1) the term “advisory and assistance
20 services”—

21 (A) means services to support or
22 improve—

23 (i) agency policy development, deci-
24 sionmaking, management, and administra-
25 tion; or

1 (ii) the operation of management sys-
2 tems; and

3 (B) includes—

4 (i) management and professional sup-
5 port services;

6 (ii) the conduct of studies, analyses,
7 and evaluations; and

8 (iii) engineering and technical serv-
9 ices, including services provided under a
10 response action contract (as that term is
11 used in subsection (a)(1)(A)); and

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

14 (A) provides for the performance of spe-
15 cific advisory and assistance services;

16 (B) does not procure or specify a firm
17 quantity of services;

18 (C) provides for services to be supplied to
19 the Government in response to specific task or-
20 ders to the contractor from the Government;

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

1 (E) has a maximum potential value of
2 more than \$1,000,000 and is not a fixed price
3 contract; and

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

5 (g) LIMITATION ON APPLICATION TO EXISTING CON-
6 TRACTS.—

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

10 (2) CONTRACTING REQUIREMENTS.—Sub-
11 sections (b) and (c) shall apply to—

12 (A) a task order or work assignment added
13 on or after the effective date of this section to
14 a contract entered into before that effective
15 date; and

16 (B) a contract that is extended, or for
17 which an option to renew is exercised, on or
18 after the effective date of this section.

19 (h) PUBLIC AVAILABILITY.—Waivers granted under
20 this section shall be available as provided in section 552(b)
21 of title 5, United States Code.

1 **SEC. 116. PROHIBITION ON TRANSFERRING TO CONTRAC-**
2 **TORS INHERENTLY GOVERNMENTAL FUNC-**
3 **TIONS OF DEPARTMENT.**

4 (a) **POLICY.**—It shall be the policy of the Department
5 to prevent the transfer of inherently governmental func-
6 tions of the Department to private sector contractors and
7 to ensure that inherently governmental functions of the
8 Department are performed only by officers and employees
9 of the Department or other agencies and instrumentalities
10 of the Government.

11 (b) **FINAL ACTIONS.**—Final actions of the Depart-
12 ment shall reflect the independent conclusions of Depart-
13 ment officials.

14 (c) **RESPONSIBILITIES OF THE SECRETARY.**—The
15 Secretary shall—

16 (1) ensure that the Department is in full com-
17 pliance with all statutes and regulations that govern
18 the performance of inherently Governmental func-
19 tions, including by periodically reviewing the oper-
20 ations of the Department with regard to compliance
21 with statutes and regulations governing performance
22 of inherently governmental functions (including this
23 section);

24 (2) ensure that no contract is solicited or
25 awarded by the Department, and no order is made
26 under a contract awarded by the Department, that

1 fails to comply with statutes and regulations that
2 govern the performance of inherently governmental
3 functions;

4 (3) provide enhanced scrutiny and management
5 oversight when the Department is contracting for
6 functions that, although not inherently govern-
7 mental, closely support the performance of inher-
8 ently governmental functions; and

9 (4) promulgate regulations in the Department's
10 supplement to the Federal Acquisition Regulation
11 that specify that inherently governmental functions
12 of the Department include—

13 (A) regulation of public health, industry,
14 commerce, or the environment;

15 (B) development (other than technical as-
16 sistance) and drafting of rules, standards, regu-
17 lations, and Government policies; and

18 (C) preparation of contractual documents,
19 including solicitations, specifications, state-
20 ments of work, and contract orders, except in
21 the case of specifications and statements of
22 work of a technical nature requiring expertise
23 not available in the Department.

24 (d) DISCLAIMER.—This section shall not be con-
25 strued as creating—

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

3 (2) any right or benefit enforceable by law.

4 (e) LIMITATION ON APPLICATION.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), this section shall not apply to an inher-
7 ently governmental function performed under a con-
8 tract entered into before the effective date of that
9 section.

10 (2) INHERENTLY GOVERNMENTAL FUNC-
11 TIONS.—This section shall apply to an inherently
12 governmental function performed or sought to be
13 performed—

14 (A) under a task added on or after the ef-
15 fective date of that section to a contract entered
16 into before that effective date;

17 (B) under an order made on or after the
18 effective date of that section under a contract
19 entered into before that effective date; or

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

1 (f) RELATIONSHIP TO OTHER LAW.—The require-
2 ments of this section are in addition to, and do not super-
3 sede or affect, other provisions of law.

