

103D CONGRESS
1ST SESSION

H. R. 3425

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1993

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

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”.

1 (b) TABLE OF CONTENTS.—The contents of this Act
 2 are 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. Effective dates; limitations on application.
- Sec. 121. Regulations.
- Sec. 122. References.
- Sec. 123. Savings provisions.
- Sec. 124. Conforming amendments.
- Sec. 125. 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.

3 **SEC. 2. DEFINITIONS.**

4 As used in this Act:

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

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

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

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

17 **SEC. 3. DISCLAIMER.**

18 Nothing in this Act or the amendments made by this
19 Act shall be construed by the Secretary, any officer or em-
20 ployee of the Department, or by any court as altering, af-
21 fecting, amending, modifying, or changing, directly or in-
22 directly, any law which on the day before the date of the
23 enactment of this Act referred to and provided authorities
24 or responsibilities for, or was administered by, the Envi-
25 ronmental Protection Agency or the Administrator of the

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

1 ments, procedures, or limitations of such Acts or make
2 them more or less stringent.

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

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

11 (a) REDESIGNATION.—

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

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

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

21 (b) SECRETARY OF THE ENVIRONMENT.—

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

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

3 (A) the Secretary and the Deputy Sec-
4 retary appointed under subsection (d); and

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

9 (c) TRANSFER OF FUNCTION, POWERS, AND DU-
10 TIES.—

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

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

20 (d) DEPUTY SECRETARY.—

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

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

6 (e) DELEGATION OF AUTHORITY.—

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

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

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

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

1 standards, and policies) are promulgated and issued
2 by the Secretary or other officers of the Department.

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

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

9 (B) periodically review all such delegations
10 and redelegations.

11 **SEC. 102. ASSISTANT SECRETARIES.**

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

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

18 (2) shall perform such functions as the Sec-
19 retary prescribes.

20 (b) FUNCTIONS.—

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

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

- 1 (W) intergovernmental affairs;
2 (X) Indian affairs, including Indian tribes;
3 (Y) international affairs; and
4 (Z) noise pollution control and abatement.

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

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

18 **SEC. 103. DEPUTY ASSISTANT SECRETARIES.**

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

23 (b) APPOINTMENTS AND FUNCTIONS.—Each Deputy
24 Assistant Secretary—

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

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

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

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

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

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

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

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

20 **SEC. 106. REGIONAL OFFICES.**

21 (a) REGIONAL OFFICES.—

22 (1) ESTABLISHMENT; NUMBER.—The Secretary
23 shall establish such Regional Offices of the Depart-
24 ment as the Secretary determines to be necessary to
25 carry out in an efficient and economic manner the

1 functions vested in the Secretary or other officials of
2 the Department. The number of such Regional Of-
3 fices may not exceed 10.

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

9 (b) REGIONAL ADMINISTRATORS.—

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

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

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

24 (c) INFORMATION REGARDING REGIONAL OFFICE
25 PERFORMANCE.—The Secretary shall periodically assess

1 the performance of each Regional Office in meeting the
2 program and enforcement priorities established or dele-
3 gated by the Secretary, and inform the appropriate com-
4 mittees of the Congress about that performance. The first
5 such assessment shall be completed within 2 years after
6 the date of the enactment of this Act.

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

8 (a) REDESIGNATION OF POSITIONS.—

9 (1) ADMINISTRATOR.—The Administrator of
10 the Environmental Protection Agency is redesign-
11 nated as the Secretary of the Environment.

12 (2) DEPUTY ADMINISTRATOR.—The Deputy
13 Administrator of the Environmental Protection
14 Agency is redesignated as the Deputy Secretary of
15 the Environment.

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

20 (4) GENERAL COUNSEL.—The General Counsel
21 of the Environmental Protection Agency is redesign-
22 nated as the General Counsel of the Department.

23 (5) INSPECTOR GENERAL.—The Inspector Gen-
24 eral of the Environmental Protection Agency is re-

1 designated as the Inspector General of the Depart-
2 ment.

