

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

# H. R. 3484

To abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1993

Mr. STUDDS (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To abolish the Council on Environmental Quality and to provide for the transfer of the duties and functions of the Council.

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 “National Environ-  
5 mental Policy Act Administrative Reorganization Amend-  
6 ments of 1993”.

1 **SEC. 2. ESTABLISHMENT OF OFFICE OF NATIONAL ENVI-**  
2 **RONMENTAL POLICY ACT COMPLIANCE.**

3 Sections 201, 202, and 204 of title II of the National  
4 Environmental Policy Act of 1969 (42 U.S.C. 4331 et  
5 seq.) are redesignated and amended to read as follows:

6 “SEC. 201. (a) There is established in the Executive  
7 Office of the President the Office of National Environ-  
8 mental Policy Act Compliance. The Office may be referred  
9 to as the ‘Office of NEPA Compliance’.

10 “(b) The head of the Office shall be the Director of  
11 the Office of National Environmental Policy Act Compli-  
12 ance, who shall be appointed by the President, by and with  
13 the advice and consent of the Senate. The compensation  
14 of the Director shall be at the rate of compensation pay-  
15 able to the Deputy Director of the Office of Management  
16 and Budget.

17 “SEC. 202. (a) The Director shall—

18 “(1) promulgate regulations governing the im-  
19 plementation of this Act by all Federal agencies (in-  
20 cluding independent regulatory commissions) which  
21 include provisions for public review and comment on  
22 the detailed statements required by section  
23 102(2)(C) and, as appropriate, on other documents  
24 prepared pursuant to this Act;

25 “(2) mediate interagency disputes, including  
26 recommending to the President, as appropriate, res-

1 solutions of referrals of interagency disagreements  
2 under section 203;

3 “(3) monitor Federal agency implementation of  
4 this Act and regulations issued under paragraph (1),  
5 including—

6 “(A) reviewing and approving regulations  
7 issued by other Federal agencies to implement  
8 this Act;

9 “(B) determining which Federal agency is  
10 the lead agency for purposes of compliance with  
11 this Act in cases in which Federal agencies do  
12 not agree on which is the lead agency;

13 “(C) developing alternative procedures for  
14 complying with this Act in cases in which emer-  
15 gency circumstances make it necessary for a  
16 Federal agency to take an action with signifi-  
17 cant environmental impact;

18 “(D) developing alternative procedures for  
19 complying with this Act, in cases in which a  
20 change in a proposed Federal agency action or  
21 new information relating to the environmental  
22 impacts of such an action makes it necessary to  
23 supplement existing analysis under this Act;  
24 and

1           “(E) developing and publishing guidance  
2           to Federal agencies regarding implementation  
3           of title I and regulations promulgated under  
4           paragraph (1); and

5           “(4) perform such other functions related to en-  
6           vironmental laws, policies, and programs as the  
7           President may specify.

8           “(b) Nothing in this Act shall be construed to affect,  
9           alter, or limit the independence of independent regulatory  
10          commissions under the laws establishing such commis-  
11          sions. The policies, practices, and interpretations under  
12          this Act and the Environmental Quality Improvement Act  
13          of 1970 and other laws applicable to, or adopted by, such  
14          commissions or the Council on Environmental Quality be-  
15          fore the date of the enactment of the National Environ-  
16          mental Policy Act Administrative Reorganization Amend-  
17          ments of 1993 shall continue in effect to the extent they  
18          are consistent with such independence and carry out the  
19          purposes of such Acts.

20          “(c)(1) The Director, subject to paragraph (2),  
21          shall—

22                 “(A) review and appraise the various programs  
23                 and activities of the Federal Government in light of  
24                 the policy set forth in title I for the purpose of de-  
25                 termining the extent to which such programs and

1 activities are contributing to the achievement of such  
2 policy and make recommendations to the President  
3 with respect thereto;

4 “(B) coordinate or facilitate the development of  
5 recommendations to the President regarding na-  
6 tional policies to foster and promote the improve-  
7 ment of environmental quality to meet the conserva-  
8 tion, social, economic, health, and other require-  
9 ments and goals of the Nation; and

10 “(C) coordinate or facilitate the development of  
11 such studies, reports thereon, and recommendations  
12 with respect to matters of policy and legislation, as  
13 the President may request.

14 “(2) The President may transfer to another official  
15 in the Executive Office of the President, by Executive  
16 order, any function of the Director under this subsection.

