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Folder Title:
EPW [Environmental and Public Works Committee - Senate] Comparison of NEPA [National Environmental Policy Act] and EPA [Environmental Protection Agency]

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**COMPARISON OF EXISTING STATUTES (NEPA & EQIA)
WITH DRAFT BILL**

<u>CURRENT LAW</u>		<u>REVISED DRAFT BILL</u>	<u>SUBJECT OF SECTION</u>
NEPA EQIA	Sec. 202 4372(a)	202	Establishment of Office and Director
NEPA EQIA	Sec. 203 4372(c)	203	Administration of Office
NEPA EQIA	Sec. 204 4372(d)	204	Functions of Office
NEPA	Sec. 205	205	Utilizing Existing Information
NEPA	Sec. 206	deleted (Director is in Sec. 202)	CEQ Members' Compensation
NEPA EQIA	Sec. 207 4372 (e) 4375	207 206	Contracting and Reimbursement
NEPA	Sec. 208	208	International Activities
NEPA	Sec. 209	209	Authorization for Appropriations

Statutory references are to the National Environmental Policy Act of 1969 (NEPA, PL 91-190, 42 USC 4321 et seq.) and the Environmental Quality Improvement Act of 1970 (EQIA, PL 91-224, 42 UCS 4372 et seq.)

103rd Congress
1st Session

A BILL

To amend the National Environmental Policy Act of 1969, to transfer functions of the Council on Environmental Quality to the Office of Environmental Policy, to repeal the Environmental Quality Improvement Act of 1970, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Environmental Policy Act of 1993."

SECTION 2. AMENDMENTS TO TITLE II OF THE NATIONAL ENVIRONMENTAL POLICY ACT.

Title II of the National Environmental Policy Act of 1969 (42 USC §§ 4341 et seq.) is amended to read as follows:

"TITLE II -- OFFICE OF ENVIRONMENTAL POLICY

["SECTION 201. PRESIDENT'S ENVIRONMENTAL STRATEGY REPORT.

"Not later than January 31 of each year, the President shall transmit to Congress a report which --

1 "(1) describes the President's strategy for
2 implementing the policy and objectives set forth in
3 Title I of this Act during the previous year;

4 "(2) describes areas of new or heightened
5 environmental concern;

6 "(3) describes initiatives to strengthen and
7 improve federal environmental programs;

8 "(4) recommends priorities for national and
9 international actions to protect the environment;

10 "(5) analyzes problems associated with the
11 implementation of this Act and the effectiveness of
12 measures specified in detailed statements of federal
13 agencies under section 102(2)(C) of this Act to
14 mitigate the adverse environmental impacts of federal
15 actions; and

16 "(6) summarizes implementation of section
17 102(2)(C) of this Act during the previous year.

18 "The report shall, upon transmittal to Congress, be referred
19 to each standing committee having jurisdiction over any part
20 of the subject matter of the report.]

21 "SECTION 202. CREATION OF THE OFFICE OF ENVIRONMENTAL
22 POLICY.

23 "There is created in the Executive Office of the
24 President an Office of Environmental Policy (hereinafter
25 referred to as the "Office"). The Office shall be headed by
26 a Director who shall be appointed by the President by and

with the advice and consent of the Senate (hereinafter referred to as the "Director." The Director shall be a person who, as a result of his or her training, experience, and attainments, is exceptionally well qualified to appraise programs and activities of the federal government in light of the policy set forth in Title I of the National Environmental Policy Act and to formulate and recommend national policies to promote the improvement of the quality of the environment. The Director shall serve full-time and be compensated at the rate not less than that provided for Level II of the Executive Schedule Pay Rates [5 USC § 5313].

"SECTION 203. ADMINISTRATION OF THE OFFICE OF ENVIRONMENTAL POLICY.

"(a) The Office may employ such officers and employees as may be necessary to carry out its functions under this Act. The Office may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof). In addition, the Office may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule

pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of Title 5.

"(b) Notwithstanding section 1342 of Title 31, the Office may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Office.

"SECTION 204. FUNCTIONS OF THE OFFICE OF ENVIRONMENTAL POLICY.

