

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

DECEMBER 17, 1969.—Ordered to be printed

Mr. GARMATZ, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 1075]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1075), to establish a national policy for the environment; to authorize studies, surveys, and research relating to ecological systems, natural resources, and the quality of the human environment; and to establish a Board of Environmental Quality Advisers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: That this Act may be cited as the "National Environmental Policy Act of 1969".

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density

urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

SEC. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by title II of this Act.

SEC. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

SEC. 104. Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

SEC. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

SEC. 201. *The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.*

SEC. 202. *There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.*

SEC. 203. *The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council 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).*

SEC. 204. *It shall be the duty and function of the Council—*

(1) *to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;*

(2) *to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are inter-*

fering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the 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;

(4) 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;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

SEC. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

SEC. 206. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

SEC. 207. There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes."

And the House agree to the same.

EDWARD A. GARMATZ,
JOHN D. DINGELL,
WAYNE N. ASPINALL,
W. S. MAILLIARD,
JOHN P. SAYLOR,

Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
GAYLORD NELSON,
GORDON ALLOTT,
LEN B. JORDAN,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1075) to establish a national policy for the environment; to authorize studies, surveys, and research relating to ecological systems, natural resources, and the quality of the human environment; and to establish a Board of Environmental Quality Advisers, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the Senate bill and the House amendment. Except for technical clarifying, and conforming changes, the following statement explains the differences between the House amendment and the substitute agreed to in conference.

PROVISIONS OF THE CONFERENCE SUBSTITUTE

First section and section 2

Section 1 of the Senate bill provided that the bill may be cited as the "National Environmental Policy Act of 1969". Section 2 of the Senate bill contained a statement of the purpose of the bill. There were no similar provisions in the House amendment. The conference substitute conforms to the Senate bill with respect to these two sections.

TITLE I—NATIONAL ENVIRONMENTAL POLICY

Section 101

The Senate bill contained a recognition by Congress of (1) the critical dependency of man on his environment, (2) the profound influences which the factors of contemporary life have had and will have on the environment, and (3) certain specified goals in the management of the environment which the Federal Government should, as a matter of national policy, attain by use of all possible means, consistent with other essential considerations of national policy. The House amendment (in the first section thereof) contained a general statement of national environmental policy, but did not include specified policy goals. The first section of the House amendment also stated that the Federal Government should achieve the general policy in cooperation with State and local governments and certain specified public and private organizations and that financial and technical assistance should be among the means and measures used by the Federal Government to achieve the policy. Under the conference agreement, the language of the House amendment is substantially retained in section 101(a) of the conference substitute; the language

setting forth the specified organizations with which the Government should cooperate was dropped in favor of "other concerned public and private agencies".

The national goals of environmental policy specified in the Senate bill are set forth in section 101(b) of the conference substitute.

Section 101(c) of the conference substitute states that "Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment". The language of the conference substitute reflects a compromise by the conferees with respect to a provision in the Senate bill (but which was not in the House amendment) which stated that the Congress recognizes that "each person has a fundamental and inalienable right to a healthful environment * * *". The compromise language was adopted because of doubt on the part of the House conferees with respect to the legal scope of the original Senate provision.

Section 102

This section of the conference substitute is based on section 102 of the Senate bill. There was no comparable provision in the House amendment. Under the conference substitute, the Congress authorizes and directs that, *to the fullest extent possible*: (1) the Federal laws, regulations, and policies be administered in accordance with the policies set forth in the bill; and (2) all Federal agencies shall—

(A) utilize a systematic, interdisciplinary approach to insure integrated use of the sciences and arts in any official planning or decisionmaking which may have an impact on the environment;

(B) in consultation with the Council on Environmental Quality, identify and develop methods and procedures to insure that unquantified environmental amenities will be considered in the agency decisionmaking process, along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation or other major Federal actions a detailed statement by the responsible official on the environmental impact of the proposed action, any adverse environmental effects which can not be avoided should the proposal be adopted, alternatives to the proposed action, the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved. Under the conference substitute, the responsible Federal official, prior to making any such detailed statement, shall consult with and obtain the comments of any Federal agency having jurisdiction by law or special expertise with respect to any environmental impact involved and the comments of any such agency, together with the comments and views of appropriate State and local agencies shall thereafter be made available to the President, the Council on Environmental Quality, and the public under the provisions of section 552 of title 5, United States Code, and shall accompany the proposal through the subsequent review process. The conferees do not intend that the requirements for comment by other agencies should unreasonably delay the processing of Federal proposals and anticipate that the President will promptly prepare and establish by Executive

order a list of those agencies which have "jurisdiction by law" or "special expertise" in various environmental matters. With regard to State and local agencies, it is not the intention of the conferees that those local agencies with only a remote interest and which are not primarily responsible for development and enforcement of environmental standards be included.