17 “(d)(1) The Director, subject to paragraph (2),  
18 shall—

19 “(A) assist Federal agencies and departments  
20 in appraising the effectiveness of existing and pro-  
21 posed facilities, programs, policies, and activities of  
22 the Federal Government, and those specific major  
23 projects designated by the President which do not  
24 require individual project authorization by the Con-  
25 gress, which affect environmental quality; and

1           “(B) assist in coordinating among Federal de-  
2           partments and agencies those programs and activi-  
3           ties which affect, protect, and improve environmental  
4           quality.

5           “(2) The President may transfer to another official  
6           in the Executive Office of the President or to the head  
7           of any Federal agency, by Executive order, any function  
8           of the Director under this subsection.

9           “(e) The Director shall keep the appropriate Commit-  
10          tees of the Senate and the House of Representatives in-  
11          formed of the actions, regulations, policies, and practices  
12          of the Office in carrying out the functions and other re-  
13          quirements of the Director and the Office under this Act  
14          (other than functions of the Director transferred in ac-  
15          cordance with subsection (c)(2) or (d)(2)).

16          “SEC. 203. Referrals of interagency disagreements by  
17          the head of any Federal agency concerning proposed  
18          major Federal actions significantly affecting the quality  
19          of the human environment under section 102(2)(C) or  
20          concerning matters under section 309(b) of the Clean Air  
21          Act shall be made to the Office for mediation and, as ap-  
22          propriate, resolution by the President.”.

1 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO**  
2 **NEPA.**

3 Sections 203, 205, 207, and 208 of the National En-  
4 vironmental Policy Act of 1969, as in effect on the date  
5 of enactment of this Act, are redesignated in order as sec-  
6 tions 204, 205, 206, and 207, respectively; such sections  
7 are each amended by striking “Council” and inserting  
8 “Office” each place it appears; and section 206 of such  
9 Act, as in effect on the day before the date of the enact-  
10 ment of this Act, is repealed.

11 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS TO**  
12 **THE ENVIRONMENTAL QUALITY IMPROVE-**  
13 **MENT ACT OF 1970.**

14 The Environmental Quality Improvement Act of  
15 1970 (42 U.S.C. 4372 et seq.) is amended—

16 (1) in section 202(c) by—

17 (A) striking “The purposes” and all that  
18 follows through “(1) to” and inserting “the  
19 purpose of this title is to”; and

20 (B) striking “; and” and all that follows  
21 through the end of the section and inserting a  
22 period;

23 (2) in section 203, by striking subsections (a)  
24 through (d) and the designation for subsection (e);

25 (3) by striking sections 204 and 205;

1 (4) in section 206(a), by striking “Office of En-  
2 vironmental Quality Management Fund” and insert-  
3 ing “Office of National Environmental Policy Act  
4 Compliance Management Fund”;

5 (5) by redesignating section 206 as section 204;  
6 and

7 (6) by adding at the end the following:

8 “DEFINITIONS

9 “SEC. 205. In this title, each of the terms ‘Director’  
10 and ‘Office’ has the meaning given that term in section  
11 3 of the National Environmental Policy Act of 1969.”.

12 **SEC. 5. ASSISTANCE FOR OFFICE OF NATIONAL ENVIRON-**  
13 **MENTAL POLICY ACT COMPLIANCE.**

14 The National Environmental Policy Act of 1969 (as  
15 amended by section 3) is amended by inserting after sec-  
16 tion 207 the following:

17 “SEC. 208. To assist in the timely performance of  
18 the functions of the Office, the Director may utilize per-  
19 sonnel or otherwise obtain assistance from other entities  
20 in the Executive Office of the President or other Federal  
21 agencies, by mutual consent with the heads of those enti-  
22 ties or agencies, to assist the Director in performing the  
23 functions of the Office.”.

24 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

25 Section 209 of the National Environmental Policy  
26 Act of 1969 is amended to read as follows:

1       “SEC. 209. (a) There are authorized to be appro-  
2       priated to the Director to carry out the functions of the  
3       Director under this or any other Act—

4               “(1) \$1,000,000 for fiscal year 1994;

5               “(2) \$1,100,000 for fiscal year 1995;

6               “(3) \$1,200,000 for fiscal year 1996; and

7               “(4) \$1,400,000 for fiscal year 1997.

