

## CHAPTER 55. NATIONAL ENVIRONMENTAL POLICY

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#### CROSS REFERENCES

This chapter is referred to in 7 USCS § 2814; 10 USCS §§ 2391, 2667, 7439; 12 USCS §§ 1715z-13a, 1715z-22; 15 USCS §§ 719f, 719h, 793; 16 USCS §§ 1a-5, 410hh, 460ii-4, 460qq, 460lll, 470h-2, 471j, 497b, 497c, 544o, 797d, 839d, 1434, 1455, 1536, 1602, 1604, 240sa, 2705, 3164, 3232, 3233, 3636, 4403, 4404; 22 USCS § 277d-45; 23 USCS §§ 108, 134, 135, 182, 206, 323; 25 USCS §§ 458aaa-8, 640d-26, 4115, 4226; 30 USCS §§ 185, 1292; 33 USCS §§ 59c-2, 59c-3, 59j-1, 59k, 59n, 59o, 59y, 59bb, 59bb-1, 59cc, 59dd, 59ff, 59gg, 59hh, 59jj, 701b-13, 1293a, 1344, 1371, 1505; 42 USCS §§ 1437x, 2243, 3547, 4374, 4852, 5159, 5304, 6508, 7276c, 7616, 7916, 8302, 10133, 10134, 10161, 10165, 10168, 10196, 10247, 12838; 43 USCS §§ 390h-1, 421h, 1351, 1577, 1638, 1652, 1723, 1866, 1904, 2006, 2223, 7276c; 45 USCS §§ 917, 1010, 1207, 1212; 49 USCS §§ 5304, 5305, 5309, 70304.

#### § 4321. Congressional declaration of purpose

The purposes of this Act [42 USCS §§ 4321 et seq.] 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 resources important to Quality.

(Jan. 1, 1970, P. L. 91-

#### HISTORY

##### Short title:

Act Jan. 1, 1970, P USCS §§ 4321 et Tables volumes] m of 1969'."

##### Transfer of function

Reorg. Plan No. 1 33666, 93 Stat. 13' USCS § 903 note, p official in Departme ties requiring coord and enforcement fu Agriculture, insofar of that Department, with respect to pr transportation syste ferred to the Federa Natural Gas Transp initial operation of t

##### Other provisions:

**National Oceanic :** of the National Oce tion Plan No 4 of 1' **Cabinet Committee mittee on Environ** 34 Fed. Reg. 8693, 35 Fed. Reg. 4247, Reg. 42839, provide

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"Section 101. Estab established the Cabi to as "the Cabinet C "(b) The President Cabinet Committee. President.

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man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(Jan. 1, 1970, P. L. 91-190, § 2, 83 Stat. 852.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Short title:**

Act Jan. 1, 1970, P. L. 91-190, § 1, 83 Stat. 852, provides: "This Act [42 USCS §§ 4321 et seq. generally; for full classification, consult USCS Tables volumes] may be cited as the 'National Environmental Policy Act of 1969'."

**Transfer of functions:**

Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 Fed. Reg. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, which appears as 5 USCS § 903 note, provided that enforcement functions of Secretary or other official in Department of Interior related to compliance with system activities requiring coordination and approval under 42 USCS §§ 4321 et seq., and enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with 42 USCS §§ 4321 et seq., with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System.

**Other provisions:**

**National Oceanic and Atmospheric Administration.** For establishment of the National Oceanic and Atmospheric Administration, see Reorganization Plan No 4 of 1970, which appears as 5 USCS § 903 note.

**Cabinet Committee on the Environment and Citizens' Advisory Committee on Environmental Quality.** Ex. Or. No. 11472 of May 29, 1969, 34 Fed. Reg. 8693, as amended by Ex. Or. No. 11514 of March 5, 1970, 35 Fed. Reg. 4247, Ex. Or. No. 12007 of Aug. 22, 1977, § 2(b), 42 Fed. Reg. 42839, provided:

"Part I. Cabinet Committee on the Environment

"Section 101. Establishment of the Cabinet Committee. (a) There is hereby established the Cabinet Committee on the Environment (hereinafter referred to as 'the Cabinet Committee').

"(b) The President of the United States shall preside over meetings of the Cabinet Committee. The Vice President shall preside in the absence of the President.

"(c) The Cabinet Committee shall be composed of the following members:

- "The Vice President of the United States
- "Secretary of Agriculture
- "Secretary of Commerce
- "Secretary of Health, Education and Welfare
- "Secretary of Housing and Urban Development
- "Secretary of the Interior



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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 [42 USCS §§ 4321 et seq.], 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.

(Jan. 1, 1970, P. L. 91-190, Title I, § 101, 83 Stat. 852.)

### HISTORY; ANCILLARY LAWS AND DIRECTIVES

#### Other provisions:

**Commission on Population Growth and the American Future.** Act March 16, 1970, P. L. 91-213, §§ 1-9, 84 Stat. 67, established the Commission on Population Growth and the American Future to conduct and sponsor such studies and research and make such recommendations as might be necessary to provide information and education to all levels of government in the United States, and to our people regarding a broad range of problems associated with population growth and their implications for America's future; prescribed the composition of the Commission; provided for the appointment of its members, and the designation of a Chairman and Vice Chairman; required a majority of the members of the Commission to constitute a quorum, but allowed a lesser number to conduct hearings; prescribed the compensation of members of the Commission; required the Commission to conduct an inquiry into certain prescribed aspects of

Commission's regula-  
s in areas of program  
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grounds (1980) 444 US  
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ENVIRONMENTAL POLICY

redevelopment authority violated National Environ-  
mental Policy Act (42 USCS §§ 4321 et seq.) and  
National Housing Act (42 USCS §§ 1441 et seq.)  
when they approved plan and subsequent modifica-  
tions for proposed demolition and commercial rede-  
velopment of city block, District Court had subject  
matter jurisdiction to enter consent decree requiring  
that affected properties be rehabilitated with maxi-  
mum participation by interested members of public,  
since, although terms of decree far exceed relief  
available under federal Acts, decree is directly re-  
sponsive to plaintiff's complaints under Acts. San-  
som Committee v Lynn (1984, CA3 Pa) 735 F2d  
1535, cert den (1984) 469 US 1017, 83 L Ed 2d 358,  
105 S Ct 431.

42 USCS § 4331 does not authorize courts to  
substitute its opinion for that of decision makers as  
to wisdom or desirability of contemplated project.  
Environmental Defense Fund, Inc. v Corps of Engi-  
neers of United States Army (1972, ND Miss) 348  
F Supp 916, 4 Evt Rep Cas 1408, 2 ELR 20536,  
affd (1974, CA5 Miss) 492 F2d 1123, 6 Evt Rep  
Cas 1513, 4 ELR 20329.

11. Standing

Farmers unaffected by construction of segment of  
highway involved in litigation would not have stand-  
ing to seek relief from such construction under  
National Environmental Policy Act. Swain v Brin-  
egar (1975, CA7 Ill) 517 F2d 766, 7 Evt Rep Cas  
2046, 21 FR Serv 2d 169, 5 ELR 20354.

Private parties have standing to enforce National  
Environmental Policy Act, 42 USCS §§ 4331 et seq.,  
as "private attorneys general". Rucker v Willis  
(1973, ED NC) 358 F Supp 425, 5 Evt Rep Cas  
1349, 17 FR Serv 2d 327, 3 ELR 20585, affd on  
other grounds (1973, CA4 NC) 484 F2d 158, 5 Evt  
Rep Cas 1817, 3 ELR 20912.

Fact that proposed hospital would be adversely af-  
fected by its environment because of its proximity to  
air force base gives no standing to older hospital in  
vicinity to bring action to enjoin construction of new  
hospital under National Environmental Policy Act;  
Act is concerned with impact of such construction  
upon environment, not effect of environment upon  
construction. Clinton Community Hosp. Corp. v  
Southern Maryland Medical Center (1974, DC Md)  
374 F Supp 450, 6 Evt Rep Cas 1505, 4 ELR  
20670, affd on other grounds (1975, CA4 Md) 510  
F2d 1037, 7 Evt Rep Cas 1655, 5 ELR 20180, cert

**§ 4332. Cooperation of agencies; reports; availability of informa-  
tion; recommendations; international and national coordination of  
efforts**

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

42 USCS § 4332

den (1975) 422 US 1048, 45 L Ed 2d 700, 95 S Ct  
2666.

In order to establish standing to bring action pur-  
suant to National Environmental Policy Act, 42  
USCS §§ 4321 et seq., plaintiff must satisfy two  
pronged test: he must allege that he has suffered or  
will suffer injury in fact, and he must seek to protect  
interest within zone of interests protected by Act.  
Dalsis v Hills (1976, WD NY) 424 F Supp 784, 9  
Evt Rep Cas 2020, 7 ELR 20256.

Association seeking to bring action in federal  
court may assert standing on its own behalf or on  
behalf of its members if it alleges that such members  
will be affected in their activities or pastimes by al-  
legedly illegal acts. College Gardens Civic Asso. v  
U. S. Dep't of Transp. (1981, DC Md) 522 F Supp  
377, 16 Evt Rep Cas 1455, 12 ELR 20237, affd  
(1982, CA4) 17 Evt Rep Cas 1175, 12 ELR 20681.