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

10 **SEC. 108. STRATEGIC MANAGEMENT, PLANNING, PERFORM-**
11 **ANCE MEASUREMENT, AND REPORTING TO**
12 **CONGRESS.**

13 (a) RESPONSIBILITIES OF THE SECRETARY.—The
14 Secretary shall—

15 (1) develop and maintain, in accordance with
16 the statutes that authorize programs of the Depart-
17 ment, a strategic business plan for the Department
18 that clearly and specifically defines the mission of
19 the Department;

20 (2) establish and maintain a performance meas-
21 urement system to measure and report on specific
22 program performance from a policy, operational, and
23 economic standpoint, including information resources
24 management; and

1 (3) establish a permanent departmental senior
2 management committee, which shall—

3 (A) be chaired by the Secretary;

4 (B) consist of senior program managers of
5 the Department; and

6 (C) assist the Secretary in carrying out the
7 responsibilities of the Secretary in managing
8 the Department.

9 (b) REPORT TO THE CONGRESS.—Within 30 days of
10 the submission to the Congress of the budget of the
11 United States Government for each fiscal year under sec-
12 tion 1105 of title 31, United States Code, the Secretary
13 shall report to the Congress on the extent to which the
14 strategic business plan required by subsection (a) has been
15 implemented, especially with regard to the specific per-
16 formance measures established under subsection (a)(2).

17 **SEC. 109. INFORMATION RESOURCES MANAGEMENT.**

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

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

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

25 (B) maximum accountability to the public;

1 (2) develop policies and mechanisms to commu-
2 nicate information management goals, priorities, and
3 practices effectively throughout the Department, in-
4 cluding policy guidance that describes the process by
5 which the Department shall initiate, approve, proc-
6 ess, and evaluate major automated information sys-
7 tems at key milestones;

8 (3) ensure that program management officials,
9 the Chief Financial Officer of the Department, the
10 Chief Information Officer of the Department, and
11 the Director of Environmental Statistics collaborate
12 in—

13 (A) defining the specific information and
14 developing the systems capabilities necessary to
15 meet program missions and goals;

16 (B) identifying specific opportunities to re-
17 design business practices and supporting infor-
18 mation systems;

19 (C) estimating the life-cycle costs of pro-
20 posed automated information systems and ob-
21 taining independent cost evaluations; and

22 (D) assuring that information included in
23 the annual budget request of the Department
24 includes life-cycle cost estimates for automated
25 information systems;

1 (4) develop management processes that assign
2 priority to information technology acquisitions and
3 measure the effect of those acquisitions on mission
4 performance;

5 (5) ensure substantive involvement of program
6 management and systems users with information re-
7 sources management staff in all information systems
8 projects;

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

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

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

15 (7) in accordance with all laws applicable to the
16 Department, coordinate the data collection and dis-
17 semination efforts of the Department with other rel-
18 evant Federal, State, and local agencies in order to
19 reduce unnecessary burdens and promote greater in-
20 tegration of information.

21 (b) INFORMATION RESOURCES MANAGEMENT
22 STEERING COMMITTEE.—

23 (1) ESTABLISHMENT.—The Secretary shall es-
24 tablish a permanent information resources manage-
25 ment steering committee, which shall—

1 (A) consist of senior program managers or
2 their representatives, and

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

6 (2) FUNCTIONS.—The committee established
7 under paragraph (1) shall—

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

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

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

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

24 (E) evaluate and make recommendations
25 to the Secretary with regard to significant in-

1 formation technology acquisitions of the De-
2 partment above a threshold to be defined by the
3 committee.

4 (c) CHIEF INFORMATION OFFICER.—

5 (1) DESIGNATION AND PRIMARY RESPONSIBIL-
6 ITIES.—

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

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 geographi-
6 cal information systems and spatial display
7 technologies in fulfilling the public dissemina-
8 tion 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 implement-
21 ing 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 directly to the Sec-
12 retary.