"It shall be the duty and function of the Office:

"(1) to review and appraise the various programs and activities of the federal government in light of the policy set forth in Title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

"(2) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the nation;

"(3) to provide for the integration of sustainable development principles in the development and implementation of federal policies;

"(4) to assist the federal agencies and departments in appraising the effectiveness of existing

1 and proposed facilities, programs, policies, and
2 activities of the federal government, and those
3 specific major projects designated by the President
4 which do not require individual project authorization
5 by the Congress, which affect environmental quality;

6 "(5) to assist the President in coordinating
7 among the federal departments and agencies those
8 programs and activities which affect, protect, and
9 improve environmental quality, including coordinating
10 implementation of Title I of this Act by all federal
11 agencies and in resolving conflicts between agencies
12 with respect to that implementation;

13 "(6) to assist the federal departments and
14 agencies in the development and interrelationship of
15 environmental quality criteria and standards
16 established through the federal government;

17 "(7) to collect, collate, analyze, and interpret
18 data and information on environmental quality,
19 ecological research, and evaluation to the extent
20 necessary to fulfill the responsibilities of the
21 Office;

22 "(8) to make and furnish such studies, reports
23 thereon, and recommendations with respect to matters of
24 policy and legislation as the President may request;
25

1 ["(9) to promulgate regulations and provide
2 guidance concerning implementation of this Act by all
3 federal agencies (including federal independent
4 regulatory commissions). The Office shall include in
5 its regulations procedures for the timely preparation
6 of environmental impact statements and for the referral
7 to the Office of conflicts between agencies concerning
8 the implementation of this Act and Section 309 of the
9 Clean Air Act, as amended, for the Office's
10 recommendation as to their prompt resolution. Such
11 regulations shall also include provisions for public
12 review and comment on the detailed statements required
13 by Title I of this Act and, as appropriate, other
14 documents prepared pursuant to this Act, [[and shall
15 assure compliance with the statutory requirement for
16 full consideration of the environmental impacts of
17 proposed major federal actions on geographic,
18 oceanographic, and atmospheric areas within as well as
19 beyond the jurisdiction of the United States and its
20 territories and possessions,]] including the cumulative
21 impacts of proposed federal actions on global climate
22 change, depletion of the ozone layer, transboundary
23 pollution, loss of biological diversity, and other
24 international environmental impacts.]

25 "SECTION 205. UTILIZING EXISTING SERVICES, FACILITIES,
26 AND INFORMATION

1 "In exercising its powers, functions, and duties under
2 this Act, the Office shall utilize, to the fullest extent
3 possible, the services, facilities and information
4 (including statistical information) of established public
5 and private agencies and organizations, and individuals, in
6 order that duplication of effort and expense may be avoided.

7 "SECTION 206. CONTRACTING

8 "(a) The Office is authorized to contract with public
9 or private agencies, institutions, and organizations and
10 with individuals without regard to section 3324(a) and (b)
11 of Title 31 and section 5 of Title 41 in carrying out its
12 functions.

13 "(b) There is established an Office of Environmental
14 Policy Management Fund (hereinafter referred to as the
15 "Fund") to receive advance payments from other agencies or
16 accounts that may be used solely to finance --

17 "(1) study contracts that are jointly sponsored
18 by the Office and one or more other federal agencies;
19 and

20 "(2) federal interagency environmental projects
21 (including task forces) in which the Office
22 participates.

23 "Any study contract or project that is to be financed under
24 this section may be initiated only with the approval of the
25 Director. The Director shall promulgate regulations setting
26 forth policies and procedures for operation of the Fund.

1 "SECTION 207. REIMBURSEMENTS FOR TRAVEL

2 "The Office may accept reimbursements from any private
3 nonprofit organization or from any department, agency, or
4 instrumentality of the federal government, any state, or
5 local government, for the reasonable travel expenses
6 incurred by an officer or employee of the Office in
7 connection with his or her attendance at any conference,
8 seminar, or meeting where such attendance is in furtherance
9 of the activities of the Office.

10 "SECTION 208. INTERNATIONAL ACTIVITIES

11 "(e) The Office may make expenditures in support of
12 its international activities, including expenditures for
13 international travel, activities in implementation of
14 international agreements, and the support of international
15 exchange programs in the United States and in foreign
16 countries.

17 "SECTION 209. AUTHORIZATION OF APPROPRIATIONS.

18 "There are authorized to be appropriated to carry out
19 the provisions of this chapter not to exceed \$_____ for
20 fiscal year 1993, and \$_____ for each fiscal year
21 thereafter."