12. Private right of action

42 USCS § 4331 creates no substantive private  
rights against private defendants for damage to envi-  
ronment. Tanner v Armco Steel Corp. (1972, SD  
Tex) 340 F Supp 532, 3 Evt Rep Cas 1968, 2 ELR  
20246.

42 USCS § 4331 does not create any substantive  
private right in environmental protection area. Vir-  
ginians for Dulles v Volpe (1972, ED Va) 344 F  
Supp 573, 4 Evt Rep Cas 1233, 2 ELR 20360, affd  
in part and revd in part on other grounds (1976, CA4  
Va) 541 F2d 442, 9 Evt Rep Cas 1538, 6 ELR  
20581.

Congress has indicated that private environmental  
organizations should assist in enforcing National  
Environmental Policy Act (42 USCS §§ 4331 et  
seq.), and nonprofit organization with no apparent  
financial stake in outcome of suit would not be  
required to post security which might effectively de-  
ter it from bringing action in connection with pres-  
ervation of historic mansion. Wisconsin Heritages,  
Inc. v Harris (1979, ED Wis) 476 F Supp 300, 13  
Evt Rep Cas 1734, 28 FR Serv 2d 442, 10 ELR  
20142.

Broad declarations of national environmental  
policy in NEPA (42 USCS §§ 4321 et seq.) do not  
establish substantive rights and do not, standing  
alone, create "public trust lodged in" defendant mu-  
nicipal authorities. North Hempstead v North Hills  
(1979, ED NY) 482 F Supp 900, 14 Evt Rep Cas  
1460, 10 ELR 20404.

and administered in accordance with the policies set forth in this Act [42 USCS §§ 4321 et seq.], 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 decision-making 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 [42 USCS §§ 4341 et seq.], which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making 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) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts,

prepares a written statement in such detail

The procedures in his responsibilities or of any other agency [42 USCS § 4332 et seq.]; and further, the responsible official shall prepare [;]

(E) study, develop, and recommend courses of action concerning alternative

(F) recognize the problems and, where appropriate, recommend appropriate solutions to maximize international cooperation in the quality of man's environment

(G) make available to the public, through the media, information concerning the quality of the human environment

(H) initiate and utilize appropriate measures for the management of resource-oriented

(I) assist the Council on Environmental Quality in carrying out its functions under Act [42 USCS §§ 4332 et seq.]

(Jan. 1, 1970, P. L. 91-368, 84 Stat. 424.)

#### HISTORICAL

##### Explanatory note:

The bracketed semi-colon inserted as the punctuation mark at the end of the sentence.

##### Amendments:

1975. Act Aug. 9, 1975, P. L. 94-142, § 2, as subparas. (E), (F), and (D).

##### Other provisions:

**Certain commercial actions.** Act Dec. 19, 1969 (42 USCS § 701 note), which provides that the license for a launch site operator (the license) under section 70101 et seq., shall be issued for the purposes of section 70101 et seq. (42 U.S.C. 4332-1).

“(1) the Department of the Army and

“(2) the Army Corps of Engineers and

prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act [42 USCS §§ 4321 et seq.]; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction. [;]

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

(F) recognize the worldwide and longrange 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;

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

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

(I) assist the Council on Environmental Quality established by title II of this Act [42 USCS §§ 4341 et seq.].

(Jan. 1, 1970, P. L. 91-190, Title I, § 102, 83 Stat. 853; Aug. 9, 1975, P. L. 94-83, 89 Stat. 424.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

The bracketed semicolon in subpara. (D), in the concluding matter, has been inserted as the punctuation probably intended by Congress.

##### Amendments:

1975. Act Aug. 9, 1975, redesignated subparas. (D), (E), (F), (G), and (H) as subparas. (E), (F), (G), (H), and (I), respectively, and added new subpara. (D).

##### Other provisions:

**Certain commercial space launch activities not considered major Federal action.** Act Dec. 29, 1995, P. L. 104-88, Title IV, § 401, 109 Stat. 955 (effective Jan. 1, 1996, as provided by § 2 of such Act, which appears as 49 USCS § 701 note), provides: "The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code [49 USCS §§ 70101 et seq.], shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

"(1) the Department of the Army has issued a permit for the activity; and

"(2) the Army Corps of Engineers has found that the activity has no significant impact."

Commonwealth of Pennsylvania challenged action of federal government in granting right-of-way over federal land to site of observation tower to be constructed on private land adjacent to Gettysburg National Cemetery without first filing environmental impact statement. *Pennsylvania v Morton* (1974, DC Dist Col) 381 F Supp 293, 7 Env't Rep Cas 1274, 5 ELR 20008.

#### 466. Miscellaneous

Application of ICC and railroad companies for stay, pending appeal to Supreme Court, of preliminary injunction enjoining railroads from collecting freight rate surcharge permitted by ICC insofar as surcharge related to goods being transported for recycling (District Court having ruled that ICC's decision not to exercise its authority to suspend proposed surcharge was major federal action significantly affecting quality of human environment within meaning of 42 USCS § 4332) will be denied even though questions presented by appeal as to standing to sue, reviewability of ICC's action and applicability of National Environmental Policy Act

to other federal agencies were of such significance and difficulty that there was substantial prospect that they would be considered by full court where (1) some injury to interests of parties and public would occur whether stay was granted or denied, and (2) there was evidence arguably supporting District Court's conclusion that irreparable harm to environment would be likely result of allowing railroads to collect surcharge on recyclable goods since demand for such goods would be decreased. *Aberdeen & R. R. Co. v Students Challenging Regulatory Agency Procedures* (1972) 409 US 1207, 34 L Ed 2d 21, 93 S Ct 1, 4 Env't Rep Cas 1369, 2 ELR 20491.

Bond on appeal from denial of preliminary injunction in environmental case where private organization and citizens with limited resources obtained interlocutory injunction against construction by governmental entity which had been set at \$4,500,000 was unreasonable; however, bond in amount of \$1,000 was reasonable. *Friends of Earth, Inc. v Coleman* (1975, CA9 Cal) 518 F2d 323, 8 Env't Rep Cas 1617, 5 ELR 20428.

### § 4333. Conformity of administrative procedures to national environmental policy

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 [42 USCS §§ 4321 et seq.] 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 [42 USCS §§ 4321 et seq.].

(Jan. 1, 1970, P. L. 91-190, Title I, § 103, 83 Stat. 854.)

#### CODE OF FEDERAL REGULATIONS

Minerals Management Service, Department of the Interior—Prospecting for minerals other than oil, gas, and sulphur on the Outer Continental Shelf, 30 CFR Part 280.

Office of the Secretary, Department of Education—Disposal and utilization of surplus Federal real property for educational purposes, 34 CFR Part 12.

#### CROSS REFERENCES

This section is referred to in 42 USCS § 4334.

#### RESEARCH GUIDE

##### Federal Procedure:

11 Fed Proc L Ed, Environmental Protection §§ 32:171, 189, 193.

11A Fed Proc L Ed, Environmental Protection § 32:1908.

##### Am Jur:

61 Am Jur 2d, Pipelines § 13.

##### Forms:

12 Am Jur Pl & P

##### Annotations:

Construction and District Courts ori compel federal offi 13 ALR Fed 145.

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**§ 4334. Other statutory obligations of agencies**

Nothing in Section 102 or 103 [42 USCS §§ 4332, 4333] 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.

(Jan. 1, 1970, P. L. 91-190, Title I, § 104, 83 Stat. 854.)

**CODE OF FEDERAL REGULATIONS**

Nuclear Regulatory Commission—Environmental protection regulations for domestic licensing and related regulatory functions, 10 CFR Part 51.

Minerals Management Service, Department of the Interior—Prospecting for minerals other than oil, gas, and sulphur on the Outer Continental Shelf, 30 CFR Part 280.

Office of the Secretary, Department of Education—Disposal and utilization of surplus Federal real property for educational purposes, 34 CFR Part 12.

**RESEARCH GUIDE****Federal Procedure:**

11 Fed Proc L Ed, Environmental Protection §§ 32:171, 189, 193.

11A Fed Proc L Ed, Environmental Protection § 32:1908.

**Am Jur:**

61 Am Jur 2d, Pipelines § 13.

**Annotations:**

Construction and application of Wilderness Act (16 USCS §§ 1131 et seq.) providing for National Wilderness Preservation System. 14 ALR Fed 508.

Construction and application of §§ 101–105 of National Environmental Policy Act of 1969 (42 USCS §§ 4331–4335) requiring all federal agencies to consider environmental factors in their planning and decision making. 17 ALR Fed 33.

Authority of Secretary of Army to deny dredging and filling permit for ecological reasons under § 10 of Rivers and Harbors Act of 1899, 33 USCS § 403. 25 ALR Fed 706.

Validity, construction, and application of Endangered Species Act of 1973 (16 USCS §§ 1531–1543). 32 ALR Fed 332.

