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Environmental Legislation  
MEMORANDUM

## THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The National Environmental Policy Act of 1969 (Public Law 91-190) will have great impact on all government agencies; and the agencies of the Department of Transportation will be deeply involved in dealing with both the spirit and the letter of this law.

The Policy Act, passed January 1, 1970, proclaims a Federal policy to "encourage productive and enjoyable harmony between man and his environment." The Act also orders the formation of the Council on Environmental Quality, which will carry out the policy.

Title I of the Act, the Declaration of National Environmental Policy, describes the policy in terms of the Federal Government's responsibility to protect and improve the environment for both present and future generations.

Part of the duties denoted in Title I concern the obligations of the agencies in the Federal Government to use a systematic interdisciplinary approach to dealing with the environmental aspects closest to it; to study and report on the environmental implications of any recommendation or report on proposals for legislative action affecting the environment; and to make available to the public information concerning the facets of the environment with which they deal.

Title II, the Council on Environmental Quality, establishes a three man council to implement the policy and advise the President. It also requires that the President give an annual report on environment to Congress.

The Act reads as follows:



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TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

Sec. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

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

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

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

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

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

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

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

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

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

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

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

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

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

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

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

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

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

## TITLE II

### COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report

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

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

Sec. 203. The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

Sec. 204. It shall be the duty and function of the Council--

- (1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;
- (2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the

achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends.

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

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

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

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

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

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

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

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

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

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

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

Approved January 1, 1970.

Interim guidelines dated April 30, 1970, have been set and elaborated on in a memorandum from Russell Train, Chairman of the new Council on Environmental Quality; and the Federal agencies have already started to put them into effect.

The interim guidelines include an interpretation of the policy as relating to Federal agencies, procedures for organizing the agencies dealing with the duties required by the Act; a detailed description of the content of the statement to accompany any recommendation or report on proposals for legislative action concerning the environment; a list of agencies for other agencies to refer to in preparing their statement, procedures for State and local review; and procedures for reporting to both the Council and the public.

The policy has been stated and implementation procedures put into effect; and every Federal agency will be expected to put the policy into effect, in relation to its own program elements.

#### THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970

The Environmental Quality Improvement Act of 1970 (Public Law 91-224, Title II) adds to the National Environmental Policy Act of 1969 in several ways.

The Act, passed April 3, 1970, adds emphasis to the statement of the national policy that provides goals of man and environment existing and producing in harmony, and it forces the further implementation of the 1969 Act by authorizing the establishment of an Office of Environmental Quality, to provide professional and administrative staff for the three member Council on Environmental Quality set up by the 1969 Act.

Besides providing staff for the Council on Environmental Quality, the Office of Environmental Quality is charged with assisting the Federal agencies to evaluate present and proposed programs; promoting the advancement of research on the environment; and serving as an information center on environment.

The Improvement Act also provides for the distribution of the President's annual Environmental Quality Report to each Congressional committee having jurisdiction over any part of the Report.

The Act reads as follows:

TITLE II - ENVIRONMENTAL QUALITY

Short Title

Sec. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

Findings, Declarations, and Purposes

Sec. 202. (a) The Congress finds--

- (1) that man has caused changes in the environment;
- (2) that many of these changes may affect the relationship between man and his environment; and
- (3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

- (b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.
- (2) The primary responsibility for implementing this policy rests with State and local governments.
- (3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are--

- (1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and
- (2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91-190.

Office of Environmental Quality

Sec. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental



Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this title and Public Law 91-190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by--

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91-190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

#### Report

Sec. 204. Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

Sec. 205. There are hereby authorized to be appropriated not to exceed \$500,000 for the fiscal year ending June 30, 1970, not to exceed \$750,000 for the fiscal year ending June 30, 1971, not to exceed \$1,250,000 for the fiscal year ending June 30, 1972, and not to exceed \$1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91-190.

Approved April 3, 1970.

The Environmental Improvement Act will be of great importance in connection with highway and transportation activities, but it remains to be seen how the Act will be interpreted and how extensive the effects of this national policy and its implementations will be.

#### MICHIGAN ENVIRONMENT LAW

A new law has been passed in Michigan to allow individuals to sue those that they think are damaging the environment.

The law makes Michigan the first State in the country in which citizens are specifically insured of a right to file suit against any public agency or private industry that they feel is polluting or otherwise harming air, water or natural resources.

Formerly, cases in which conservationists filed suit were often dismissed because courts have ruled that the plaintiffs must show that they are directly affected by the polluter. The new bill greatly extends the power of the private citizen in protecting the environment and combatting pollution.

Seven other States, including New York, Massachusetts, Pennsylvania, Tennessee, Colorado, California, and Texas are considering similar legislation.

Dr. Joseph Sax, a professor of law at the University of Michigan, drafted the bill and also has drafted a similar bill now before the U.S. Senate. The national bill would give citizens the right to sue Federal agencies as well as private companies involved in interstate commerce.

### CALIFORNIA ENVIRONMENTAL QUALITY ACT

On September 18, 1970, the Governor of California signed an environmental quality act (new Division 13, Public Resources Code) providing that all State agencies, boards and commissions shall include detailed statements on significant effects which proposed projects would have on the environment. Such statements should set forth: (a) environmental impacts of proposed actions; (b) any adverse environmental effects which cannot be avoided by project implementation; (c) mitigation measures proposed to minimize adverse environmental impacts; (d) alternatives to the proposed action; (e) the relationship between local short-term uses of the environment and maintenance and enhancement of long-term productivity; and (f) any irreversible environmental changes involved in implementing the proposed action. (Sec. 21100)

When commenting officially on proposed Federal actions, State reports shall not be transmitted to the Federal government unless they include detailed statements regarding matters specified above. (Sec. 21101) No State agency, board or commission shall request or authorize expenditure of funds (except projects involving only planning) for projects which could have significant effects on the environment unless such request or authorization is accompanied by a detailed statement as specified in this act. (Sec. 21102)

The State Office of Planning and Research shall coordinate development of objectives, criteria and procedures for preparation of environmental statements (Sec. 21103), and prior to preparing these statements responsible officials will consult with and obtain comments from other governmental agencies having jurisdiction or special expertise regarding the environmental impact involved. (Sec. 21104) Environmental statements will be available to the legislature and the general public. (Sec. 21105)

State agencies responsible for allocating State or Federal funds on a project-by-project basis for land acquisition or construction work which may significantly affect the environment shall require from local agencies a detailed environmental statement on matters specified in Sec. 21100 prior to allocation of funds, unless exempted by procedures developed under this act. (Sec. 21150)

Legislative bodies of cities and counties having a conservation element in their general plans shall make a finding that projects which they intend to carry out, and which might significantly affect the environment, are in accordance with the conservation element of their plans. All other local government agencies shall make environmental impact reports to appropriate local planning agencies (as required by Sec. 65402, Government Code) where their proposed projects would have a significant environmental impact.