22
23 SECTION 3. TRANSFER OF FUNCTIONS OF COUNCIL ON ENVIRONMENTAL
24 QUALITY; TERMINATION OF COUNCIL AND OF OFFICE OF
25 ENVIRONMENTAL QUALITY.

1 (a) There are hereby transferred to the Office of
2 Environmental Policy, as provided by this Act, the functions of
3 the Council on Environmental Quality under Title I of the
4 National Environmental Policy Act of 1969 (42 USC § 4321 et seq.)
5 and any other law, as in effect on the day before the date of the
6 enactment of this Act.

7 (b) The Council on Environmental Quality created by section
8 202 of the National Environmental Policy Act of 1969 (42 USC §
9 4342) and the Office of Environmental Quality established by
10 section 203 of the Environmental Quality Improvement Act of 1970
11 (42 USC § 4372) are hereby terminated.

12 (c) The President shall ensure that all property owned or
13 controlled by the Council on Environmental Quality, the Office of
14 Environmental Quality, or the Director or Deputy Director of that
15 office (including all books, papers, materials, supplies, and
16 equipment) and all documents and records of those agencies and
17 officials are transferred to the Office of Environmental Policy.

18 (d) Nothing in this Act affects the validity of any right,
19 duty, or obligation of the United States, any agency of the
20 United States, or any other person which --

21 (1) arises under or pursuant to any provision of law
22 referred to or amended or repealed by this Act; and

23 (2) existed on the day before the date of the
24 enactment of this Act.

25 (e) (1) No action or other proceeding commenced by or
26 against the Council on Environmental Quality or the Office

of Environmental Quality (as in existence on the day before the date of the enactment of this Act) shall abate by reason of the enactment of this Act.

(2) In any action or proceeding against the Council on Environmental Quality or the Office of Environmental Quality (as in existence on the day before the date of the enactment of this Act) the Director of the Office of Environmental Policy shall be substituted as a party to the action or proceeding.

(f) All orders, resolutions, determinations, and regulations which --

(1) have been issued, made, prescribed, or allowed to become effective by the Council on Environmental Quality, the Office of Environmental Quality, the Director or Deputy Director of that office, or a court of competent jurisdiction, in the performance of any function of any such agency or office (other than functions under provisions of law which are repealed by this Act); and

(2) are in effect on the date this Act takes effect (or becomes effective after such date pursuant to the terms of the order, resolution, determination, or regulation, as in effect on such date),

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with

1 applicable law by the Director, by any court of competent
2 jurisdiction, or by operation of law.

3 (g) Any reference in any federal law to the Council on
4 Environmental Quality, the Office of Environmental Quality, or
5 any officer of either entity is deemed to be a reference to the
6 Director or to the Office of Environmental Policy, as
7 appropriate. All regulations or other guidance issued by the
8 Council on Environmental Quality shall be deemed to be
9 regulations or guidance of the Office of Environmental Policy
10 unless modified as set forth above. The Office of Environmental
11 Policy shall succeed the Council on Environmental Quality as the
12 agency to which substantial deference is due in implementation of
13 the National Environmental Policy Act.

14

1 (h) Conforming amendments --

2 (1) The National Environmental Policy Act of 1969 is
3 amended --

4 (A) in the initial section by striking "a Council
5 on Environmental Quality" and inserting "an Office of
6 Environmental Policy";

7 (B) in section 2 (42 USC § 4321) by --

8 (i) inserting "and" after the second use of
9 the term "man"; and

10 (ii) striking "a Council on Environmental
11 Quality" and inserting "an Office of
12 Environmental Policy";

13 (C) in section 102(B) (42 USC § 4331(B)) by
14 striking "Council on Environmental Quality" and
15 inserting "Office of Environmental Policy";

16 (D) in section 102(C) (42 USC § 4331(C)) in the
17 matter following subparagraph (v) by striking "Council
18 on Environmental Quality" and inserting "Office of
19 Environmental Policy"; and

20 (E) in section 102(I) (42 USC § 4331(I)) by
21 striking "Council on Environmental Quality" and all
22 that follows through the end of the sentence and
23 inserting "Office of Environmental Policy".