Construction and application of § 382(b) of Energy Policy and Conservation Act of 1975 (42 USCS § 6362(b)), requiring certain federal agencies to include, in any major regulatory action, statement of probable impact of such action on energy efficiency and conservation. 48 ALR Fed 895.

Necessity and sufficiency of environmental impact statements under § 102(2)(C) of National Environmental Policy Act of 1969 (42 USCS § 4332(2)(C)) in cases involving transportation projects. 62 ALR Fed 664.

Affirmative defenses in actions challenging omission or adequacy of environmental impact statement under § 102(2)(C) of National Environmental Policy Act of 1969 (42 USCS § 4332(2)(C)). 63 ALR Fed 18.

Necessity and sufficiency of environmental impact statements under sec. 102(2)(C) of National Environmental Policy Act of 1969 (42 USCS § 4332(2)(C)) in cases involving highway projects. 64 ALR Fed 15.

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**§ 4335. Efforts supplemental to existing authorizations**

The policies and goals set forth in this Act [42 USCS §§ 4321 et seq.] are supplementary to those set forth in existing authorizations of Federal agencies. (Jan. 1, 1970, P. L. 91-190, Title I, § 105, 83 Stat. 854.)

**CODE OF FEDERAL REGULATIONS**

Nuclear Regulatory Commission—Environmental protection regulations for domestic licensing and related regulatory functions, 10 CFR Part 51.

Minerals Management Service, Department of the Interior—Prospecting for minerals other than oil, gas, and sulphur on the Outer Continental Shelf, 30 CFR Part 280.

Office of the Secretary, Department of Education—Disposal and utilization of surplus Federal real property for educational purposes, 34 CFR Part 12.

**RESEARCH GUIDE**

**Federal Procedure:**

11 Fed Proc L Ed, Environmental Protection §§ 32:171, 172, 175, 177, 178, 181, 182, 184, 187, 189, 190, 193.

11A Fed Proc L Ed, Environmental Protection § 32:1908.

31 Fed Proc L Ed, Telecommunications § 72:196.

**Am Jur:**

61 Am Jur 2d, Pipelines § 13.

61B Am Jur 2d, Pollution Control § 102.

**Annotations:**

Applicability of Federal antitrust laws as affected by other Federal statutes or by Federal Constitution—Supreme Court cases. 45 L Ed 2d 841.

Construction and application of Wilderness Act (16 USCS §§ 1131 et seq.) providing for National Wilderness Preservation System. 14 ALR Fed 508.

Construction and application of provision of Federal Water Pollution Control Act (33 USCS § 1321(b)(5) and similar predecessor, formerly designated as 33 USCS § 1161(b)(4)) requiring person in charge of vessel, or onshore or offshore facility, to notify federal agency of prohibited discharge from such vessel or facility. 17 ALR Fed 804.

What constitutes "substantial evidence" within meaning of § 6(f) of the Occupational Safety and Health Act (29 USCS § 655(f)) providing that the Secretary of Labor's determinations shall be conclusive if supported by substantial evidence in the record considered as a whole. 25 ALR Fed 150.

Authority of Secretary of Army to deny dredging and filling permit for ecological reasons under § 10 of Rivers and Harbors Act of 1899, 33 USCS § 403. 25 ALR Fed 706.

Grant, administration, and construction, under Outer Continental Shelf Lands Act of 1953 (43 USCS §§ 1331 et seq.), of leases to explore for oil and gas deposits under continental shelf. 31 ALR Fed 615.

Validity, construction, and application of Endangered Species Act of 1973 (16 USCS §§ 1531-1543). 32 ALR Fed 332.

Construction, applicability, and effect of § 304 of Clean Air Amendments of 1970 (42 USCS § 1857h-2) in actions against alleged violators. 37 ALR Fed 320 (§ 6 superseded by Construction and application of 42 USCS

Wayman et al. Adequacy of Environmental Impact Statements and Development of State Law. 27 Sw L J 630, 1973.

Roe; Lean. Washington EPA and 1973 Amendments. 49 Wash L Rev 509, 1973-1974.

Comment: Requirement for an Impact Statement—Framework for Analysis. 49 Wash L Rev 939, 1973-1974.

#### INTERPRETIVE NOTES AND DECISIONS

Corps of Engineers' errors in denying permit for shopping mall require remand, where Corps exceeded its authority by denying permit based on socioeconomic harms to neighboring city and failing to provide developer with notice and opportunity to rebut governor's objections, because (1) when conducting public interest review, Corps' economic inquiry is confined to consideration of economic ef-

fects proximately related to environmental alterations when primary impact is on environment, (2) proposed mall would not have had significant effects on physical environment, and (3) regulations required opportunity to rebut all objections before final decision. Mall Properties, Inc. v Marsh (1987, DC Mass) 672 F Supp 561, 27 Env't Rep Cas 1008, 18 ELR 20135.

#### COUNCIL ON ENVIRONMENTAL QUALITY

##### CROSS REFERENCES

This subchapter is referred to in 42 USCS § 4332.

#### § 4341. Reports to Congress; recommendations for legislation

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. (Jan. 1, 1970, P. L. 91-190, Title II, § 201, 83 Stat. 854.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Other provisions:

**Termination of reporting requirements.** For termination, effective May 15, 2000, of provisions of this section relating to an annual report to Congress, see § 3003 of Act Dec. 21, 1995, P. L. 104-66, which appears as 31 USCS § 1113 note. See also item 1 on page 41 of House Document No. 103-7.

Application and construction of § 106 of the National Historic Preservation Act of 1966 (16 USCS § 470f), dealing with federally sponsored projects which affect historic properties. 68 ALR Fed 578.

**Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**§ 4342. Establishment; membership; chairman; appointments**

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 [42 USCS §§ 4331 et seq.]; 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.

(Jan. 1, 1970, P. L. 91-190, Title II, § 202, 83 Stat. 854.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

**Other provisions:**

**Composition of Council on Environmental Quality.** Act Jan. 23, 2004, P. L. 108-199, Div G, Title III, 118 Stat. 408, provides: "Notwithstanding section 202 of the National Environmental Policy Act of 1970 [this section], the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council."

Similar provisions were contained in the following Acts: Oct. 27, 1997, P. L. 105-65, Title III, 111 Stat. 1375; Oct. 21, 1998, P. L. 105-276, Title III, 112 Stat. 2500; Oct. 20, 1999, P. L. 106-74, Title III, 113 Stat. 1084; Oct. 27, 2000, P. L. 106-377, § 1(a)(1), 114 Stat. 1441 (enacting into law Title III of H.R. 5482 (114 Stat. 1441A-36), as introduced on Oct. 18, 2000); Nov. 26, 2001, P. L. 107-73, Title III, 115 Stat. 686; Feb. 20, 2003, P. L. 108-7, Div K, Title III, 117 Stat. 514.

**RESEARCH GUIDE**

**Am Jur:**

61 Am Jur 2d, Pipelines § 13.

61B Am Jur 2d, Pollution Control § 99.

**Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**§ 4343. Employment of personnel, experts and consultants**

(a) The Council may employ such officers and employees as may be necessary

to carry out its functions under this Act [42 USCS §§ 4321 et seq.]. 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 [42 USCS §§ 4321 et seq.], in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) [31 USCS § 1342], the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

(Jan. 1, 1970, P. L. 91-190, Title II, § 203, 83 Stat. 855; July 3, 1975, P. L. 94-52, § 2, 89 Stat. 258.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

In subsec. (b), "31 USCS § 1342" has been inserted in brackets pursuant to § 4(b) of Act Sept. 13, 1982, P. L. 97-258, which appears as a note preceding 31 USCS § 101. Section 1 of such Act enacted Title 31 as positive law, and § 4(b) of such Act provided that a reference to a law replaced by § 1 of such Act is deemed to refer to the corresponding provision enacted by such Act.

##### Amendments:

1975. Act July 3, 1975 designated the existing provisions as subsec. (a); and added subsec. (b).

#### RESEARCH GUIDE

##### Am Jur:

61 Am Jur 2d, Pipelines § 13.

##### Texts:

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

#### § 4344. Duties and functions

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 [42 USCS § 4341];

(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 interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act [42 USCS §§ 4331 et seq.], 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 [42 USCS §§ 4331 et seq.] 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;

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- (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. (Jan. 1, 1970, P. L. 91-190, Title II, § 204, 83 Stat. 855.)

### HISTORY; ANCILLARY LAWS AND DIRECTIVES

#### Transfer of functions:

Reorg. Plan No. 3 of 1970, § 2(a)(5), effective Dec. 2, 1970, 35 Fed. Reg. 15623, 84 Stat. 2086, which appears as 5 USCS § 903 note and 42 USCS § 4321 note, transferred to the Administrator of the Environmental Protection Agency so much of the functions of the Council on Environmental Quality under paragraph (5) of this section as pertains to ecological systems.

### RESEARCH GUIDE

#### Am Jur:

- 61 Am Jur 2d, Pipelines § 13.  
61B Am Jur 2d, Pollution Control §§ 99, 100.