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 informa-
22 tion—

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

1 (B) the disclosure of which the agency hav-
2 ing possession determines would significantly
3 impair the discharge of authorities and respon-
4 sibilities that have been delegated to, or vested
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 submit-
11 ted to the President by the Director under section
12 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 consist-
4 ent with the provisions of this section and other provisions
5 of law applicable to the Department, environmental justice
6 for all people wherever they are located or work in the
7 United States, and regardless of income, race, ethnicity,
8 or national origin.

9 (c) ENVIRONMENTAL JUSTICE ADVISORY COMMIT-
10 TEE.—

11 (1) ESTABLISHMENT OF ADVISORY COMMIT-
12 TEE.—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 Commit-
25 tee—

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 Board shall be
24 appointed for a 3-year term, and may be
25 reappointed for 1 additional term. Appointees

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

15 **SEC. 114. CONFLICTS OF INTEREST OF MEMBERS OF ADVI-**
16 **SORY COMMITTEES.**

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

22 (1) the member's principal employment;

23 (2) all other corporations, companies, firms,
24 partnerships, business enterprises, research organi-
25 zations, educational institutions, or other entities in

1 or to which the member serves as an employee, offi-
2 cer, adviser, director, owner, or consultant, including
3 a description of the nature of the member's service,
4 but only to the extent the entity or relationship is
5 relevant to the purposes and functions of the advi-
6 sory committee; and

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

11 (b) PUBLIC ACCESS TO REPORTS.—The Secretary
12 shall, within 15 days after receiving any report under this
13 section, permit inspection of such report by, or furnish a
14 copy of such report to, any person requesting such inspec-
15 tion or copy, subject to the terms and conditions estab-
16 lished by section 104 of the Ethics in Government Act of
17 1978 (2 U.S.C. 704) for reports filed under that Act.

18 (c) BALANCED REPRESENTATION REQUIREMENT.—

19 (1) IN GENERAL.—The membership of each ad-
20 visory committee appointed by the Department shall
21 be balanced in terms of the points of view rep-
22 resented and the functions to be performed by the
23 advisory committee. In order to meet this require-
24 ment, each such advisory committee shall have rep-

1 representatives appointed from among the following
2 groups:

3 (A) The affected industry.

4 (B) Consumer, labor, environmental,
5 health, and public interest groups.

6 (C) State and local governments and In-
7 dian tribes.

8 (2) TREATMENT OF CATEGORIES.—The cat-
9 egories described in paragraphs (1) (A), (B), and
10 (C)—

11 (A) are not exclusive, and

12 (B) may each be waived by the appointing
13 authority if a determination is made in writing
14 explaining why the category is not germane to
15 the work of the advisory committee.

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

18 (d) ADVISORY COMMITTEE COMPENSATION.—

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

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

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

6 (B) failure to pay compensation would con-
7 stitute a financial hardship for the individual;
8 or

9 (C) the individual has professional exper-
10 tise that may not be obtained without com-
11 pensation.

12 **SEC. 115. LIMITATION ON SCOPE OF CERTAIN UMBRELLA**
13 **CONTRACTS BY DEPARTMENT FOR ADVISORY**
14 **AND ASSISTANCE SERVICES.**

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

18 (1) The period covered by the contract does not
19 exceed—

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

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

2 (i) 5 years; or

3 (ii) such longer period as may be
4 specified by the Secretary, if the Secretary
5 determines in writing that unusual and
6 compelling circumstances exist justifying
7 an umbrella contract for a longer period.

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

14 (A) the services to be procured under the
15 contract are available from only one responsible
16 source and no other type of services will satisfy
17 the needs of the Department; or

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

24 (3) The contract does not authorize the con-
25 tractor to procure items on behalf of the Govern-

1 ment, except that the contract may authorize the
2 contractor to procure personal property if—

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

5 (B) it is procured for the performance of
6 the contract, and

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

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

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

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

23 (A) the task order is within the scope of
24 the umbrella contract;

1 (B) there is an identifiable emergency or
2 other urgent requirement that cannot be met by
3 other means; and

4 (C) there is no other contract available to
5 the office seeking the waiver that is suitable for
6 the task order.

