

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

# H. R. 824

To establish a Department of Environmental Protection, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. CLINGER (for himself, Mr. McCANDLESS, Mr. HASTERT, Mr. SHAYS, Mr. SCHIFF, Mr. ZIMMER, and Mr. MCHUGH) introduced the following bill; which was referred to the Committee on Government Operations

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## A BILL

To establish a 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.**

4        This Act may be cited as the “Department of Envi-  
5        ronmental Protection Act”.

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

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

9 (a) REDESIGNATION.—The Environmental Protec-  
10 tion Agency is redesignated as the Department of Envi-  
11 ronmental Protection (hereinafter in this Act referred to  
12 as the “Department”), and shall be an executive depart-  
13 ment in the executive branch of the Government. The De-  
14 partment shall be headquartered at the seat of Govern-  
15 ment. The official acronym of the Department shall be  
16 “D.E.P.”.

17 (b) SECRETARY OF THE ENVIRONMENT.—(1) There  
18 shall be at the head of the Department a Secretary of En-  
19 vironmental Protection (hereinafter in this Act referred to  
20 as the “Secretary”) who shall be appointed by the Presi-  
21 dent, by and with the advice and consent of the Senate.

22 (2) OFFICE OF THE SECRETARY.—The Office of the  
23 Secretary shall consist of the Secretary and the Deputy  
24 Secretary appointed under subsection (d), and may in-  
25 clude an Executive Secretary.

1       (c) TRANSFER.—The functions, powers, and duties of  
2 the Administrator, other officers and employees of the En-  
3 vironmental Protection Agency, and the various offices  
4 and agencies of the Environmental Protection Agency are  
5 transferred to and vested in the Secretary.

6       (d) DEPUTY SECRETARY.—There shall be in the De-  
7 partment a Deputy Secretary of Environmental Protec-  
8 tion, who shall be appointed by the President, by and with  
9 the advice and consent of the Senate. The Deputy Sec-  
10 retary shall perform such functions as the Secretary shall  
11 prescribe, and shall act as the Secretary during the ab-  
12 sence or disability of the Secretary or in the event of a  
13 vacancy in the Office of the Secretary.

14       (e) DELEGATION OF AUTHORITY.—Except as pro-  
15 vided in this Act and other existing laws, the Secretary  
16 may delegate any functions, including the making of regu-  
17 lations, to such officers and employees of the Department  
18 as the Secretary may designate, and may authorize such  
19 successive redelegations of such functions within the De-  
20 partment as the Secretary considers to be necessary or  
21 appropriate.

22 **SEC. 102. ASSISTANT SECRETARIES.**

23       (a) ESTABLISHMENT OF POSITIONS.—There shall be  
24 in the Department such number of Assistant Secretaries,

1 not to exceed 10, as the Secretary shall determine, each  
2 of whom—

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

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

7 (b) FUNCTIONS.—The Secretary shall assign to each  
8 Assistant Secretary of the Department such functions as  
9 the Secretary considers appropriate.

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

17 **SEC. 103. DEPUTY ASSISTANT SECRETARIES.**

18 (a) ESTABLISHMENT OF POSITIONS.—There shall be  
19 in the Department 20 Deputy Assistant Secretaries, or  
20 such number as the Secretary determines is appropriate.

21 (b) APPOINTMENTS.—Each Deputy Assistant Sec-  
22 retary—

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

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

1 (c) CAREER SENIOR EXECUTIVE SERVICE.—At least  
2 one-half of positions established under subsection (a) and  
3 filled by subsection (b) shall be in the career Senior Execu-  
4 tive Service.

5 (d) FUNCTIONS.—Functions assigned to an Assistant  
6 Secretary under section 102(b) may be performed by one  
7 or more Deputy Assistant Secretaries appointed to assist  
8 such Assistant Secretary.

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

10 (a) GENERAL COUNSEL.—There shall be in the De-  
11 partment the Office of the General Counsel. There shall  
12 be at the head of such office a General Counsel who shall  
13 be appointed by the President, by and with the advice and  
14 consent of the Senate. The General Counsel shall be the  
15 chief legal officer of the Department and shall provide  
16 legal assistance to the Secretary concerning the programs  
17 and policies of the Department.

18 (b) DEPUTY GENERAL COUNSEL.—There shall be in  
19 the Office of the General Counsel at least one Deputy Gen-  
20 eral Counsel, who—

21 (1) shall be appointed by the General Counsel;

22 and

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

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

2 The Office of Inspector General of the Environmental  
3 Protection Agency, established in accordance with the In-  
4 spector General Act of 1978 (5 U.S.C. App.), is redesi-  
5 gnated as the Office of Inspector General of the Depart-  
6 ment of Environmental Protection.