24 (2) The Environmental Quality Improvement Act of 1970
25 (42 USC §§ 4372 et seq.) is repealed.
26

**American Rivers • Center for Marine Conservation
Defenders of Wildlife • Environmental Defense Fund
Friends of the Earth • Izaak Walton League of America
National Audubon Society
National Parks and Conservation Association
Natural Resources Defense Council
Sierra Club • The Wilderness Society**

March 3, 1993

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

The undersigned national environmental organizations respectfully submit this letter to provide our recommendations on the role of the new Office of Environmental Policy in overseeing implementation of the National Environmental Policy Act (NEPA).

We support your decision to create the new Office of Environmental Policy in the White House and to include the director of this office in the meetings of the National Security Council, the National Economic Council, and the Domestic Policy Council. This step demonstrates the importance of environmental protection to your administration and your commitment to integrate concern for the environment into all aspects of national policy making.

One question left open by your recent decision is whether the new office should assume the existing Council on Environmental Quality's function of overseeing implementation of the National Environmental Policy Act, or whether some or all of these responsibilities should be transferred out of the Executive Office of the President. In our view it is essential to the continued successful implementation of NEPA that the basic NEPA oversight function currently assigned to the Council be transferred to the new Office of Environmental Policy.

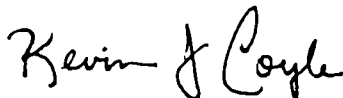
The National Environmental Policy Act is the magna carta of environmental protection in America. It declares environmental quality to be the national policy of the United States. In order to carry out this policy, NEPA requires all federal agencies to ensure that environmental values receive appropriate consideration and specifically directs the preparation of detailed written assessments of proposed federal actions significantly affecting the quality of the human environment. One of the primary functions of the Council on Environmental Quality, which was established by NEPA, is to oversee federal agency implementation of NEPA, including coordination of environmental and natural resource programs across all agencies and the resolution of interagency disputes on environmental issues.

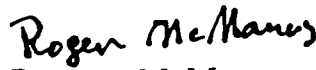
We believe the new Office of Environmental Policy should continue to carry out this mandate to coordinate environmental policy among federal agencies by assuming the Council's function as overseer of NEPA implementation. NEPA establishes the key environmental decision-making process in the federal government, and therefore it is appropriate that the White House office with overall responsibility for coordinating environmental policy oversee the NEPA process. To be effective, this coordination and oversight function should continue to be carried out by the Executive Office of the President. If these functions were transferred to a line agency, coordination and mediation of NEPA implementation would not be as effective. It also would not be appropriate to place these functions in the Office of Management and Budget or a different office within the Executive Office of the President other than the Office of Environmental Policy.

We believe that the most straightforward way to accomplish this proposal would be to submit legislation to Congress that would amend NEPA and the Environmental Quality Improvement Act by transferring the basic functions of the existing Council on Environmental Quality and the Office of Environmental Quality to the new Office of Environmental Policy. At the same time, in the interests of economy, we recommend eliminating certain responsibilities currently held by the Council on Environmental Quality, such as preparation of the annual report on the environment. We would be happy to work with you in developing this legislative proposal.

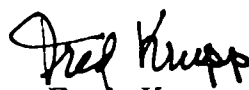
Thank you very much for your consideration of our views on this important matter.

Sincerely,


Kevin Coyle
President
American Rivers


Rogers McManus
President
Center for Marine Conservation


Rodger Schlickeisen
President
Defenders of Wildlife


Fred Krupp
Executive Director
Environmental Defense Fund

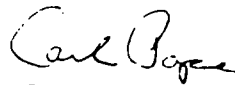

Jane Perkins
President
Friends of the Earth


Maitland Sharpe
Executive Director
Izaak Walton League of America


Peter A.A. Berle
President
National Audubon Society


Paul C. Pritchard
President
National Parks and Conservation
Association


John Adams
Executive Director
Natural Resources Defense
Council


Carl Pope
Executive Director
Sierra Club


Karin Sheldon
Acting President

Letter to President Clinton

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The Wilderness Society

cc: The Honorable Albert Gore, Jr., Vice President
John Glenn, Chair, Senate Governmental Affairs Committee
William Roth, Vice Chair, Senate Governmental Affairs
Committee
Max Baucus, Chair, Senate Environment and Public Works
Committee
John Chafee, Vice Chair, Senate Environment and Public
Works Committee
Gerry Studds, Chair, House Merchant Marine and Fisheries
Committee
Jack Fields, Ranking Minority, House Merchant Marine and
Fisheries Committee