

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

# H. R. 3512

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 16, 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; and

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).

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

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

19           “(A) review and appraise the various programs  
20 and activities of the Federal Government in light of  
21 the policy set forth in title I for the purpose of de-  
22 termining the extent to which such programs and  
23 activities are contributing to the achievement of such  
24 policy and make recommendations to the President  
25 with respect thereto;

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

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

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

14          “(d)(1) The Director, subject to paragraph (2),  
15         shall—

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

23                 “(B) assist in coordinating among Federal de-  
24                 partments and agencies those programs and activi-

1 ties which affect, protect, and improve environmental  
2 quality.

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

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

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

21 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO**  
22 **NEPA.**

23 Sections 203, 205, 207, and 208 of the National En-  
24 vironmental Policy Act of 1969, as in effect on the date  
25 of enactment of this Act, are redesignated in order as sec-

1 tions 204, 205, 206, and 207, respectively; such sections  
2 are each amended by striking “Council” and inserting  
3 “Office” each place it appears; and section 206 of such  
4 Act, as in effect on the day before the date of the enact-  
5 ment of this Act, is repealed.

6 **SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS TO**  
7 **THE ENVIRONMENTAL QUALITY IMPROVE-**  
8 **MENT ACT OF 1970.**

9 The Environmental Quality Improvement Act of  
10 1970 (42 U.S.C. 4372 et seq.) is amended—

11 (1) in section 202(c) by—

12 (A) striking “The purposes” and all that  
13 follows through “(1) to” and inserting “the  
14 purpose of this title is to”; and

15 (B) striking “; and” and all that follows  
16 through the end of the section and inserting a  
17 period;

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

20 (3) by striking sections 204 and 205;

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

1 (5) by redesignating section 206 as section 204;

2 and

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

4 “DEFINITIONS

5 “SEC. 205. In this title, each of the terms ‘Director’  
6 and ‘Office’ has the meaning given that term in section  
7 3 of the National Environmental Policy Act of 1969.”.

8 **SEC. 5. ASSISTANCE FOR OFFICE OF NATIONAL ENVIRON-**  
9 **MENTAL POLICY ACT COMPLIANCE.**

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

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

20 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

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

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

26 “(1) \$1,000,000 for fiscal year 1994;

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

2 “(3) \$1,200,000 for fiscal year 1996; and

3 “(4) \$1,400,000 for fiscal year 1997.

4 “(b) Amounts appropriated to, or available for the  
5 use of, the Office or the Director shall remain available  
6 until expended.”.

7 **SEC. 7. DEFINITIONS.**

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

11 “SEC. 3. In this Act:

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

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

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

22 **SEC. 8. TRANSFER OF FUNCTIONS TO SECRETARY OF THE**  
23 **ENVIRONMENT.**

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

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

6           (2) the functions of the Chairman of the Coun-  
7           cil on Environmental Quality (as Director of the Of-  
8           fice of Environmental Quality) under paragraphs  
9           (3), (4), (6), and (7) of section 203(d) of the Envi-  
10          ronmental Quality Improvement Act of 1970, as in  
11          effect on the day before the date of the enactment  
12          of this Act.

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

19          (c) ACCOUNTABILITY.—The Secretary of the Envi-  
20          ronment shall be accountable to the appropriate commit-  
21          tees of the Senate and House of Representatives for all  
22          functions described in subsection (b).

23          (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
24          authorized to be appropriated to the Secretary such sums  
25          as may be necessary specifically to carry out the functions

1 described in subsection (b) effectively and in a timely  
2 manner.

3 **SEC. 9. TERMINATION OF COUNCIL ON ENVIRONMENTAL**  
4 **QUALITY AND OFFICE OF ENVIRONMENTAL**  
5 **QUALITY.**

6 (a) TERMINATION.—The Council on Environmental  
7 Quality and the Office of Environmental Quality are ter-  
8 minated.

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

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

1 with section 202(c)(2) or (d)(2) of that Act, as ap-  
2 propriate; or

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

9 (c) SAVINGS PROVISIONS.—

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

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

22 (B) which are in effect on the date of the  
23 enactment of this Act, or were final before that  
24 date of enactment and are to become effective  
25 on or after that date of enactment,

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

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

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

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

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

23           (6) ASSETS AND INTERESTS.—The contracts,  
24 liabilities, records, property, and other assets and in-  
25 terests of the Council on Environmental Quality and

1 the Office of Environmental Quality shall, on and  
2 after the date of the enactment of this Act, be con-  
3 sidered to be the contracts, liabilities, records, prop-  
4 erty, and other assets and interests of the Office of  
5 National Environmental Policy Act Compliance.

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

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

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

14 (1) in section 2 (42 U.S.C. 4321)—

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

16 (B) by striking “Nation;” and all that fol-  
17 lows through the end of the section and insert-  
18 ing “Nation.”;

19 (2) by striking “Council on Environmental  
20 Quality” each place that term appears and inserting  
21 “Director”;

22 (3) in section 102(2)(B) (42 U.S.C.  
23 4332(2)(B)) by striking “established by title II of  
24 this Act”;

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

3           (5) in section 102(2)(H) (42 U.S.C.  
4 4332(2)(H)) by striking “; and” and inserting a  
5 period;

6           (6) by striking section 102(2)(I) (42 U.S.C.  
7 4332(2)(I));

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

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

○