The conferees believe that in most cases the requirement for State and local review may be satisfied by notice of proposed action in the Federal Register and by providing supplementary information upon request of the State and local agencies. (To prevent undue delay in the processing of Federal proposals, the conferees recommend that the President establish a time limitation for the receipt of comments from Federal, State, and local agencies similar to the 90-day review period presently established for comment upon certain Federal proposals.);

(D) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend support to programs and other ventures designed to maximize international cooperation in anticipating and preventing a decline in the world environment;

(F) make available to State and local governments and individuals and organizations advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the Planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality.

As noted above, the conference substitute provides that the phrase "to the fullest extent possible" applies with respect to those actions which Congress authorizes and directs to be done under both clauses (1) and (2) of section 102 (in the Senate bill, the phrase applied only to the directive in clause (1)). In accepting this change to section 102 (and also to the provisions of section 103), the House conferees agreed to delete section 9 of the House amendment from the conference substitute. Section 9 of the House amendment provided that "nothing in this Act shall increase, decrease or change any responsibility or authority of any Federal official or agency created by other provision of law." In receding from this House provision in favor of the less restrictive provision "to the fullest extent possible", the House conferees are of the view that the new language does not in any way limit the congressional authorization and directive to all agencies of the Federal Government set out in subparagraphs (A) through (H) of clause (2) of section 102. The purpose of the new language is to make it clear that each agency of the Federal Government shall comply with the directives set out in such subparagraphs (A) through (H) unless the existing law applicable to such agency's operations expressly prohibits or makes full compliance with one of the directives impossible. If such is found to be the case, then compliance with the particular directive is not immediately required. However, as to other activities of that agency, compliance is required. Thus, it is the intent of the conferees that the provision "to the

fullest extent possible" shall not be used by any Federal agency as a means of avoiding compliance with the directives set out in section 102. Rather, the language in section 102 is intended to assure that all agencies of the Federal Government shall comply with the directives set out in said section "to the fullest extent possible" under their statutory authorizations and that no agency shall utilize an excessively narrow construction of its existing statutory authorizations to avoid compliance.

Section 103

This section is based upon a provision of the Senate bill (section 102(f)) not in the House amendment. This section, as agreed to by the conferees, provides that all agencies of the Federal Government shall review their "present statutory authority, administrative regulations, and current policies and procedures to determine whether there are any deficiencies and inconsistencies therein which prohibit full compliance with the purpose and provisions" of the bill. If an agency finds such deficiencies or inconsistencies, it is required under this section to propose to the President not later than July 1, 1971, such measures as may be necessary to bring its authority and policies into conformity with the intent, purposes, and procedures of the bill. Section 103 thereby provides a mechanism which shall be utilized by all Federal agencies (1) to ascertain whether there is any provision of their statutory authority which clearly precludes full compliance with the bill and (2) if such is found, to recommend changes in their statutory authority which will enable full compliance with the bill. In conducting the review noted above, it is the understanding of the conferees that an agency shall not construe its existing authority in an unduly narrow manner. Rather, the intent of the conferees is that all Federal agencies shall comply with the provisions of section 102 "to the fullest extent possible," unless, of course, there is found to be a clear conflict between its existing statutory authority and the bill.