4 **SEC. 117. DISALLOWANCE OF, AND PENALTIES FOR, IM-**
5 **PROPERLY CLAIMED COSTS UNDER DEPART-**
6 **MENT CONTRACTS AND REGULATIONS.**

7 (a) COSTS DISALLOWED.—If a contractor under a
8 covered contract submits a proposal for settlement of indi-
9 rect costs incurred by the contractor for any period after
10 such costs have been accrued, and if that proposal includes
11 the submission of a cost which is unallowable because the
12 cost violates a cost principle in the Federal Acquisition
13 Regulation promulgated under section 25 of the Office of
14 Federal Procurement Policy Act (41 U.S.C. 421) or in the
15 Department's supplement to the Federal Acquisition Reg-
16 ulation, or violates a provision of statute, the cost shall
17 be disallowed.

18 (b) PENALTIES.—

19 (1) IN GENERAL.—If the Secretary determines
20 that a cost submitted by a contractor under a cov-
21 ered contract in its proposal for settlement is ex-
22 pressly unallowable under a cost principle referred to
23 in subsection (a) that defines the allowability of spe-
24 cific selected costs, the Secretary shall assess a pen-
25 alty against the contractor in an amount equal to—

1 (A) the amount of the disallowed cost allo-
2 cated to covered contracts for which a proposal
3 for settlement of indirect costs has been sub-
4 mitted; plus

5 (B) interest to compensate the United
6 States for the use of any funds which the con-
7 tractor has been paid in excess of the amount
8 to which the contractor was entitled.

9 (2) INCREASED PENALTY.—If the Secretary de-
10 termines that a proposal for settlement of indirect
11 costs submitted by a contractor under a covered con-
12 tract includes a cost determined to be unallowable in
13 the case of such contractor before the submission of
14 such proposal, the Secretary shall assess a penalty
15 against the contractor in an amount equal to twice
16 the amount of the disallowed cost allocated to cov-
17 ered contracts for which a proposal for settlement of
18 indirect costs has been submitted.

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

22 (1) the contractor withdraws the proposal be-
23 fore the formal initiation of an audit of the proposal
24 by the Government and resubmits a revised pro-
25 posal;

1 (2) the amount of unallowable costs subject to
2 the penalty is insignificant; or

3 (3) the contractor demonstrates, to the con-
4 tracting officer's satisfaction, that—

5 (A) it has established appropriate policies
6 and personnel training and an internal control
7 and review system that provide assurance that
8 unallowable costs subject to penalties are pre-
9 cluded from being included in the contractor's
10 proposal for settlement of indirect costs; and

11 (B) the unallowable costs subject to the
12 penalty were inadvertently incorporated into the
13 proposal.

14 Such waivers shall be available in accordance with section
15 552(b) of title 5, United States Code.

16 (d) DEPARTMENT ACTIONS.—An action of the Sec-
17 retary under subsection (a) or (b)—

18 (1) shall be considered a final decision for pur-
19 poses of section 6 of the Contract Disputes Act of
20 1978 (41 U.S.C. 605); and

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

23 (e) CERTIFICATION.—

24 (1) IN GENERAL.—A proposal for settlement of
25 indirect costs applicable to a covered contract shall

1 include a certification by an official of the contractor
2 that, to the best of the certifying official's knowledge
3 and belief, all indirect costs included in the proposal
4 are allowable.

5 (2) WAIVER OF CERTIFICATION REQUIRE-
6 MENT.—The Secretary may, in an exceptional case,
7 waive the requirement for certification under para-
8 graph (1) in the case of any covered contract if the
9 Secretary—

10 (A) determines in such case that it would
11 be in the interest of the United States to waive
12 such determination; and

13 (B) states in writing the reasons for that
14 determination and makes such determination
15 available to the public.