#### Texts:

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

### INTERPRETIVE NOTES AND DECISIONS

1. Generally
2. Deference and weight of opinions

#### 1. Generally

In order to carry out its mandate under 42 USCS § 4344, Council on Environmental Quality must be apprised of agency actions having environmental consequences; Council's function is in no way regulatory, instead, apparent purpose of Council is to review federal programs and activities so as to keep President informed on extent to which these activities may affect policies set forth in Act. National Helium Corp. v Morton (1971, CA10 Kan) 455 F2d 650, 3 Env't Rep Cas 1129, 1 ELR 20478, 42 OGR 1.

#### 2. Deference and weight of opinions

Council on Environmental Quality's interpretation of § 102(2)(C) of National Environmental Policy Act of 1969 (42 USCS § 4332(2)(C)) as not requiring

federal agencies to submit environmental impact statements with appropriation requests is entitled to substantial deference, even though it represents reversal of Council's prior interpretation of § 102(2)(C), where reversal occurred during detailed comprehensive process, ordered by President of United States of transforming prior advisory guidelines into mandatory regulations. *Andrus v Sierra Club* (1979) 442 US 347, 60 L Ed 2d 943, 99 S Ct 2335, 13 Env't Rep Cas 1161, 9 ELR 20390.

Guidelines established by Council on Environmental Quality, explaining requirements of National Environmental Policy Act, are merely advisory, as Council does not have authority to prescribe regulations governing compliance with Act. *Hiram Clarke Civic Club v Lynn* (1973, CA5 Tex) 476 F2d 421, 5 Env't Rep Cas 1177, 3 ELR 20287 (criticized in *Friends of Fiery Gizzard v Farmers Home Admin.* (1995, CA6 Tenn) 61 F3d 501, 41 Env't Rep Cas 1569, 25 ELR 21536, 1995 FED App 239P).

## 42 USCS § 4344, n 2

Creation of Council on Environmental Quality as agency whose sole purpose is to implement and monitor National Environmental Policy Act and active role of Council in Act's application requires that its guidelines as to applicability of Act to federal agency action should be given substantial weight. *Carolina Action v Simon* (1975, CA4 NC) 522 F2d 295, 8 *Env't Rep Cas* 1399.

Council on Environmental Quality regulations which implement NEPA are entitled to substantial deference. *Dubois v United States Dep't of Agric.* (1996, CA1 NH) 102 F3d 1273, 43 *Env't Rep Cas* 1824, 27 *ELR* 20622, cert den (1997) 521 US 1119, 138 L Ed 2d 1013, 117 S Ct 2510, 45 *Env't Rep Cas* 1416.

While Council on Environmental Quality is not strictly charged with administration of National Environmental Policy Act, it is charged with duty of

reviewing and appraising agency compliance with statutes, and so is entitled to deference, which deference is heightened when administrative interpretation is adopted soon after passage of legislation. *Sierra Club v Morton* (1975, App DC) 169 US App DC 20, 514 F2d 856, 7 *Env't Rep Cas* 1977, 5 *ELR* 20463, rev'd on other grounds (1976) 427 US 390, 49 L Ed 2d 576, 96 S Ct 2718, 8 *Env't Rep Cas* 2169, 6 *ELR* 20532.

Although guidelines of Council on Environmental Quality developed under 42 USCS § 4344 are merely advisory, construction placed on NEPA by agency charged with responsibility of developing national policies to "foster and promote improvement of environmental quality" is entitled to considerable weight. *County of Trinity v Andrus* (1977, ED Cal) 438 F Supp 1368, 8 *ELR* 20129.

## § 4345. Consultation with the Citizens' Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this Act [42 USCS §§ 4321 et seq.], 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.

(Jan. 1, 1970, P. L. 91-190, Title II, § 205, 83 Stat. 855.)

### HISTORY; ANCILLARY LAWS AND DIRECTIVES

#### References in text:

"Executive Order numbered 11472, dated May 29, 1969," referred to in this section, appears as 42 USCS § 4321 note.

#### Other provisions:

**Citizens Advisory Committee on Environmental Quality.** For provisions relating to termination of Citizens' Advisory Committee on Environmental Quality, see Ex. Or. No. 12007 of Aug. 22, 1977, 42 Fed. Reg. 42839, which appears as 5 USCS Appx. note.

### RESEARCH GUIDE

#### Am Jur:

61 Am Jur 2d, Pipelines § 13.

#### Texts:

Yannacone, Cohen and Davison, *Environmental Rights and Remedies*.

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**§ 4346. Tenure and compensation of members**

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 or [of] the Executive Schedule Pay Rates (5 U.S.C. 5315).

(Jan. 1, 1970, P. L. 91-190, Title II, § 206, 83 Stat. 856.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****Explanatory notes:**

The bracketed word "of" has been inserted in the second sentence of this section as the word probably intended by Congress.

**RESEARCH GUIDE****Am Jur:**

61 Am Jur 2d, Pipelines § 13.

**Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**§ 4346a. Travel reimbursement by private organizations and Federal, State, and local governments**

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

(Jan. 1, 1970, P. L. 91-190, Title II, § 207, as added July 3, 1975, P. L. 94-52, § 3, 89 Stat. 258.)

**RESEARCH GUIDE****Am Jur:**

61 Am Jur 2d, Pipelines § 13.

**§ 4346b. Expenditures in support of international travel**

The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the support of international exchange programs in the United States and in foreign countries.

(Jan. 1, 1970, P. L. 91-190, Title II, § 208, as added July 3, 1975, P. L. 94-52, § 3, 89 Stat. 258.)

**RESEARCH GUIDE****Am Jur:**

61 Am Jur 2d, Pipelines § 13.

**§ 4347. Authorization of appropriation**

There are authorized to be appropriated to carry out the provisions of this Act [42 USCS §§ 4321 et seq.] not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter. (Jan. 1, 1970, P. L. 91-90, Title II, § 209 [207], 83 Stat. 856; July 3, 1975, P. L. 94-52, § 3, 89 Stat. 258.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****Redesignation:**

Act July 3, 1975, P. L. 94-52, § 3, 89 Stat. 258 redesignated this section, formerly § 207 of Act Jan. 1, 1970, P. L. 91-90, 83 Stat. 856, as § 209 of such Act.

**RESEARCH GUIDE****Am Jur:**

61 Am Jur 2d, Pipelines § 13.

**Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**MISCELLANEOUS PROVISIONS****§ 4361. [Repealed]****HISTORY; ANCILLARY LAWS AND DIRECTIVES**

This section (Act Oct. 11, 1976, P. L. 94-475, § 5, 90 Stat. 2071) was repealed by Act Dec. 21, 1995, P. L. 104-66, Title II, Subtitle B, § 2021(k)(1), 109 Stat. 728. It provided for a plan for research, development, and demonstration.

**§ 4361a. [Repealed]****HISTORY; ANCILLARY LAWS AND DIRECTIVES**

This section (Act Nov. 8, 1977, P. L. 95-155, § 4, 91 Stat. 1258) was repealed by Act Dec. 21, 1995, P. L. 104-66, Title II, Subtitle B, § 2021(k)(2), 109 Stat. 728. It provided for budget projections in annual revisions of plan for research, development, and demonstration.

**§ 4361b. Implementation by Administrator of Environmental Protection Agency of recommendations of "CHESS" Investigative Report; waiver; inclusion of status of implementation requirements in annual revisions of plan for research, development, and demonstration**

The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science

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and Technology [Committee on Science, Space, and Technology] entitled "The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report", unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 5 of Public Law 94-475 [42 USCS § 4361].

(Nov. 8, 1977, P. L. 95-155, § 10, 91 Stat. 1262.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

The bracketed words "Committee on Science, Space, and Technology" have been inserted on authority of § 1(a) of Act June 3, 1995, P. L. 104-14, which appears as 2 USCS prec § 21 note.

This section was enacted as part of Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257 and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

#### CODE OF FEDERAL REGULATIONS

Office of the Secretary of Agriculture—National Environmental Policy Act, 7 CFR Part 1b.

Animal and Plant Health Inspection Service, Department of Agriculture—National Environmental Policy Act implementing procedures, 7 CFR Part 372.

Agricultural Research Service, Department of Agriculture—Procedures for implementing National Environmental Policy Act, 7 CFR Part 520.

Natural Resources Conservation Service, Department of Agriculture—Compliance with NEPA, 7 CFR Part 650.

Rural Utilities Service, Department of Agriculture—Environmental policies and procedures, 7 CFR Part 1794.

Office of Environmental Quality, Department of Agriculture—Cultural and environmental quality, 7 CFR Part 3100.

Cooperative State Research, Education, and Extension Service, Department of Agriculture—Implementation of National Environmental Policy Act, 7 CFR Part 3407.

Department of Energy (General Provisions)—National Environmental Policy Act implementing procedures, 10 CFR Part 1021.

Export-Import Bank of the United States—Procedures for compliance with the National Environmental Policy Act, 12 CFR Part 408.

Federal Aviation Administration, Department of Transportation—Certification procedures for products and parts, 14 CFR Part 21.