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

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

19 (d) SUBCONTRACTORS.—

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

1 (2) RESTRICTION ON ELIGIBILITY FOR SUB-
2 CONTRACTS.—A person who is not identified as a
3 prospective subcontractor in accordance with para-
4 graph (1) by the prime contractor for an umbrella
5 contract awarded by the Department shall not be eli-
6 gible to perform any task order as a subcontractor
7 under the umbrella contract.

8 (3) WAIVER.—

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

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

22 (i) insolvency, nonresponsibility, sus-
23 pension, or debarment of all subcontractors
24 identified pursuant to paragraph (1) that

1 are qualified to perform a task order for
2 which the waiver is granted;

3 (ii) a lack of any technical skills nec-
4 essary to perform the task order for which
5 the waiver is granted, by all subcontractors
6 identified pursuant to paragraph (1);

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

9 (iv) any identifiable emergency or
10 other urgent requirement determined by
11 the Secretary in writing to exist.

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

19 (A) approves a noncompetitive award; and

20 (B) includes a finding that—

21 (i) an identifiable emergency or other
22 urgent requirement exists; or

23 (ii) no other qualified source is rea-
24 sonably available.

1 (5) LIMITATION ON APPLICATION.—This sub-
2 section shall not apply to a response action contract
3 (as that term is defined in section 119(e) of the
4 Comprehensive Environmental Response, Compensa-
5 tion, and Liability Act of 1980 (42 U.S.C. 9619(e)),
6 as in effect on the date of the enactment of this
7 Act).

8 (e) PROVISIONS NOT AFFECTED.—Nothing in this
9 section shall be construed as amending, modifying, or su-
10 perseding, or is intended to impair or restrict authorities
11 or responsibilities under—

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

16 (2) the Small Business Act (15 U.S.C. 631 et
17 seq.), including section 8(a) of that Act (15 U.S.C.
18 637(a)); or

19 (3) title X of the Act of November 15, 1990
20 (42 U.S.C. 7601 note), popularly known as the
21 “Clean Air Act Amendments of 1990”, relating to
22 disadvantaged business concerns.

23 (f) DEFINITIONS.—In this section—

24 (1) the term “advisory and assistance serv-
25 ices”—

1 (A) means services to support or im-
2 prove—

3 (i) agency policy development, deci-
4 sionmaking, management, and administra-
5 tion; or

6 (ii) the operation of management sys-
7 tems; and

8 (B) includes—

9 (i) management and professional sup-
10 port services;

11 (ii) the conduct of studies, analyses,
12 and evaluations; and

13 (iii) engineering and technical serv-
14 ices, including services provided under a
15 response action contract (as that term is
16 used in subsection (a)(1)(B)); and

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

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

21 (B) does not procure or specify a firm
22 quantity of services;

23 (C) provides for services to be supplied to
24 the Government in response to specific task or-
25 ders to the contractor from the Government;

1 (D) requires the contractor to provide a
2 stated amount of effort over a given period of
3 time (commonly referred to as a “level of effort
4 contract”);

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

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

9 (g) LIMITATION ON APPLICATION TO EXISTING CON-
10 TRACTS.—

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

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

16 (A) a task order or work assignment added
17 on or after the effective date of this section to
18 a contract entered into before that effective
19 date; and

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

23 (h) PUBLIC AVAILABILITY.—Waivers granted under
24 this section shall be available as provided in section 552(b)
25 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 submit-
4 ted; 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 122) 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 which are
8 otherwise allowable under section 24 of the Office of Fed-
9 eral Procurement Policy Act (41 U.S.C. 421) shall be al-
10 lowable only if supported by documentation, which shall
11 include documentation of, as specified by regulations is-
12 sued by the Secretary under section 121, amounts, times,
13 dates, origin, and destination of the travel, purpose of the
14 travel, and identities of all travelers to which the costs
15 relate.