16 Such waivers shall be available in accordance with section
17 552(b) of title 5, United States Code.

18 (f) CRIMINAL PENALTIES.—The submission to the
19 Department of a proposal for settlement of costs for any
20 period after such costs have been accrued that includes
21 a cost that is expressly specified by law or regulation as
22 being unallowable, with the knowledge that such cost is
23 unallowable, shall be subject to the provisions of section
24 287 of title 18 and section 3729 of title 31, United States
25 Code.

1 (g) BURDEN OF PROOF IN PROCEEDINGS.—In a pro-
2 ceeding before a board of contract appeals, the United
3 States Court of Federal Claims, or any other Federal
4 Court in which the reasonableness of indirect costs for
5 which a contractor seeks reimbursement from the Depart-
6 ment is in issue, the burden of proof shall be upon the
7 contractor to establish that those costs are reasonable.

8 (h) DOCUMENTATION OF COSTS.—Costs shall be al-
9 lowable under a covered contract only to the extent that
10 such costs are supported by sufficient documentation (as
11 specified by regulations issued by the Secretary under sec-
12 tion 123) to permit audit.

13 (i) COVERED CONTRACT DEFINED.—As used in this
14 section and section 119, the term “covered contract”
15 means a contract for an amount more than \$100,000,
16 other than a fixed-price contract without cost incentives,
17 entered into by the Department.

18 **SEC. 118. CONTRACTOR EMPLOYEE GIFT, ENTERTAINMENT,**
19 **OR RECREATION COSTS SPECIFICALLY UNAL-**
20 **LOWABLE UNDER DEPARTMENT CONTRACTS.**

21 Costs of entertainment, gifts, or recreation for con-
22 tractor employees or members of their families provided
23 by a contractor to improve employee morale or perform-
24 ance or for any other purpose, are not allowable under
25 a covered contract in any amount, except that nothing in

1 this section precludes a contractor from providing such en-
2 tertainment, gifts, or recreation to their employees or
3 members of their families at no expense to the Govern-
4 ment.

5 **SEC. 119. DOCUMENTATION OF CONTRACTOR TRAVEL**
6 **COSTS.**

7 Costs of travel under a covered contract shall be al-
8 lowable only if supported by documentation, which shall
9 include documentation of, as specified by regulations
10 issued by the Secretary under section 123, amounts,
11 times, dates, origin, and destination of the travel, purpose
12 of the travel, and identities of all travelers to which the
13 costs relate.

14 **SEC. 120. RISK ESTIMATE AND ANALYSIS.**

15 (a) IN GENERAL.—In proposing any regulation, or
16 promulgating any final regulation, relating to public
17 health and safety or the environment after the date of en-
18 actment of this Act, the Secretary shall publish in the
19 Federal Register—

20 (1) an estimate, performed with as much speci-
21 ficity as practicable, of the risk to the health and
22 safety of individual members of the public addressed
23 by the regulation and its effect on human health or
24 the environment and the costs associated with imple-
25 mentation of, and compliance with, the regulation;

1 (2) a comparative analysis of the risk addressed
2 by the regulation relative to other risks to which the
3 public is exposed;

4 (3) the Secretary's certification that—

5 (A) the estimate under paragraph (1) and
6 the analysis under paragraph (2) are based
7 upon a scientific evaluation (including evalua-
8 tion by the Science Advisory Board established
9 by section 121) of the risk to the health and
10 safety of individual members of the public and
11 to human health or the environment and are
12 supported by the best available scientific data;

13 (B) the regulation will substantially ad-
14 vance the purpose of protecting the public
15 health and safety or the environment against
16 the specified identified risk; and

17 (C) the regulation will produce benefits to
18 the public health and safety or the environment
19 that will justify the cost to the Government and
20 the public of implementation of and compliance
21 with the regulation.

22 (b) REPORT REQUIRED.—In the event that the Sec-
23 retary cannot make the certification required under sub-
24 section (a), the Secretary shall report to Congress that
25 such certification cannot be made and shall include a

1 statement of the reasons therefor in such report and in
2 the final regulation.

3 (c) CONSTRUCTION.—The certification required by
4 this section shall not be construed to amend, modify, or
5 alter any statute and shall not be subject to judicial re-
6 view.

7 **SEC. 121. SCIENCE ADVISORY BOARD.**

8 There is established in the Department a Science Ad-
9 visory Board, which shall review and provide comments
10 on the scientific contents of any rule promulgated by the
11 Secretary.