7 **SEC. 106. REGIONAL ADMINISTRATORS.**

8 There shall be in the Department not more than 11  
9 regional administrators, each of whom shall be appointed  
10 by the Secretary. Political affiliation or political qualifica-  
11 tion may not be the primary factor taken into account in  
12 connection with the appointment of any person to a posi-  
13 tion as a regional administrator of the Department. Each  
14 regional administrator shall—

15 (1) perform in accordance with applicable law  
16 such of the functions transferred or delegated to or  
17 vested in the Secretary as the Secretary shall pre-  
18 scribe in accordance with the provisions of this Act  
19 and other applicable law; and

20 (2) implement program policies and priorities  
21 as established by the Secretary, Assistant Secretar-  
22 ies, and Deputy Secretaries.

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

24 (a) REDESIGNATION OF POSITIONS.—(1) The Ad-  
25 ministrator of the Environmental Protection Agency is re-

1 designated as the Secretary of the Department of Environ-  
2 mental Protection.

3 (2) The Deputy Administrator of such agency is re-  
4 designated as the Deputy Secretary of the Department of  
5 Environmental Protection.

6 (3) Each Assistant Administrator of such agency is  
7 redesignated as an Assistant Secretary of the Department.

8 (4) The General Counsel of such agency is redesignig-  
9 nated as the General Counsel of the Department.

10 (5) The Inspector General of such agency is redesignig-  
11 nated as the Inspector General of the Department.

12 (b) NOT SUBJECT TO RENOMINATION OR RECON-  
13 FIRMATION.—An individual serving at the pleasure of the  
14 President in a position that is redesignated by subsection  
15 (a) may continue to serve in and perform functions of that  
16 position after the date of the enactment of this Act with-  
17 out renomination by the President or reconfirmation by  
18 the Senate.

19 **SEC. 108. REFERENCES.**

20 Reference in any other Federal law, Executive order,  
21 rule, regulation, reorganization plan, or delegation of au-  
22 thority, or in any document—

23 (1) to the Environmental Protection Agency is  
24 deemed to refer to the Department of Environmental  
25 Protection;

1           (2) to the Administrator of the Environmental  
2 Protection Agency is deemed to refer to the Sec-  
3 retary of Environmental Protection;

4           (3) to the Deputy Administrator of the Envi-  
5 ronmental Protection Agency is deemed to refer to  
6 the Deputy Secretary of Environmental Protection;  
7 and

8           (4) to an Assistant Administrator of the Envi-  
9 ronmental Protection Agency is deemed to refer to  
10 the corresponding Assistant Secretary of the Depart-  
11 ment of Environmental Protection who is assigned  
12 the functions of that Assistant Administrator.

13 **SEC. 109. SAVINGS PROVISIONS.**

14       (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—  
15 All orders, determinations, rules, regulations, permits,  
16 grants, contracts, certificates, licenses, privileges, and  
17 other administrative actions—

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

1           (2) which are in effect at the time this Act  
2           takes effect;  
3 shall continue in effect according to their terms until  
4 modified, terminated, superseded, set aside, or revoked in  
5 accordance with law by the President, the Secretary, or  
6 other authorized official, by a court of competent jurisdic-  
7 tion, or by operation of law.

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

1 (c) SUITS NOT AFFECTED.—This Act shall not affect  
2 suits commenced before the effective date of this Act, and  
3 in all such suits proceedings shall be had, appeals taken,  
4 and judgments rendered in the same manner and with the  
5 same effect as if this Act had not been enacted.

6 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
7 or other proceeding commenced by or against the Environ-  
8 mental Protection Agency, or by or against any individual  
9 in the official capacity of such individual as an officer of  
10 the Environmental Protection Agency, shall be abated by  
11 reason of the enactment of this Act.

12 (e) PROPERTY AND RESOURCES.—The contracts, li-  
13 abilities, records, property, and other assets and interests  
14 of the Environmental Protection Agency shall, after the  
15 effective date of this Act, be considered to be contracts,  
16 liabilities, records, property, and other assets and interests  
17 of the Department.

18 **SEC. 110. CONFORMING AMENDMENTS.**

19 (a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1)  
20 of title 3, United States Code, is amended by inserting  
21 before the period at the end thereof the following: “, Sec-  
22 retary of Environmental Protection”.

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

1           “The Department of Environmental Protec-  
2           tion.”.

3           (c) COMPENSATION, LEVEL I.—Section 5312 of title  
4 5, United States Code, is amended by adding at the end  
5 thereof the following:

6           “Secretary of Environmental Protection.”.

7           (d) COMPENSATION, LEVEL II.—Section 5313 of title  
8 5, United States Code, is amended by striking “Adminis-  
9 trator of Environmental Protection Agency” and inserting  
10 in lieu thereof “Deputy Secretary of Environmental Pro-  
11 tection”.