16 **SEC. 120. EFFECTIVE DATES; LIMITATIONS ON APPLICA-**
17 **TION.**

18 (a) EFFECTIVE DATES.—Sections 115 through 119
19 shall take effect on the earlier of the date that is 90 days
20 after the date of promulgation of regulations under section
21 121, or the date that is 18 months after the date of the
22 enactment of this Act.

23 (b) LIMITATIONS ON APPLICATION.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), sections 117, 118, and 119 shall not

1 apply to a contract entered into before the effective
2 date of those sections.

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

4 (A) a task added on or after the effective
5 date of the section to a contract entered into
6 before that effective date;

7 (B) an order made on or after the effective
8 date of the section under a contract entered
9 into before that effective date; and

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

13 **SEC. 121. REGULATIONS.**

14 (a) IN GENERAL.—The Secretary shall promulgate
15 such revisions as may be necessary to the Department's
16 supplement to the Federal Acquisition Regulation imple-
17 menting sections 115 through 119 in final form within one
18 year after the date of enactment of this Act. The revisions
19 shall include binding guidance for granting waivers under
20 subsections (b) and (d) of section 115.

21 (b) PROCEDURES.—Section 25(c) of the Office of
22 Federal Procurement Policy Act (41 U.S.C. 421(c)) shall
23 apply to regulations issued under sections 115 through
24 119, except that the Administrator for Federal Procure-
25 ment Policy may rescind or deny the promulgation of any

1 such regulation, or take any other action authorized by
2 section 6 of that Act (41 U.S.C. 405), only with respect
3 to any inconsistency of the regulation with those sections
4 which shall be identified by the Administrator. The Ad-
5 ministrator shall notify the appropriate Committees of the
6 Congress with jurisdiction over the Department and ex-
7 plain the basis for such action.

8 (c) OTHER GOVERNMENT-WIDE REGULATIONS SU-
9 PERSEDING SECTIONS 117, 118, AND 119.—

10 (1) IN GENERAL.—On and after the effective
11 date of modifications to the Federal Acquisition
12 Regulation relating to the matters covered by sec-
13 tions 117, 118, and 119 that apply to all executive
14 agencies, including the Department (in this sub-
15 section referred to as the “Government-wide regula-
16 tions”), sections 117, 118, and 119 (including any
17 regulations issued thereunder) shall be considered to
18 be superseded by the Government-wide regulations,
19 if the Secretary, with the concurrence of the Admin-
20 istrator for Federal Procurement Policy, determines
21 in writing that the Government-wide regulations—

22 (A) cover, for the Department, all of the
23 matters addressed by sections 117, 118, and
24 119; and

1 (B) are at least equal to all of the require-
2 ments of sections 117, 118, and 119.

3 (2) NOTIFICATION OF CONGRESS.—The Sec-
4 retary shall notify the Congress of any determina-
5 tion under paragraph (1) (A) and (B) and of the
6 continuing application of sections 117, 118, and 119
7 to the Department.

8 **SEC. 122. REFERENCES.**

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

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

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

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

21 (4) to an Assistant Administrator of the Envi-
22 ronmental Protection Agency is deemed to refer to
23 the corresponding Assistant Secretary of the Depart-
24 ment of Environmental Protection who is assigned
25 the functions of that Assistant Administrator.

1 **SEC. 123. SAVINGS PROVISIONS.**

2 (a) POWERS AND AUTHORITIES.—Except as provided
3 in section 101(e), the Department and its officers, employ-
4 ees, and agents shall have all the powers and authorities
5 of the Environmental Protection Agency and its officers,
6 employees, and agents, respectively.