8       “(b) Amounts appropriated to, or available for the  
9       use of, the Office or the Director shall remain available  
10       until expended.”.

11       **SEC. 7. DEFINITIONS.**

12       The National Environmental Policy Act of 1969 is  
13       amended by inserting after section 2 (42 U.S.C. 4321)  
14       the following:

15       “SEC. 3. In this Act:

16               “(1) The term ‘Director’ means the Director of  
17       the Office of National Environmental Policy Act  
18       Compliance appointed under section 201(b).

19               “(2) The term ‘Fund’ means the Office of Na-  
20       tional Environmental Policy Act Compliance Man-  
21       agement Fund established by section 204 of the En-  
22       vironmental Quality Improvement Act of 1970.

23               “(3) The term ‘Office’ means the Office of Na-  
24       tional Environmental Policy Act Compliance estab-  
25       lished by section 201(a).”.

1 **SEC. 8. TRANSFER OF FUNCTIONS TO SECRETARY OF THE**  
2 **ENVIRONMENT.**

3 (a) TRANSFERS.—There are transferred to the Sec-  
4 retary of the Environment—

5 (1) the functions of the Council on Environ-  
6 mental Quality under paragraphs (2), (5), (6), and  
7 (7) of section 204 of the National Environmental  
8 Policy Act of 1969, as in effect on the day before  
9 the date of the enactment of this Act; and

10 (2) the functions of the Chairman of the Coun-  
11 cil on Environmental Quality (as Director of the Of-  
12 fice of Environmental Quality) under paragraphs  
13 (3), (4), (6), and (7) of section 203(d) of the Envi-  
14 ronmental Quality Improvement Act of 1970, as in  
15 effect on the day before the date of the enactment  
16 of this Act.

17 (b) CONSTRUCTION.—The functions transferred to  
18 the Secretary of the Environment by this section or pursu-  
19 ant to any executive order issued pursuant to amendments  
20 made by this Act shall not be construed by anyone to af-  
21 fect, alter, change, or amend any other law or regulation  
22 administered by the Secretary or his or her delegate.

23 (c) ACCOUNTABILITY.—The Secretary of the Envi-  
24 ronment shall be accountable to the appropriate commit-  
25 tees of the Senate and House of Representatives for all  
26 functions described in subsection (b).

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to the Secretary such sums  
3 as may be necessary specifically to carry out the functions  
4 described in subsection (b) effectively and in a timely  
5 manner.

6 **SEC. 9. TERMINATION OF COUNCIL ON ENVIRONMENTAL**  
7 **QUALITY AND OFFICE OF ENVIRONMENTAL**  
8 **QUALITY.**

9 (a) TERMINATION.—The Council on Environmental  
10 Quality and the Office of Environmental Quality are ter-  
11 minated.

12 (b) REFERENCES.—Reference to the Council on En-  
13 vironmental Quality, the Office of Environmental Quality,  
14 or any officer or employee of that council or that office  
15 in any other Federal law, Executive order, rule, regulation,  
16 or delegation of authority, or in any document of or relat-  
17 ing to the Council on Environmental Quality—

18 (1) with respect to functions that were vested in  
19 that council or office on the day before the date of  
20 the enactment of this Act and are vested in the Di-  
21 rector of the Office of National Environmental Pol-  
22 icy Act Compliance Office by section 202 of the Na-  
23 tional Environmental Policy Act of 1969, as amend-  
24 ed by section 2 of this Act, is deemed to refer to the  
25 Director of the Office of National Environmental

1 Policy Act Compliance or to such other official to  
2 whom such a function is transferred in accordance  
3 with section 202(c)(2) or (d)(2) of that Act, as ap-  
4 propriate; or

5 (2) with regard to disputes, disagreements, and  
6 matters described in sections 202(a)(2) and 203 of  
7 that Act, as amended by section 2 of this Act, is  
8 deemed to refer to the Director of the Office of Na-  
9 tional Environmental Policy Act Compliance or to  
10 that office, as appropriate.