Federal Aviation Administration, Department of Transportation—Fuel venting and exhaust emission requirements for turbine engine powered airplanes, 14 CFR Part 34.

Bureau of Land Management, Department of the Interior—Management of existing leases, 43 CFR Part 3450.

Bureau of Land Management, Department of the Interior—Solid minerals (other than coal) exploration and mining operations, 43 CFR Part 3590.

Federal Emergency Management Agency—Environmental considerations, 44 CFR Part 10.

Coast Guard, Department of Transportation—Certification of seamen, 46 CFR Part 12.

Coast Guard, Department of Transportation—Inspection and certification, 46 CFR Part 31.

Coast Guard, Department of Transportation—Commercial fishing vessels dispensing petroleum products, 46 CFR Part 105.

Federal Transit Administration, Department of Transportation—Environmental impact and related procedures, 49 CFR Part 622.

Marine Mammal Commission—Compliance with the National Environmental Policy Act, 50 CFR Part 530.

#### § 4361c. Staff management

- (a) **Appointments for educational programs.** (1) The Administrator is authorized to select and appoint up to 75 full-time permanent staff members in the Office of Research and Development to pursue full-time educational programs for the purpose of (A) securing an advanced degree or (B) securing academic training, for the purpose of making a career change in order to better carry out the Agency's research mission.
- (2) The Administrator shall select and appoint staff members for these assignments according to rules and criteria promulgated by him. The Agency may continue to pay the salary and benefits of the appointees as well as reasonable and appropriate relocation expenses and tuition.
- (3) The term of each appointment shall be for up to one year, with a single renewal of up to one year in appropriate cases at the discretion of the Administrator.
- (4) Staff members appointed to this program shall not count against any Agency personnel ceiling during the term of their appointment.
- (b) **Post-doctoral research fellows.** (1) The Administrator is authorized to appoint up to 25 Post-doctoral Research Fellows in accordance with the provisions of section 213.3102(aa) of title 5 of the Code of Federal Regulations.
- (2) Persons holding these appointments shall not count against any personnel ceiling of the Agency.
- (c) **Non-government research associates.** (1) The Administrator is authorized and encouraged to utilize research associates from outside the Federal Government in conducting the research, development, and demonstration programs of the agency.
- (2) These persons shall be selected and shall serve according to rules and criteria promulgated by the Administrator.
- (d) **Women and minority groups.** For all programs in this section, the

Administrator shall place special emphasis on providing opportunities for education and training of women and minority groups.

(Oct. 18, 1978, P. L. 95-477, § 6, 92 Stat. 1510.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act Oct. 18, 1978, P. L. 95-477, 92 Stat. 1507 and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

##### Other provisions:

**Temporary or intermittent employment of students or recent graduates by Office of Research and Development.** Act Feb. 20, 2003, P. L. 108-7, Div K, Title III, 117 Stat. 509, provides: "The Office of Research and Development of the Environmental Protection Agency may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent personal services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code [5 USCS §§ 5701 et seq., 8101 et seq.], relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code [28 USCS §§ 2671 et seq.], relating to tort claims, but shall not be considered to be Federal employees for any other purposes."

#### § 4362. Interagency cooperation on prevention of environmental cancer and heart and lung disease

(a) Not later than three months after the date of enactment of this section [enacted Aug. 7, 1977], there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Occupational Safety and Health, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

(b) The Task Force shall—

- (1) recommend a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;
- (2) recommend comprehensive strategies to reduce or eliminate the risks of cancer or such other diseases associated with environmental pollution;
- (3) recommend research and such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;
- (4) coordinate research by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare [Department of Health and Human Services], and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

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(5) report to Congress, not later than one year after the date of enactment of this section [enacted Aug. 7, 1977] and annually thereafter, on the problems and progress in carrying out this section.  
(Aug. 7, 1977, P. L. 95-95, Title IV, § 402, 91 Stat. 791.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act Aug. 7, 1977, P. L. 95-95, 91 Stat. 685 and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

The bracketed words "Department of Health and Human Services" have been inserted on authority of Act Oct. 17, 1979, P. L. 96-88, Title V, § 509, 93 Stat. 695, which appears as 20 USCS § 3508, and which redesignated the Department of Health, Education, and Welfare as the Department of Health and Human Services and provided that any reference to the Department of Health, Education, and Welfare, in any law in force on the effective date of such Act Oct. 17, 1979, shall be deemed to refer and apply to the Department of Health and Human Services, except to the extent such reference is to a function or office transferred to the Secretary of Education or the Department of Education under such Act Oct. 17, 1979.

##### Other provisions:

##### Effective date and application of amendment made by Act Aug. 7, 1977.

Act Aug. 7, 1977, P. L. 95-95, Title IV, § 406, 91 Stat. 795, as amended by Nov. 16, 1977, P. L. 95-190, § 14(b)(6), which appears as 42 USCS § 7401 note, provided that this section is effective Aug. 7, 1977, except as otherwise expressly provided in such 42 USCS § 7401 note.

**Termination of reporting requirements.** For termination, effective May 15, 2000, of provisions in subsecs. (b)(5) of this section relating to annual reports to Congress, see § 3003 of Act Dec. 21, 1995, P. L. 104-66, which appears as 31 USCS § 1113 note. See also item 18 page 164 of House Document No. 103-7.

#### CROSS REFERENCES

This section is referred to in 42 USCS § 4362a.

#### RESEARCH GUIDE

##### Texts:

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

#### § 4362a. Task Force on Environmental Cancer and Heart and Lung Disease; membership of Director of National Center for Health Statistics and of head of Center for Disease Control

The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 402 of Public Law 95-95 [42 USCS § 4362].  
(Nov. 9, 1978, P. L. 95-623, § 9, 92 Stat. 3455.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****Explanatory notes:**

This section was enacted as part of Act Nov. 9, 1978, P. L. 95-623, 92 Stat. 3443 and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

**§ 4363. Continuing and long-term environmental research and development**

The Administrator shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in subsection (a) of this section. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in subsection (a) of this section shall be obligated and expended for such long-term environmental research and development under this subsection.

(Dec. 22, 1980, P. L. 96-569, § 2(f), 94 Stat. 3337.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****References in text:**

"Subsection (a) of this section", referred to in this section, is § 2(a) of Act Dec. 22, 1980, P. L. 96-569, 94 Stat. 3335, which provides for appropriation of funds and is unclassified.

**Explanatory notes:**

This section was not enacted as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

Similar provisions were contained in Act Nov. 7, 1977, P. L. 95-155, § 6(a), 91 Stat. 1259 and Act April 7, 1980, P. L. 96-229, § 2(e), 94 Stat. 327.

**RESEARCH GUIDE****Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**§ 4363a. Pollution control technologies demonstrations**

(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(April 7, 1980, P. L. 96-229, § 2(d), 94 Stat. 327.)

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**HISTORY; ANCILLARY LAWS AND DIRECTIVES****References in text:**

“The Clean Air Act”, referred to in this section, is Act July 14, 1955, ch 360, 69 Stat. 322, as generally amended by Act Dec. 17, 1963, P. L. 88-206, 77 Stat. 392, which formerly appeared as 42 USCS §§ 1857 et seq. prior to its general amendment by Act Aug. 7, 1977, P. L. 95-95, 91 Stat. 1685, and now appears as 42 USCS §§ 7401 et seq.

“The Federal Water Pollution Control Act”, referred to in this section is Act June 30, 1948, ch 758, Titles I-V, as added Oct. 18, 1972, P. L. 92-500, § 2, 86 Stat. 816, and Dec. 27, 1977, P. L. 95-217, §§ 39-41, 91 Stat. 1581, which is classified to 33 USCS §§ 1251 et seq. For previous versions of this Act, see Explanatory note at 33 USCS § 1251.

“This Act”, referred to in this section, is Act April 7, 1980, P. L. 96-229, 94 Stat. 325, which, among other things, enacted this section. For full classification of such Act, consult USCS Tables Volumes.

**Explanatory notes:**

This section was enacted as part of Act April 7, 1980, P. L. 96-229, 94 Stat. 325, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

Similar provisions were contained in Act Oct. 18, 1978, P. L. 95-477, § 2(d), 92 Stat. 1508.

**§ 4364. Expenditure of funds for research and development related to regulatory program activities**

**(a) Coordination, etc., with research needs and priorities of program offices and Environmental Protection Agency.** The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

**(b) Program offices subject to coverage.** For purposes of subsection (a), the appropriate program offices are—

- (1) the Office of Air and Waste Management, for air quality activities;
- (2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;
- (3) the Office of Pesticides, for environmental effects of pesticides;
- (4) the Office of Solid Waste, for solid waste activities;
- (5) the Office of Toxic Substances, for toxic substance activities;
- (6) the Office of Radiation Programs, for radiation activities; and
- (7) the Office of Noise Abatement and Control, for noise activities.

**(c) Report to Congress; contents.** The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the

needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

(Nov. 8, 1977, P. L. 95-155, § 7, 91 Stat. 1259.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This Act", referred to in this section, is Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257, which, among other things, enacted this section. For full classification of such Act, consult USCS Tables volumes.

