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Folder Title:
Commerce - Draft of Amendmnts for EPA -Environmental Protection Agency] Bill Regarding CEQ
[Council on Environmental Quality] February 23, 1993

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UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

February 23, 1993

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TO: Diana Josephson

FROM: Michael Levitt

SUBJECT: Discussion Draft of Amendments for S. 171, the Department of the Environment Act of 1993 -- Regarding the Transfer of the Functions the Council of Environmental Equality (CEQ) to the Secretary of the Environment

Upon a quick review, this office has analyzed the discussion draft to transfer the functions of the Council on Environmental Quality to the Secretary of the Environment and have identified the following problems with the text. The following comments focus on the discussion draft's conforming amendments to various sections of the National Environmental Policy Act of 1969 (NEPA), as amended.

- ♦ The draft would require the new Department of the Environment to review the programs of the Federal Government and make recommendations to the President. This provision could be problematic; if the Administration would like to conduct such a review, it should within the Executive Office of the President. One cabinet agency should not be reviewing program decisions of another. [Amending Section 202(2) of NEPA]
- ♦ The draft would transfer to the new Department data collection and analysis functions of CEQ. This would circumvent our efforts to ensure that other provisions of S. 171 (specifically, provisions creating a Bureau of Environmental Statistics) do not allow the new Department to duplicate information collection, analysis and archiving functions of other agencies. [Amending Section 202(12) of NEPA]
- ♦ The draft unnecessarily and inappropriately would give the new Department authority over regulations, legislation and actions of other agencies to the extent that they affect public health, welfare or the environment. Any adverse determination by the new Department would be published and submitted to the President. [Amending Section 203(a) and (b) of NEPA] [Note: While OMB has indicated that this language is taken from section 309 of the Clean Air Act, we question whether it is necessary to include the language again in this legislation.]

TELEFAX TRANSMITTAL

February 23, 1993

TO: Katie McGinty

FROM: Sally Sadosky

Jonathan Sallet asked me to send you this memo immediately. While he has not yet personally reviewed the discussion draft regarding the transfer of CEQ responsibilities to the Department of the Environment, a number of Commerce officials have expressed strong concern to him about this draft. He thought you should be aware of these concerns.

*Kate- If you have
a minute, please call.*

Mark

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