12          (e) COMPENSATION, LEVEL IV.—Section 5315 of  
13 title 5, United States Code, is amended—

14           (1) by striking “Inspector General, Environ-  
15 mental Protection Agency” and inserting in lieu  
16 thereof “Inspector General, Department of Environ-  
17 mental Protection”;

18           (2) by striking each reference to an Assistant  
19 Administrator, or Assistant Administrators, of the  
20 Environmental Protection Agency; and

21           (3) by adding at the end thereof the following:

22           “Assistant Secretaries, Department of Environ-  
23 mental Protection.

24           “General Counsel, Department of Environ-  
25 mental Protection.”.

1 (f) INSPECTOR GENERAL ACT.—The Inspector Gen-  
2 eral Act of 1978 is amended—

3 (1) in section 11(1)—

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

6 (B) by striking “Environmental Protec-  
7 tion,”; and

8 (2) in section 11(2)—

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

11 (B) by striking “the Environmental Pro-  
12 tection Agency,”.

13 **SEC. 111. ADDITIONAL CONFORMING AMENDMENTS.**

14 After consultation with the Committee on Govern-  
15 ment Operations of the House of Representatives, the  
16 Committee on Governmental Affairs of the Senate, and  
17 other appropriate committees of the Congress, the Sec-  
18 retary shall prepare and submit to the Congress proposed  
19 legislation containing technical and conforming amend-  
20 ments to the laws of the United States, to reflect the  
21 changes made by this Act. Such proposed legislation shall  
22 be submitted not later than 1 year after the effective date  
23 of this Act.

1           **TITLE II—ADMINISTRATIVE**  
2                           **PROVISIONS**

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

4           The Secretary may acquire any of the following rights  
5 if the property acquired thereby is for use by or for, or  
6 useful to, the Department:

7           (1) Copyrights, patents, and applications for  
8           patents, designs, processes, and manufacturing data.

9           (2) Licenses under copyrights, patents, and ap-  
10          plications for patents.

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

13   **SEC. 202. GIFTS AND BEQUESTS.**

14          The Secretary may accept, hold, administer, and uti-  
15 lize gifts, bequests, and devises of real or personal prop-  
16 erty for the purpose of aiding or facilitating the work of  
17 the Department. Gifts, bequests, and devises of money and  
18 proceeds from sales of other property received as gifts, be-  
19 quests, or devises shall be deposited in the Treasury and  
20 shall be available for disbursement upon the order of the  
21 Secretary.

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

23          On and after the effective date of this Act, the seal  
24 of the Environmental Protection Agency, with appropriate  
25 changes, shall be the official seal of the Department, until

1 such time as the Secretary may cause an official seal to  
2 be made for the Department of such design as the Sec-  
3 retary shall approve.

4 **SEC. 204. USE OF LIKENESS OF OFFICIAL SEAL OF DEPART-**  
5 **MENT.**

6 (a) DISPLAY OF SEAL.—Whoever knowingly displays  
7 any printed or other likeness of the official seal of the De-  
8 partment, or any facsimile thereof, in or in connection  
9 with, any advertisement, poster, circular, book, pamphlet,  
10 or other publication, public meeting, play, motion picture,  
11 telecast, or other production, or on any building, monu-  
12 ment, or stationery, for the purpose of conveying, or in  
13 a manner reasonably calculated to convey, a false impres-  
14 sion of sponsorship or approval by the Government of the  
15 United States or by any department, agency, or instru-  
16 mentality thereof, shall be fined not more than \$250 or  
17 imprisoned not more than 6 months, or both.

18 (b) MANUFACTURE, REPRODUCTION, SALE, OR PUR-  
19 CHASES FOR RESALE.—Except as authorized under regu-  
20 lations promulgated by the Secretary and published in the  
21 Federal Register, whoever knowingly manufactures, repro-  
22 duces, sells, or purchases for resale, either separately or  
23 appended to any article manufactured or sold, any likeness  
24 of the official seal of the Department or any substantial  
25 part thereof (except for manufacture or sale of the article

1 for the official use of the Government of the United  
2 States), shall be fined not more than \$250 or imprisoned  
3 not more than 6 months, or both.

4 (c) INJUNCTIONS.—A violation of subsection (a) or  
5 (b) may be enjoined by an action brought by the Attorney  
6 General in the appropriate district court of the United  
7 States. The Attorney General shall file such an action  
8 upon request of the Secretary or any authorized represent-  
9 ative of the Secretary.

10 **SEC. 205. USE OF STATIONERY, PRINTED FORMS, AND SUP-**  
11 **PLIES OF ENVIRONMENTAL PROTECTION**  
12 **AGENCY.**

13 The Secretary shall ensure that, to the extent prac-  
14 ticable, existing stationery, printed forms, and other sup-  
15 plies of the Environmental Protection Agency are used to  
16 carry out functions of the Department before procuring  
17 new stationery, printed forms, and other supplies for the  
18 Department.

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