##### Explanatory notes:

This section was enacted as part of Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257 and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

#### RESEARCH GUIDE

##### Texts:

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

#### § 4365. Science Advisory Board

**(a) Establishment; requests for advice by Administrator of Environmental Protection Agency and Congressional committees.** The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and Public Works of the United States Senate, or the Committee on Science, Space, and Technology, on Energy and Commerce, or on Public Works and Transportation of the House of Representatives.

**(b) Membership; Chairman; meetings; qualifications of members.** Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

**(c) Proposed environmental criteria, document, standard, limitation, or regulation; functions respecting in conjunction with Administrator.** (1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act, the Federal Water Pollution Control Act, the Resource, Conservation and Recovery Act of 1976, the Noise Control Act, the Toxic Substances Control Act, or the Safe Drinking Water Act, or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

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(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

**(d) Utilization of technical and scientific capabilities of Federal agencies and national environmental laboratories for determining adequacy of scientific and technical basis of proposed criteria document, etc.** In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

**(e) Member committees and investigative panels; establishment; chairmanship.** The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.

**(f) Appointment and compensation of secretary and other personnel; compensation of members.** (1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code [5 USCS §§ 5101 et seq., 5331 et seq.].

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code [5 USCS § 5332 note].

**(g) Consultation and coordination with Scientific Advisory Panel.** In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act [7 USCS § 136w(d)], as amended.

(Nov. 8, 1977, P. L. 95-155, § 8, 91 Stat. 1260; Dec. 22, 1980, P. L. 96-569, § 3, 94 Stat. 3337; Nov. 2, 1994, P. L. 103-437, § 15(o), 108 Stat. 4593; Dec. 21, 1995, P. L. 104-66, Title II, Subtitle B, § 2021(k)(3), 109 Stat. 728.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This Act", referred to in this section, is Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257, popularly known as the "Environmental Research, Development, and Demonstration Authorization Act of 1978". For full classification of such Act, consult USCS Tables volumes.

The "Clean Air Act", referred to in this section, is Act July 14, 1955, ch 360, 69 Stat. 322, as generally amended by Act Dec. 17, 1963, P. L. 88-206, 77 Stat. 392, which formerly appeared as 42 USCS §§ 1857 et seq. prior to its general amendment by Act Aug. 7, 1977, P. L. 95-95, 91 Stat. 1685, and now appears as 42 USCS §§ 7401 et seq.

**Texts:**Yannacone, Cohen and Davison, *Environmental Rights and Remedies*.**INTERPRETIVE NOTES AND DECISIONS**

Language of 42 USCS § 4365 indicates that criteria document for standards promulgated by EPA under Clean Air Act (42 USCS § 7401) must be presented to Science Advisory Board (SAB) but that SAB approval is not required before EPA may proceed to final stage of rule making; SAB is intended to be advisory only and statutory intent is to insure that SAB is able to comment in well-

informed manner on any regulation that it so desires but that it need not mandatorily make such comment. *American Petroleum Institute v Costle* (1981, App DC) 214 US App DC 358, 665 F2d 1176, 16 Env't Rep Cas 1435, 11 ELR 20916, cert den (1982) 455 US 1034, 72 L Ed 2d 152, 102 S Ct 1737, 17 Env't Rep Cas 1104.

**§ 4366. Identification and coordination of research, development, and demonstration activities**

**(a) Consultation and cooperation of Administrator of Environmental Protection Agency with heads of Federal agencies; inclusion of activities in annual revisions of plan for research, etc.** The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

- (1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;
- (2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and
- (3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.

The Administrator shall include in each annual revision of the five-year plan provided for by section 5 of Public Law 94-475 a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

**(b) Coordination of programs by Administrator.** The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

**(c) Joint study by Council on Environmental Quality in consultation with Office of Science and Technology Policy for coordination of activities; report to President and Congress; report by President to Congress on implementation of joint study and report.** (1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) and otherwise) to bring about such coordination will be as effective as possible

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for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

(Nov. 8, 1977, P. L. 95-155, § 9, 91 Stat. 1261.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“Section 5 of Public Law 94-475”, which formerly appeared as 42 USCS § 4361, was repealed by § 2021(k)(1) of Act Dec. 21, 1995, P. L. 104-66.

##### Explanatory notes:

This section was enacted as part of Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

##### Other provisions:

**Coordination of environmental research, development, and demonstration efforts; study and report.** Act Oct. 18, 1978, P. L. 95-477 § 3(c), 92 Stat. 1509, authorized to be appropriated to the Environmental Protection Agency for the fiscal year 1979, \$1,000,000, and for the fiscal year 1980, \$1,000,000, for a study and report, under a contract let by the Administrator, to be conducted outside the Federal Government, on coordination of the Federal Government's efforts in environmental research, development, and demonstration, and the application of the results of such efforts to environmental problems, with the report on the study submitted to the President, the Administrator, and the Congress within two years after Oct. 18, 1978, accompanied by recommendations for action by the President, the Administrator, other agencies, or the Congress, as may be appropriate.

#### RESEARCH GUIDE

##### Texts:

Yannacone, Cohen and Davison, *Environmental Rights and Remedies*.

**§ 4366a. Environmental Protection Agency [Caution: This section ceased to be effective on November 16, 2000, pursuant to § 6 of Act Nov. 16, 1990, P. L. 101-617, which appears in the note to this section.]**

(a) **Research journals.** Within 6 months following the date of the enactment of this Act [enacted Nov. 16, 1990], and from time to time thereafter, the

Environmental Protection Agency shall identify not less than 35 important environmental research journals, conference proceedings or other reference sources in which scientific research or engineering studies related to air, water, or soil quality or pollution or other environmental issues are routinely published. In carrying out the requirements of this subsection, at least 50 journals or proceedings shall be reviewed.

**(b) Index.** (1) Within 12 months following the date of the enactment of this Act [enacted Nov. 16, 1990], and annually thereafter, the Environmental Protection Agency shall review the journals and other materials identified in subsection (a) and compile, maintain and publish an index of the articles contained therein during the preceding calendar year by geographic location. A copy of such index shall be made available to the Service for distribution to the public, and a copy shall be submitted to the Congress not less than 30 days prior to the date on which it is made available to the Service.

(2) Beginning 12 months after the date of the enactment of this Act [enacted Nov. 16, 1990], the Agency shall identify not less than 20 materials identified in subsection (a) which were published during the time period from 1970 to the year preceding enactment, and shall compile and publish a series of indices of articles contained therein by geographic location. The time frame which each index contains should not exceed 5 years.

**(c) Purchase of information.** The Environmental Protection Agency is authorized to enter into contracts or other arrangements for the acquisition of data and other information necessary for purposes of this Act.

**(d) Revising list.** The Environmental Protection Agency shall review the list of references developed under this section at least biennially and shall revise the list of sources as appropriate.

**(e) Specific location of research projects.** Unless exempted by the Administrator of the Environmental Protection Agency, all reports resulting from research projects sponsored by the Environmental Protection Agency and initiated after the expiration of the 36-month period following the date of enactment of this Act [enacted Nov. 16, 1990] shall indicate the specific location to which the research pertains.

(Nov. 16, 1990, P. L. 101-617, § 4, 104 Stat. 3287.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“This Act”, referred to in this section, is Act Nov. 16, 1990, P. L. 101-617, 104 Stat. 3287, which appears as this section and note to this section.

##### Other provisions:

**Environmental Research Geographic Location Information Act.** Act Nov. 16, 1990, P. L. 101-617, §§ 1-3, 5, 6, 104 Stat. 3287, 3288, provides:

“Section 1. Short title.

“This Act [this section and this note] may be cited as the “Environmental Research Geographic Location Information Act”.

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“The Congress finds that—

“(1) at present, there is no reliable method of locating private or Government research on environmental issues by geographic location; and

“(2) a means of identifying environmental research conducted at specific geographic locations is needed for purposes such as detecting trends in environmental quality, assisting the public in learning about the quality and issues of their local environment, and providing a data base for identifying areas of critical environmental concern.

“Sec. 3. Purpose.

“The purpose of this Act [this section and this note] is to develop a data base of environmental research articles indexed by geographic location.

\* \* \* \* \*

“Sec. 5. Authorizations.

“There are authorized to be appropriated such sums as may be necessary to carry out this Act [this section and this note].

“Sec. 6. Expiration of Act.

“This Act [this section and this note] shall expire 10 years after the date of its enactment.”

### **§ 4367. Reporting requirements of financial interests of officers and employees of Environmental Protection Agency**

**(a) Covered officers and employees.** Each officer or employee of the Environmental Protection Agency who—

- (1) performs any function or duty under this Act; and
- (2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act,

shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

**(b) Implementation of requirements by Administrator.** The Administrator shall—

- (1) act within ninety days after the date of enactment of this Act [enacted Nov. 8, 1977]

(A) to define the term “known financial interest” for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

- (2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) **Exemption of positions by Administrator.** In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) **Violations; penalties.** Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.  
(Nov. 8, 1977, P. L. 95-155, § 12, 91 Stat. 1263.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“This Act”, referred to in this section, is Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257, which, among other things, enacted this section. For full classification of such Act, consult USCS Tables volumes.

