

108TH CONGRESS  
1ST SESSION

# S. 515

To provide additional authority to the Office of Ombudsman of the  
Environmental Protection Agency.

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IN THE SENATE OF THE UNITED STATES

MARCH 5, 2003

Mr. CRAPO (for himself, Mr. JEFFORDS, Mr. ALLARD, Mr. THOMAS, Mr. SPECTER, Mrs. CLINTON, Mr. SANTORUM, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To provide additional authority to the Office of Ombudsman  
of the Environmental Protection Agency.

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 “Ombudsman Reauthor-  
5 ization Act of 2003”.

6 **SEC. 2. OFFICE OF OMBUDSMAN.**

7 Section 2008 of the Solid Waste Disposal Act (42  
8 U.S.C. 6917) is amended to read as follows:

1 **“SEC. 2008. OFFICE OF OMBUDSMAN.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) AGENCY.—The term ‘Agency’ means the  
4 Environmental Protection Agency.

5 “(2) DEPUTY OMBUDSMAN.—The term ‘Deputy  
6 Ombudsman’ means any individual appointed by the  
7 Ombudsman under subsection (e)(1)(A)(i).

8 “(3) OFFICE.—The term ‘Office’ means the Of-  
9 fice of the Ombudsman established by subsection  
10 (b)(1).

11 “(4) OMBUDSMAN.—The term ‘Ombudsman’  
12 means the director of the Office.

13 “(b) ESTABLISHMENT.—

14 “(1) IN GENERAL.—There is established within  
15 the Agency an office to be known as the ‘Office of  
16 the Ombudsman’.

17 “(2) OVERSIGHT.—

18 “(A) IN GENERAL.—The Office shall be an  
19 independent office within the Agency.

20 “(B) STRUCTURE.—To the maximum ex-  
21 tent practicable, the structure of the Office  
22 shall conform to relevant professional guide-  
23 lines, standards, and practices.

24 “(3) HEAD OF OFFICE.—

25 “(A) OMBUDSMAN.—The Office shall be  
26 headed by an Ombudsman, who shall—

1 “(i) be appointed by the President by  
2 and with the advice and consent of the  
3 Senate; and

4 “(ii) report directly to the Adminis-  
5 trator.

6 “(B) QUALIFICATIONS FOR AND RESTRIC-  
7 TIONS ON EMPLOYMENT.—A person appointed  
8 as Ombudsman—

9 “(i) shall have experience as an om-  
10 budsman in a Federal, State, or local gov-  
11 ernment entity; and

12 “(ii) shall not have been an employee  
13 of the Agency at any time during the 1-  
14 year period before the date of appointment.

15 “(C) TERM.—The Ombudsman—

16 “(i) shall serve for a term of 5 years;  
17 and

18 “(ii) may be reappointed for not more  
19 than 1 additional term.

20 “(D) REMOVAL.—

21 “(i) IN GENERAL.—The President  
22 may remove or suspend the Ombudsman  
23 from office only for neglect of duty or mal-  
24 feasance in office.

1                   “(ii) COMMUNICATION TO CON-  
 2                   GRESS.—If the President removes or sus-  
 3                   pends the Ombudsman, the President shall  
 4                   communicate the reasons for the removal  
 5                   or suspension to Congress.

6           “(c) DUTIES.—The Ombudsman shall—

7                   “(1) receive, and render assistance concerning,  
 8                   any complaint, grievance, or request for information  
 9                   submitted by any person relating to any program or  
 10                  requirement under—

11                   “(A) this Act;

12                   “(B) the Comprehensive Environmental  
 13                   Response, Compensation, and Liability Act of  
 14                   1980 (42 U.S.C. 9601 et seq.); or

15                   “(C) any other program administered by  
 16                   the Office of Solid Waste and Emergency Re-  
 17                   sponse of the Agency; and

18                   “(2) conduct investigations, make findings of  
 19                   fact, and make nonbinding recommendations to the  
 20                   Administrator concerning the programs and require-  
 21                   ments described in paragraph (1).

22           “(d) POWERS AND RESPONSIBILITIES.—In carrying  
 23           out this section, the Ombudsman—

24                   “(1) may investigate any action of the Agency  
 25                   without regard to the finality of the action;

1           “(2) may select appropriate matters for action  
2       by the Office;

3           “(3) may—

4               “(A) prescribe the methods by which com-  
5       plaints shall be made to, and received and ad-  
6       dressed by, the Office;

7               “(B) determine the scope and manner of  
8       investigations made by the Office; and

9               “(C) determine the form, frequency, and  
10      distribution of conclusions and recommenda-  
11      tions of the Office;

12           “(4) may request the Administrator to provide  
13      the Ombudsman notification, within a specified pe-  
14      riod of time, of any action taken on a recommenda-  
15      tion of the Ombudsman;

16           “(5) may request, and shall be granted by any  
17      Federal agency or department, assistance and infor-  
18      mation that the Ombudsman determines to be nec-  
19      essary to carry out this section;

20           “(6) may examine any record of, and enter and  
21      inspect without notice any property under the ad-  
22      ministrative jurisdiction of—

23               “(A) the Agency; or

24               “(B) any other Federal agency or depart-  
25      ment involved in a matter under the adminis-

1 trative jurisdiction of the Office of Solid Waste  
2 and Emergency Response of the Agency;

3 “(7) may—

4 “(A) issue a subpoena to compel any per-  
5 son to appear to give sworn testimony con-  
6 cerning, or to produce documentary or other  
7 evidence determined by the Ombudsman to be  
8 reasonable in scope and relevant to, an inves-  
9 tigation by the Office; and