Section 104

This section, which was not in the House amendment and which is corollary to the actions taken by the conferees with respect to section 102 and 103 of the conference substitute, provides that nothing in such sections 102 or 103 shall affect the specific statutory obligations of any Federal agency—

- (1) to comply with criteria and standards of environmental quality;
 - (2) to coordinate or consult with any Federal or State agency;
- or
- (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Section 105

This section declares that the policies and goals set forth in the bill are supplementary to those set forth in existing authorities of Federal agencies. The effect of this section, which is a slightly revised version of section 103 of the Senate bill, is to give recognition to the fact that the bill does not repeal existing law. This section does not, however, obviate the requirement that the Federal agencies conduct their activities in accordance with the provisions of this bill unless to do so would clearly violate their existing statutory authorizations.

TITLE II—COUNCIL ON ENVIRONMENTAL QUALITY

Section 201

Section 201 of the conference substitute, which conforms, except for a date change, with the language of section 2 of the House amendment, requires the President to submit to the Congress annually, beginning July 1, 1970, an environmental quality report which will set forth an up-to-date inventory of the American environment, broadly and generally identified, together with an estimate of the impact of visible future trends upon the environment. Such report shall also include a review of the programs and activities of the Federal, State, and local governments, as well as those of nongovernmental groups, with respect to environmental conditions, together with recommendations for remedying the deficiencies of existing programs, including legislative recommendations.

Section 202

This section of the conference substitute establishes in the Executive Office of the President a Council on Environmental Quality composed of three members appointed by the President by and with the advice and consent of the Senate. One of the members shall be designated by the President as the Chairman of the Council. The Senate bill would have created a three-member Board of Environmental Quality Advisers in the Executive Office of the President. (The Senate bill would also have provided for an additional officer, a Deputy Director, in the Office of Science and Technology to assist with environmental problems. The establishment of this additional office is not retained in the conference substitute.) Section 3 of the House amendment would have established a Council on Environmental Quality with five members. The conference substitute provision is basically the House provision but with the membership of the Council reduced to three.

Section 203

The provisions of section 203 of the conference substitute (which were contained in both the Senate bill and the House amendment) permits the Council to hire such officers and employees as are necessary to carry out the purposes of the act and also permits the Council to hire such experts and consultants as may be appropriate.

Section 204

The House amendment set forth the following duties and functions of the Council on Environmental Quality—

- (1) to assist the President in the preparation of the environmental quality report;
- (2) to gather information on the short- and long-term problems that merit Council attention, together with a continuing analysis of these problems as they may affect the policies stated in section 101;
- (3) to maintain a continuing review of Federal programs and activities as they may affect the policies declared in section 101, and to keep the President informed on the degree to which those programs and activities may be consistent with those policies;

(4) to develop and to recommend policies to the President, on the basis of its activities, whereby the quality of our environment may be enhanced, consistent with our social, economic and other requirements;

(5) to make studies and recommendations relating to environmental considerations, as the President may direct; and

(6) to report at least once each year to the President.

The conference substitute contains the functions and duties listed above and also adds the following functions and duties (which, under the Senate bill, would have been the responsibilities of other Federal agencies)—

(1) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality; and

(2) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes.

Section 205

Section 205 of the conference substitute sets forth those public and private organizations with which the Council on Environmental Quality shall consult in carrying out its functions and duties under the Act and states that the Council should utilize, to the fullest extent possible, the services, facilities, and information of public and private organizations and individuals in carrying out such functions and duties. Section 205 conforms to the language in section 7 of the House amendment, with the exception that the conference substitute provision specifies that the Council shall consult with the Citizen's Advisory Committee on Environmental Quality which was established in May 1969, by Executive order.

Section 206

This section provides that the Chairman of the Council on Environmental Quality shall be compensated at the rate provided for at level II of the Executive Schedule Pay Rates, and that the other members of the Council shall be compensated at the rate provided for in level IV of such rates. This section conforms with the rates of compensation provided for in both the Senate bill and House amendment.

Section 207

This section of the conference substitute authorizes the appropriation of not to exceed \$300,000 in fiscal year 1970, \$700,000 in fiscal year 1971, and \$1 million in each fiscal year thereafter, to carry out the purposes of the act. Under the House amendment, the same amounts were authorized to be appropriated except with respect to fiscal year 1971, for which \$500,000 was authorized. The Senate bill authorized \$1 million to be appropriated annually.

EDWARD A. GARMATZ,
JOHN D. DINGELL,
W. S. MAILLIARD,
JOHN P. SAYLOR,

Managers on the Part of the House.