##### Explanatory notes:

This section was enacted as part of Act Nov. 8, 1977, P. L. 95-155, 91 Stat. 1257, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

#### RESEARCH GUIDE

##### Texts:

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

#### § 4368. Grants to qualified citizens groups

- (1) There is authorized to be appropriated to the Environmental Protection Agency, for grants to qualified citizens groups in States and regions, \$3,000,000.
- (2) Grants under this subsection may be made for the purpose of supporting and encouraging participation by qualified citizens groups in determining how scientific, technological, and social trends and changes affect the future environment and quality of life of an area, and for setting goals and identifying measures for improvement.
- (3) The term “qualified citizens group” shall mean a nonprofit organization of citizens having an area based focus, which is not single-issue oriented and which can demonstrate a prior record of interest and involvement in goal-setting and research concerned with improving the quality of life, including plans to identify, protect and enhance significant natural and cultural resources and the environment.
- (4) A citizens group shall be eligible for assistance only if certified by the Governor in consultation with the State legislature as a bona-fide organization entitled to receive Federal assistance to pursue the aims of this program. The group shall further demonstrate its capacity to employ usefully the funds for the purposes of this program and its broad-based representative nature.
- (5) After an initial application for assistance under this section has been ap-

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proved, the Administrator may make grants on an annual basis, on condition that the governor recertify the group and that the applicant submits to the Administrator annually—

(A) an evaluation of the progress made during the previous year in meeting the objectives for which the grant was made;

(B) a description of any changes in the objectives of the activities; and

(C) a description of the proposed activities for the succeeding one year period.

(6) A grant made under this program shall not exceed 75 per centum of the estimated cost of the project or program for which the grant is made, and no group shall receive more than \$50,000 in any one year.

(7) No financial assistance provided under this subsection shall be used to support lobbying or litigation by any recipient group.

(Oct. 18, 1978, P. L. 95-477, § 3(d), 92 Stat. 1509.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“This section”, referred to in para. (5), means § 3 of Act Oct. 18, 1978, P. L. 95-477, 92 Stat. 1509, in its entirety, subsec. (d) of which enacted this section, subsecs. (a) and (b) of which were not classified to the Code, and subsec. (c) of which appears as 42 USCS § 4366 note.

##### Explanatory notes:

This section was enacted as part of Act Oct. 18, 1978, P. L. 95-477, 92 Stat. 1507, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

#### RESEARCH GUIDE

##### Texts:

Yannacone, Cohen and Davison, *Environmental Rights and Remedies*.

#### § 4368a. Utilization of talents of older Americans in projects of pollution prevention, abatement, and control

(a) **Technical assistance to environmental agencies.** Notwithstanding any other provision of law relating to Federal grants and cooperative agreements, the Administrator of the Environmental Protection Agency is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 [42 USCS §§ 3056 et seq.] to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Administrator (and consistent with such provisions of law) in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control. Funding for such grants or agreements may be made available from such programs or through title V of the Older Americans Act of 1965 [42 USCS §§ 3056 et seq.] and subtitle D of title I of the Workforce Investment Act of 1998 [29 USCS §§ 2911 et seq.].

**(b) Pre-award certifications.** Prior to awarding any grant or agreement under subsection (a), the applicable Federal, State, or local environmental agency shall certify to the Administrator that such grants or agreements will not—

- (1) result in the displacement of individuals currently employed by the environmental agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);
- (2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the environmental agency concerned; or
- (3) affect existing contracts for services.

**(c) Prior appropriation Acts.** Grants or agreements awarded under this Act shall be subject to prior appropriation Acts.

(June 12, 1984, P. L. 98-313, § 2, 98 Stat. 235; Oct. 21, 1998, P. L. 105-277, Div A, § 101(f) [Title VIII, Subtitle IV, § 405(d)(35), (f)(27)], 112 Stat. 2681-426, 2681-434.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

“This Act”, referred to in this section, is Act June 12, 1984, P. L. 98-313, 98 Stat. 235, which enacted this section and a note to this section.

##### Explanatory notes:

This section was enacted as part of the Environmental Programs Assistance Act of 1984, and not as part of Act Jan. 1, 1970, P. L. 91-180, 83 Stat. 852, which generally comprises this chapter.

##### Amendments:

**1998.** Act Oct. 21, 1998 (effective on enactment as provided by § 405(g)(1) of Subtitle IV of Title VIII of § 101(f) of Division A of such Act, which appears as 5 USCS § 3502 note), in subsec. (a), substituted “and title IV of the Job Training Partnership Act or subtitle D of title I of the Workforce Investment Act of 1998” for “and title IV of the Job Training Partnership Act”.

Act Oct. 21, 1998 (effective on 7/1/2000, as provided by § 405(g)(2)(B) of Subtitle VIII of Title IV of § 101(f) of Division A of such Act, which appears as 5 USCS § 3502 note), in subsec. (a), deleted “title IV of the Job Training Partnership Act or” preceding “subtitle D”.

##### Short title:

Act June 12, 1984, P. L. 98-313, § 1, 98 Stat. 235 provided: “This Act [enacting this section] may be cited as the ‘Environmental Programs Assistance Act of 1984.’”.

#### INTERPRETIVE NOTES AND DECISIONS

Congress did not intend waiver of sovereign immunity for executive agency employees in Age Discrimination in Employment Act (29 USCS § 4621 et seq.) to apply to participants in EPA’s Senior Environmental Employment (SEE) Program (42 USCS §§ 3056 and 4368a); clear intent of Con-

gress in creating and funding SEE program was to exempt its recipients from operation of Age Discrimination in Employment Act. *Daniels v Browner* (1995, CA9 Cal) 63 F3d 906, 95 CDOS 6594, 95 Daily Journal DAR 11305, 68 BNA FEP Cas 961, 66 CCH EPD ¶ 43667.

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**§ 4368b. General assistance program**

(a) **Short title.** This section may be cited as the "Indian Environmental General Assistance Program Act of 1992".

(b) **Purposes.** The purposes of this section are to—

(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

(c) **Definitions.** For purposes of this section:

(1) The term "Indian tribal government" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

(2) The term "intertribal consortia" or "intertribal consortium" means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(d) **General Assistance Program.** (1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes on Indian lands.

(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than \$75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

(e) **No reduction in amounts.** In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium

from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

**(f) Expenditure of general assistance.** Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement. Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**(g) Procedures.** (1) Within 12 months following the date of the enactment of this section [enacted Oct. 24, 1992], the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section.

(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

**(h) Authorization.** There are authorized to be appropriated to carry out the provisions of this section, such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

**(i) Report to Congress.** The Administrator shall transmit an annual report to the appropriate Committees of the Congress with jurisdiction over the applicable environmental laws and Indian tribes describing which Indian tribes or intertribal consortia have been granted approval by the Administrator pursuant to law to enforce certain environmental laws and the effectiveness of any such enforcement.

(Oct. 15, 1977, P. L. 95-134, Title V, § 502, as added Oct. 24, 1992, P. L. 102-497, § 11, 106 Stat. 3258; Nov. 24, 1993, P. L. 103-155, 107 Stat. 1523; Oct. 2, 1996, P. L. 104-233, § 1, 110 Stat. 3057.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act Oct. 15, 1977, P. L. 95-134, 91 Stat. 1159, an appropriation Act, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, the National Environmental Policy Act of 1969, which generally comprises this chapter.

**Amendments:**

**1993.** Act Nov. 24, 1993, in subsec. (d)(1), inserted “consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes”; in subsec. (f), added “Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)”; in subsec. (h), substituted “, 1994, 1995, 1996, 1997, and 1998” for “and 1994”; and added subsec. (i).

**1996.** Act Oct. 2, 1996, in subsec. (h), substituted “such sums as may be necessary” for “\$15,000,000”.

**CODE OF FEDERAL REGULATIONS**

Environmental Protection Agency—State and local assistance, 40 CFR Part 35.

**CROSS REFERENCES**

This section is referred to in 29 USCS § 708.

**§ 4369. Miscellaneous reports**

**(a) Availability to Congressional committees.** All reports to or by the Administrator relevant to the Agency’s program of research, development, and demonstration shall promptly be made available to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate, unless otherwise prohibited by law.

**(b) Transmittal of jurisdictional information.** The Administrator shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Environment and Public Works of the Senate fully and currently informed with respect to matters falling within or related to the jurisdiction of the committees.

**(c) Comment by government agencies and the public.** The reports provided for in section 11 of Public Law 93-577 [42 USCS § 5910] shall be made available to the public for comment, and to the heads of affected agencies for comment and, in the case of recommendations for action, for response.

**(d) Transmittal of research information to the Department of Energy.** For the purpose of assisting the Department of Energy in planning and assigning priorities in research development and demonstration activities related to environmental control technologies, the Administrator shall actively make available to the Department all information on research activities and results of research programs of the Environmental Protection Agency.