11 (c) SAVINGS PROVISIONS.—

12 (1) CONTINUATION OF ORDERS, ETC.—All or-  
13 ders, determinations, rules, regulations, agreements,  
14 grants, contracts, privileges, and other administra-  
15 tive actions—

16 (A) which have been issued, made, grant-  
17 ed, or allowed to become effective by the Presi-  
18 dent, the Council on Environmental Quality, or  
19 the Office of Environmental Quality, in the per-  
20 formance of functions of the Council on Envi-  
21 ronmental Quality or the Office of Environ-  
22 mental Quality, or by a court of competent ju-  
23 risdiction with respect to those functions, and

24 (B) which are in effect on the date of the  
25 enactment of this Act, or were final before that

1           date of enactment and are to become effective  
2           on or after that date of enactment,  
3           shall continue in effect according to their terms until  
4           modified, terminated, superseded, set aside, or re-  
5           voked in accordance with law by the President, the  
6           Director of the Office of National Environmental  
7           Policy Act Compliance, any other authorized official,  
8           a court of competent jurisdiction, or operation of  
9           law.

10           (2) CONTINUATION OF PROCEEDINGS AND AP-  
11           PLICATIONS.—The provisions of this Act shall not  
12           affect any proceedings pending before the Council on  
13           Environmental Quality on the date of the enactment  
14           of this Act, but such proceedings shall be continued.  
15           Orders shall be issued in such proceedings, appeals  
16           shall be taken therefrom, and payments shall be  
17           made pursuant to such orders, as if this Act had not  
18           been enacted, and orders issued in any such proceed-  
19           ings shall continue in effect until modified, termi-  
20           nated, superseded, or revoked by a duly authorized  
21           official, by a court of competent jurisdiction, or by  
22           operation of law. Nothing in this paragraph shall be  
23           considered to prohibit the discontinuance or modi-  
24           fication of any such proceeding under the same  
25           terms and conditions and to the same extent that

1 such proceeding could have been discontinued or  
2 modified if this Act had not been enacted.

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

10 (4) SUITS INVOLVING COUNCIL OR OFFICE.—  
11 No suit, action, or other proceeding commenced by  
12 or against the Council on Environmental Quality or  
13 the Office of Environmental Quality, or by or  
14 against any individual in the official capacity of such  
15 individual as an officer or employee of the Council  
16 or that Office, shall abate by reason of the enact-  
17 ment of this Act.

18 (5) RULEMAKING.—Any administrative action  
19 relating to the preparation or promulgation of a reg-  
20 ulation by the Council on Environmental Quality  
21 shall be continued by the Director of the Office of  
22 National Environmental Policy Act Compliance or  
23 the President with the same effect as if this Act had  
24 not been enacted.

1           (6) ASSETS AND INTERESTS.—The contracts,  
2 liabilities, records, property, and other assets and in-  
3 terests of the Council on Environmental Quality and  
4 the Office of Environmental Quality shall, on and  
5 after the date of the enactment of this Act, be con-  
6 sidered to be the contracts, liabilities, records, prop-  
7 erty, and other assets and interests of the Office of  
8 National Environmental Policy Act Compliance.

9           (d) CONTINUING AVAILABILITY OF AMOUNTS.—  
10 Amounts available to the Council on Environmental Qual-  
11 ity on the date of the enactment of this Act shall be avail-  
12 able for use by the Director of the Office of National Envi-  
13 ronmental Policy Act Compliance.

14 **SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.**

15           The National Environmental Policy Act of 1969 (42  
16 U.S.C. 4321 et seq.) is amended—

17           (1) in section 2 (42 U.S.C. 4321)—

18                   (A) by inserting “and” after “man;” and

19                   (B) by striking “Nation;” and all that fol-  
20 lows through the end of the section and insert-  
21 ing “Nation.”;

22           (2) by striking “Council on Environmental  
23 Quality” each place that term appears and inserting  
24 “Director”;

1           (3) in section 102(2)(B) (42 U.S.C.  
2 4332(2)(B)) by striking “established by title II of  
3 this Act”;

4           (4) in section 102(2)(G) (42 U.S.C.  
5 4332(2)(G)) by inserting “and” after the semicolon;

6           (5) in section 102(2)(H) (42 U.S.C.  
7 4332(2)(H)) by striking “; and” and inserting a  
8 period;

9           (6) by striking section 102(2)(I) (42 U.S.C.  
10 4332(2)(I));

11           (7) in section 205(1) (42 U.S.C. 4345(1)) by  
12 striking “the Citizen’s” and all that follows through  
13 “and with”; and

14           (8) in section 205(2) (42 U.S.C. 4345(2)) by  
15 striking “the Council’s” and inserting “the Office’s”.

○

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