7 (b) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
8 All orders, determinations, rules, regulations, permits,
9 grants, contracts, certificates, licenses, privileges, and
10 other administrative actions—

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

18 (2) which are in effect at the time this Act
19 takes effect;

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

25 (c) PROCEEDINGS NOT AFFECTED.—This Act shall
26 not affect any proceeding, proposed rule, or application

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

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

21 **SEC. 124. CONFORMING AMENDMENTS.**

22 (a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1)
23 of title 3, United States Code, is amended by inserting
24 before the period at the end the following: “, Secretary
25 of the Environment”.

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

4 “The Department of Environmental Protec-
5 tion.”.

6 (c) COMPENSATION, LEVEL I.—Section 5312 of title
7 5, United States Code, is amended by adding at the end
8 the following:

9 “Secretary of the Environment.”.

10 (d) COMPENSATION, LEVEL II.—Section 5313 of title
11 5, United States Code, is amended by striking “Adminis-
12 trator of the Environmental Protection Agency” and in-
13 serting “Deputy Secretary of the Environment”.

14 (e) COMPENSATION, LEVEL III.—Section 5314 of
15 title 5, United States Code, is amended by striking “Dep-
16 uty Administrator of the Environmental Protection Agen-
17 cy.”.

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

20 (1) by striking “Inspector General, Environ-
21 mental Protection Agency” and inserting “Inspector
22 General, Department of Environmental Protection”;

23 (2) by striking each reference to an Assistant
24 Administrator, or Assistant Administrators, of the
25 Environmental Protection Agency; and

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

2 “Assistant Secretaries, Department of Environ-
3 mental Protection.

4 “General Counsel, Department of Environ-
5 mental Protection.”.

6 (g) COMPENSATION, LEVEL V.—Section 5316 of title
7 5, United States Code, is amended by adding at the end
8 the following:

9 “Director, Bureau of Environmental Statistics,
10 Department of Environmental Protection.

11 “Director, Office of Environmental Justice, De-
12 partment of Environmental Protection.”.

13 (h) INSPECTOR GENERAL ACT OF 1978.—The In-
14 spector General Act of 1978 is amended—

15 (1) in section 11(1)—

16 (A) by inserting “the Environment,” after
17 “Energy,”; and

18 (B) by striking “Environmental Protec-
19 tion,”; and

20 (2) in section 11(2)—

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

23 (B) by striking “the Environmental Pro-
24 tection Agency,”.

1 **SEC. 125. ADDITIONAL CONFORMING AMENDMENTS.**

2 After consultation with the Committee on Govern-
3 ment Operations of the House of Representatives and ap-
4 propriate committees of the Senate, the Secretary shall
5 prepare and submit to the Congress proposed legislation,
6 which the Secretary determines is necessary and appro-
7 priate, containing technical and conforming amendments
8 to the laws of the United States to reflect the changes
9 made by this Act.

10 **TITLE II—ADMINISTRATIVE**
11 **PROVISIONS**

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

13 The Secretary may acquire any of the following rights
14 if the property acquired thereby is for use by or for, or
15 useful to, the Department:

16 (1) Copyrights, patents, and applications for
17 patents, designs, processes, and manufacturing data.

18 (2) Licenses under copyrights, patents, and ap-
19 plications for patents.

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

22 **SEC. 202. GIFTS AND BEQUESTS.**

23 The Secretary may accept, hold, administer, and uti-
24 lize gifts, bequests, and devises of real or personal prop-
25 erty and donations of services for the purpose of aiding
26 or facilitating the work of the Department. Gifts, be-

1 quests, and devises of money and proceeds from sales of
2 other property received as gifts, bequests, or devises shall
3 be deposited in the Treasury and shall be available for
4 disbursement upon the order of the Secretary.

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

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

12 **SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPART-**
13 **MENT.**

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

1 months, or fined under title 18, United States Code, or
2 both.

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

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

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

23 (a) IN GENERAL.—The Secretary shall ensure that,
24 to the extent practicable, existing stationery, printed
25 forms, and other supplies of the Environmental Protection

1 Agency are used to carry out functions of the Department
2 before procuring new stationery, printed forms, and other
3 supplies for the Department.

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

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