12 **SEC. 122. EFFECTIVE DATES; LIMITATIONS ON APPLICA-**
13 **TION.**

14 (a) EFFECTIVE DATES.—Sections 115 through 119
15 shall take effect on the earlier of the date that is 90 days
16 after the date of promulgation of regulations under section
17 123, or the date that is 18 months after the date of the
18 enactment of this Act.

19 (b) LIMITATIONS ON APPLICATION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), sections 117, 118, and 119 shall not
22 apply to a contract entered into before the effective
23 date of those sections.

24 (2) EXCEPTIONS.—Section 117 shall apply to—

1 (A) a task added on or after the effective
2 date of the section to a contract entered into
3 before that effective date;

4 (B) an order made on or after the effective
5 date of the section under a contract entered
6 into before that effective date; and

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

10 **SEC. 123. REGULATIONS.**

11 The Secretary may promulgate such regulations as
12 may be necessary to implement the provisions of this Act.

13 **SEC. 124. REFERENCES.**

14 Reference in any other Federal law, Executive order,
15 rule, regulation, reorganization plan, delegation of author-
16 ity, or document—

17 (1) to the Environmental Protection Agency is
18 deemed to refer to the Department of Environmental
19 Protection;

20 (2) to the Administrator of the Environmental
21 Protection Agency is deemed to refer to the Sec-
22 retary of the Environment;

23 (3) to the Deputy Administrator of the Envi-
24 ronmental Protection Agency is deemed to refer to
25 the Deputy Secretary of the Environment; and

1 (4) to an Assistant Administrator of the Envi-
2 ronmental Protection Agency is deemed to refer to
3 the corresponding Assistant Secretary of the Depart-
4 ment of Environmental Protection who is assigned
5 the functions of that Assistant Administrator.

6 **SEC. 125. SAVINGS PROVISIONS.**

7 (a) **POWERS AND AUTHORITIES.**—Except as provided
8 in section 101(e), the Department and its officers, employ-
9 ees, and agents shall have all the powers and authorities
10 of the Environmental Protection Agency and its officers,
11 employees, and agents, respectively.

12 (b) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—
13 All orders, determinations, rules, regulations, permits,
14 grants, contracts, certificates, licenses, privileges, and
15 other administrative actions—

16 (1) which have been issued, made, granted or
17 allowed to become effective by the President, the Ad-
18 ministrator or other authorized official of the Envi-
19 ronmental Protection Agency, or by a court of com-
20 petent jurisdiction, which relate to functions of the
21 Administrator or any other officer or agent of the
22 Environmental Protection Agency actions; and

23 (2) which are in effect at the time this Act
24 takes effect;

1 shall continue in effect according to their terms until
2 modified, terminated, superseded, set aside, or revoked in
3 accordance with law by the President, the Secretary, or
4 other authorized official, by a court of competent jurisdic-
5 tion, or by operation of law.

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

23 (d) SUITS NOT AFFECTED.—This Act shall not affect
24 suits commenced before the effective date of this Act, and
25 in all such suits proceedings shall be had, appeals taken,

1 and judgments rendered in the same manner and with the
2 same effect as if this Act had not been enacted.

3 **SEC. 126. CONFORMING AMENDMENTS.**

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

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

11 “The Department of Environmental Protec-
12 tion.”.

13 (c) **COMPENSATION, LEVEL I.**—Section 5312 of title
14 5, United States Code, is amended by adding at the end
15 the following:

16 “Secretary of the Environment.”.

17 (d) **COMPENSATION, LEVEL II.**—Section 5313 of title
18 5, United States Code, is amended by striking “Adminis-
19 trator of the Environmental Protection Agency” and in-
20 serting “Deputy Secretary of the Environment”.

21 (e) **COMPENSATION, LEVEL III.**—Section 5314 of
22 title 5, United States Code, is amended by striking “Dep-
23 uty Administrator of the Environmental Protection Agen-
24 cy.”.