(Oct. 18, 1978, P. L. 95-477, § 5, 92 Stat. 1510; Nov. 2, 1994, P. L. 103-437, § 15(c)(6), 108 Stat. 4592.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****References in text:**

With respect to the Committee on Science, Space, and Technology of the House of Representatives, referred to in this section § 1(a)(10) of Act June

3, 1995, P. L. 104-14, which appears as a note preceding 2 USCS § 21, provides that any reference to such Committee in any provision of law enacted before January 4, 1995, shall be treated as referring to the Committee on Science of the House of Representatives.

**Explanatory notes:**

This section was enacted as part of Act Oct. 18, 1978, P. L. 95-477, 92 Stat. 1507, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

**Amendments:**

**1994.** Act Nov. 2, 1994, in subsecs. (a) and (b), substituted "Science, Space, and Technology" for "Science and Technology".

**RESEARCH GUIDE****Texts:**

Yannacone, Cohen and Davison, Environmental Rights and Remedies.

**§ 4369a. Reports on environmental research and development activities of the Agency**

**(a) Reports to keep Congressional committees fully and currently informed.** The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

**(b) Annual reports relating requested funds to activities to be carried out with those funds.** Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds.

(April 7, 1980, P. L. 96-229, § 4, 94 Stat. 328.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES****Explanatory notes:**

This section was enacted as part of Act April 7, 1980, P. L. 96-229, 94 Stat. 325, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

**Other provisions:**

**Termination of reporting requirements.** For termination, effective May 15, 2000, of provisions of subsec. (b) of this section relating to an annual report to Congress, see § 3003 of Act Dec. 21, 1995, P. L. 104-66, which appears as 31 USCS § 1113 note. See also item 24 page 163 of House Document No. 103-7.

**§ 4370. Reimbursement for use of facilities**

**(a) Authority to allow outside groups or individuals to use research and test facilities; reimbursement.** The Administrator is authorized to allow ap-

appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

**(b) Rules and regulations.** The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

**(c) Waiver of reimbursement by Administrator.** When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.  
(Apr. 7, 1980. P. L. 96-229, § 5, 94 Stat. 328.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act April 7, 1980, P. L. 96-229, 94 Stat. 325, and not as part of Act Jan. 1, 1970, P. L. 91-190, 83 Stat. 852, which generally comprises this chapter.

#### § 4370a. Assistant Administrators of the Environmental Protection Agency; appointment; duties

(a) The President, by and with the advice and consent of the Senate, may appoint three Assistant Administrators of the Environmental Protection Agency in addition to—

(1) the five Assistant Administrators provided for in section 1(d) of Reorganization Plan Numbered 3 of 1970 (5 U.S.C. Appendix) [5 USCS § 903 note; 42 USCS § 4321 note] (hereinafter in this Act referred to as the "Reorganization Plan");

(2) the Assistant Administrator provided by section 26(g) of the Toxic Substances Control Act (15 U.S.C. 2625(g)); and

(3) the Assistant Administrator provided by section 307(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 6911a).

(b) Each Assistant Administrator appointed under subsection (a) shall perform such duties as the Administrator of the Environmental Protection Agency may prescribe.

(Aug. 23, 1983, P. L. 98-80, § 1, 97 Stat. 485.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

"This Act", referred to in this section, is Act Aug. 23, 1983, P. L. 98-80, § 1, 97 Stat. 485. For full classification of such Act, consult USCS Tables volumes.

##### Explanatory notes:

This section was enacted as part of Act Aug. 23, 1983, P. L. 98-80, 97 Stat.

485, and not as part of Act Jan. 1, 1970, P. L. 91-180, 83 Stat. 852, which generally comprises this chapter.

### § 4370b. Utilization of funds in Licensing and Other Services Fund

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

(Nov. 9, 1989, P. L. 101-144, Title III, 103 Stat. 858.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act Nov. 9, 1989, P. L. 101-144 and not as part of Act Jan. 1, 1970, P. L. 91-190, which generally comprises this chapter.

### § 4370c. Environmental Protection Agency fees

(a) **Assessment and collection.** The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

(b) **Amount of fees and charges.** Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section, in excess of the amount of fees and charges collected under current law—

- (1) in fiscal year 1991, is not less than \$28,000,000; and
- (2) in each of fiscal years 1992, 1993, 1994, and 1995, is not less than \$38,000,000.

(c) **Limitation on fees and charges.** (1) The maximum aggregate amount of fees and charges in excess of the amounts being collected under current law which may be assessed and collected pursuant to this section in a fiscal year—

- (A) for services and activities carried out pursuant to [to] the Federal Water Pollution Control Act is \$10,000,000; and
- (B) for services and activities in programs within the jurisdiction of the House Committee on Energy and Commerce [House Committee on Commerce] and administered by the Environmental Protection Agency through the Administrator, shall be limited to such sums collected as of the date of enactment of this Act pursuant to sections 26(b) and 305(e)(2) of the Toxic Substances Control Act [15 USCS §§ 2625(b), 2665(e)(2)], and such sums specifically authorized by the Clean Air Act Amendments of 1990.

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(2) Any remaining amounts required to be collected under this section shall be collected from services and programs administered by the Environmental Protection Agency other than those specified in subparagraphs (A) and (B) of paragraph (1).

**(d) Rule of construction.** Nothing in this section increases or diminishes the authority of the Administrator to promulgate regulations pursuant to the Independent Office Appropriations Act (31 U.S.C. 9701).

**(e) Uses of fees.** Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriation Acts, such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

(Nov. 5, 1990, P. L. 101-508, Title IV, Subtitle F, § 6501, 104 Stat. 1388-320.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

In subsec. (d), the reference to the "Independent Office Appropriations Act" should probably read "title V of the Independent Offices Appropriation Act of 1952", which title was repealed and reenacted as 31 USCS § 9701 by Act Sept. 13, 1982, P. L. 97-258. Section 1 of the 1982 Act enacted Title 31 as positive law, and § 4(b) of such Act, which appears as a note preceding 31 USCS § 101, provides that a reference to a law replaced by § 1 of such Act is deemed to refer to the corresponding provision enacted by such Act.

"The Clean Air Act Amendments of 1990", referred to in this section, is Act Nov. 15, 1990, P. L. 101-549, 104 Stat. 2399. For full classification of such Act, consult USCS Tables volumes.

##### Explanatory notes:

The bracketed words "House Committee on Commerce" have been inserted in subsec. (c)(1)(A) on authority of § 1(a) of Act June 3, 1995, P. L. 104-14, which appears as 2 USCS prec § 21 note.

The bracketed word "to" has been inserted in subsec. (c)(1)(A) as the word probably intended by Congress.

#### § 4370d. Availability to businesses owned or controlled by disadvantaged individuals of Federal funding for contracts in support of authorized programs

The Administrator of the Environmental Protection Agency shall, hereafter, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges

and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(Oct. 6, 1992, P. L. 102-389, Title III, 106 Stat. 1602.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### References in text:

As used in this section, "hereafter" means after Oct. 6, 1992, the date of enactment of this section.

##### Explanatory notes:

This section was enacted as part of Act Oct. 6, 1992, P. L. 102-389, and not as part of Act Jan. 1, 1970, P. L. 91-190, which generally comprises this chapter.

#### § 4370e Working capital fund

There is hereby established in the Treasury a "Working capital fund", to be available without fiscal year limitation for expenses and equipment necessary for the maintenance and operation of such administrative services as the Administrator determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance or reimbursed from funds available to the Agency and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Administrator: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Agency financial management, ADP, and other support systems: *Provided further*, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury.

(Sept. 26, 1996, P. L. 104-204, Title III, 110 Stat. 2912; Oct. 27, 1997, P. L. 105-65, Title III, 111 Stat. 1374; Oct. 21, 1998, P. L. 105-276, Title III, 112 Stat. 2499.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section formerly appeared as a note to 31 USCS § 501.

##### Amendments:

1997. Act Oct. 27, 1997 deleted "franchise fund pilot to be known as"

following “Treasury a”, deleted “as authorized by section 403 of Public Law 103-356,” following ““Working capital fund”,”, deleted “as provided in such section” following “to be available”, inserted “without fiscal year limitation”, and deleted “: *Provided further*, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103-356” following “transferred to the Treasury”.

**1998.** Act Oct. 21, 1998 purported to insert “or reimbursed” after “that such fund shall be paid in advance”; however, the insertion was made after “That such fund shall be paid in advance” in order to effectuate the probable intent of Congress.

### § 4370f. Availability of appropriations

For fiscal year 2001 and thereafter, the obligated balances of sums available in multiple-year appropriations accounts shall remain available through the seventh fiscal year after their period of availability has expired for liquidating obligations made during the period of availability.

(Oct. 27, 2000, P. L. 106-377, § 1(a)(1), 114 Stat. 1441.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Explanatory notes:

This section was enacted as part of Act Oct. 27, 2000, P. L. 106-377, and not as part of Act Jan. 1, 1970, P. L. 91-180, which generally comprises this chapter.

This section is based on Title III of H.R. 5482 (114 Stat. 1441A-44), as introduced on Oct. 18, 2000, which was enacted into law by § 1(a)(1) of Act Oct. 27, 2000, P. L. 106-377.