10 “(B) seek enforcement of a subpoena  
11 issued under subparagraph (A) in a court of  
12 competent jurisdiction;

13 “(8) may carry out and participate in, and co-  
14 operate with any person or agency involved in, any  
15 conference, inquiry on the record, public hearing on  
16 the record, meeting, or study that, as determined by  
17 the Ombudsman—

18 “(A) is material to an investigation con-  
19 ducted by the Ombudsman; or

20 “(B) may lead to an improvement in the  
21 performance of the functions of the Agency;

22 “(9) may administer oaths and hold hearings in  
23 connection with any matter under investigation by  
24 the Office;

1 “(10) may engage in alternative dispute resolu-  
 2 tion, mediation, or any other informal process that  
 3 the Ombudsman determines to be appropriate to  
 4 carry out this section;

5 “(11) may communicate with any person, in-  
 6 cluding Members of Congress, the press, and any  
 7 person that submits a complaint, grievance, or re-  
 8 quest for information under subsection (c)(1); and

9 “(12) shall administer a budget for the Office.

10 “(e) ADMINISTRATION.—

11 “(1) IN GENERAL.—The Ombudsman shall—

12 “(A)(i) appoint a Deputy Ombudsman for  
 13 each region of the Agency; and

14 “(ii) hire such other assistants and em-  
 15 ployees as the Ombudsman determines to be  
 16 necessary to carry out this section; and

17 “(B) supervise, evaluate, and carry out  
 18 personnel actions (including hiring and dis-  
 19 missal) with respect to any employee of the Of-  
 20 fice.

21 “(2) DELEGATION OF AUTHORITY.—The Om-  
 22 budsman may delegate to other employees of the Of-  
 23 fice any responsibility of the Ombudsman under this  
 24 section except—

25 “(A) the power to delegate responsibility;

1 “(B) the power to issue subpoenas; and

2 “(C) the responsibility to make rec-  
3 ommendations to the Administrator.

4 “(3) CONTACT INFORMATION.—The Ombuds-  
5 man shall maintain, in each region of the Agency, a  
6 telephone number, facsimile number, electronic mail  
7 address, and post office address for the Ombudsman  
8 that are different from the numbers and addresses  
9 of the regional office of the Agency located in that  
10 region.

11 “(4) REPORTS.—The Ombudsman—

12 “(A) shall, at least annually, publish in the  
13 Federal Register and submit to the Adminis-  
14 trator, the President, the Committee on Envi-  
15 ronment and Public Works of the Senate, and  
16 the Committee on Energy and Commerce of the  
17 House of Representatives a report on the status  
18 of health and environmental concerns addressed  
19 in complaints and cases brought before the Om-  
20 budsman in the period of time covered by the  
21 report;

22 “(B) may issue reports, conclusions, or  
23 recommendations concerning any other matter  
24 under investigation by the Office;

1           “(C) shall solicit comments from the Agen-  
2           cy concerning any matter under investigation by  
3           the Office; and

4           “(D) shall include any comments received  
5           by the Office in written reports, conclusions,  
6           and recommendations issued by the Office  
7           under this section.

8           “(f) PENALTIES.—An investigation conducted by the  
9           Ombudsman under this section constitutes—

10           “(1) a matter under section 1001 of title 18,  
11           United States Code; and

12           “(2) a proceeding under section 1505 of title  
13           18, United States Code.

14           “(g) EMPLOYEE PROTECTION.—

15           “(1) IN GENERAL.—No employer may discharge  
16           any employee, or otherwise discriminate against any  
17           employee with respect to compensation, terms, con-  
18           ditions, or privileges of employment of the employee,  
19           because the employee (or any person acting at the  
20           request of the employee) complied with any provision  
21           of this section.

22           “(2) COMPLAINT.—Any employee that, in the  
23           opinion of the employee, is discharged or otherwise  
24           discriminated against by any person in violation of  
25           paragraph (1) may, not later than 180 days after

1 the date on which the violation occurs, file a com-  
 2 plaint in accordance with section 211 of the Energy  
 3 Reorganization Act of 1974 (42 U.S.C. 5851).

4 “(h) APPLICABILITY.—

5 “(1) IN GENERAL.—This section—

6 “(A) does not limit any remedy or right of  
 7 appeal; and

8 “(B) may be carried out notwithstanding  
 9 any provision of law to the contrary that pro-  
 10 vides that an agency action is final, not review-  
 11 able, or not subject to appeal.

12 “(2) EFFECT ON PROCEDURES FOR GRIEV-  
 13 ANCES, APPEALS, OR ADMINISTRATIVE MATTERS.—

14 The establishment of the Office does not affect any  
 15 procedure concerning grievances, appeals, or admin-  
 16 istrative matters under this Act or any other law  
 17 (including regulations).

18 “(i) AUTHORIZATION OF APPROPRIATIONS.—

19 “(1) IN GENERAL.—There are authorized to be  
 20 appropriated to carry out this section—

21 “(A) \$3,000,000 for each of fiscal years  
 22 2004 and 2005;

23 “(B) \$4,000,000 for each of fiscal years  
 24 2006 through 2009; and

1                   “(C) \$5,000,000 for each of fiscal years  
2                   2010 through 2013.

3                   “(2) SEPARATE LINE ITEM.—In submitting the  
4                   annual budget for the Federal Government to Con-  
5                   gress, the President shall include a separate line  
6                   item for the funding for the Office.”.

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