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

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

6 (2) by striking “Chief Financial Officer, Envi-
7 ronmental Protection Agency” and inserting “Chief
8 Financial Officer, Department of Environmental
9 Protection”;

10 (3) by striking “Chief Information Officer, En-
11 vironmental Protection Agency” and inserting
12 “Chief Information Officer, Department of Environ-
13 mental Protection”;

14 (4) by striking each reference to an Assistant
15 Administrator, or Assistant Administrators, of the
16 Environmental Protection Agency; and

17 (5) by adding at the end the following:

18 “Assistant Secretaries, Department of Environ-
19 mental Protection.

20 “General Counsel, Department of Environ-
21 mental Protection.”.

22 (g) COMPENSATION, LEVEL V.—Section 5316 of title
23 5, United States Code, is amended by adding at the end
24 the following:

1 “Director, Bureau of Environmental Statistics,
2 Department of Environmental Protection.

3 “Director, Office of Environmental Justice, De-
4 partment of Environmental Protection.”.

5 (h) INSPECTOR GENERAL ACT OF 1978.—The In-
6 specter General Act of 1978 is amended—

7 (1) in section 11(1)—

8 (A) by inserting “the Environment,” after
9 “Energy,”; and

10 (B) by striking “Environmental Protec-
11 tion,”; and

12 (2) in section 11(2)—

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

15 (B) by striking “the Environmental Pro-
16 tection Agency,”.

17 (i) CHIEF FINANCIAL OFFICERS ACT OF 1990.—Sec-
18 tion 901(b)(1) of title 31, United States Code, is amended
19 in subparagraph (O) by striking “Environmental Protec-
20 tion Agency” and inserting “Department of Environ-
21 mental Protection”.

22 **SEC. 127. ADDITIONAL CONFORMING AMENDMENTS.**

23 After consultation with the Committee on Govern-
24 ment Reform of the House of Representatives and appro-
25 priate committees of the Senate, the Secretary shall pre-

1 pare and submit to the Congress proposed legislation,
2 which the Secretary determines is necessary and appro-
3 priate, containing technical and conforming amendments
4 to the laws of the United States to reflect the changes
5 made by this Act.

6 **TITLE II—ADMINISTRATIVE**
7 **PROVISIONS**

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

9 The Secretary may acquire any of the following rights
10 if the property acquired thereby is for use by or for, or
11 useful to, the Department:

12 (1) Copyrights, patents, and applications for
13 patents, designs, processes, and manufacturing data.

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

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

18 **SEC. 202. GIFTS AND BEQUESTS.**

19 The Secretary may accept, hold, administer, and uti-
20 lize gifts, bequests, and devises of real or personal prop-
21 erty and donations of services for the purpose of aiding
22 or facilitating the work of the Department. Gifts, be-
23 quests, and devises of money and proceeds from sales of
24 other property received as gifts, bequests, or devises shall

1 be deposited in the Treasury and shall be available for
2 disbursement upon the order of the Secretary.

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

4 On and after the effective date of this Act, the seal
5 of the Environmental Protection Agency, with appropriate
6 changes, shall be the official seal of the Department, until
7 such time as the Secretary may cause an official seal to
8 be made for the Department of such design as the Sec-
9 retary shall approve.

10 **SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPART-**
11 **MENT.**

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

1 (b) MANUFACTURE, REPRODUCTION, SALE, OR PUR-
2 CHASES FOR RESALE.—Except as authorized under regu-
3 lations promulgated by the Secretary and published in the
4 Federal Register, whoever knowingly manufactures, repro-
5 duces, sells, or purchases for resale, either separately or
6 appended to any article manufactured or sold, any likeness
7 of the official seal of the Department or any substantial
8 part thereof (except for manufacture or sale of the article
9 for the official use of the Government of the United
10 States), shall be imprisoned not more than 6 months, or
11 fined under title 18, United States Code, or both.

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

18 **SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUP-**
19 **PLIES OF ENVIRONMENTAL PROTECTION**
20 **AGENCY.**

21 (a) IN GENERAL.—The Secretary shall ensure that,
22 to the extent practicable, existing stationery, printed
23 forms, and other supplies of the Environmental Protection
24 Agency are used to carry out functions of the Department

1 before procuring new stationery, printed forms, and other
2 supplies for the Department.

3 (b) LIMITATION.—Notwithstanding subsection (a),
4 the Secretary may procure stationery, printed forms, and
5 other supplies for the specific use of the Secretary and
6 the Office of the Secretary.

○