

# Union Calendar No. 286

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1743

[Report No. 106-511]

To authorize appropriations for fiscal years 2000 and 2001 for the environmental and scientific and energy research, development, and demonstration and commercial application of energy technology programs, projects, and activities of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1999

Mr. CALVERT introduced the following bill; which was referred to the  
Committee on Science

MARCH 6, 2000

Reported with amendments, committed to the Committee of the Whole House  
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 10, 1999]

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## A BILL

To authorize appropriations for fiscal years 2000 and 2001 for the environmental and scientific and energy research, development, and demonstration and commercial application of energy technology programs, projects, and activities of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Environmental Protec-*  
5       *tion Agency Office of Air and Radiation Authorization Act*  
6       *of 1999”.*

7       **SEC. 2. DEFINITIONS.**

8       *For the purposes of this Act—*

9               *(1) the term “Administrator” means the Admin-*  
10              *istrator of the Agency;*

11              *(2) the term “Agency” means the Environmental*  
12              *Protection Agency; and*

13              *(3) the term “Assistant Administrator” means*  
14              *the Assistant Administrator for Air and Radiation of*  
15              *the Agency.*

16       **SEC. 3. OFFICE OF AIR AND RADIATION.**

17       *(a) IN GENERAL.—There are authorized to be appro-*  
18       *priated to the Administrator for the Office of Air and Radi-*  
19       *ation for environmental research and development and sci-*  
20       *entific and energy research, development, and demonstra-*  
21       *tion and commercial application of energy technology pro-*  
22       *grams for which specific sums are not authorized under*  
23       *other authority of law \$230,116,100 for fiscal year 2000*  
24       *and \$237,019,600 for fiscal year 2001, to remain available*  
25       *until expended, of which—*

1           (1) \$124,282,600 for fiscal year 2000 and  
2           \$128,011,100 for fiscal year 2001 shall be for Science;  
3           and

4           (2) \$105,833,500 for fiscal year 2000 and  
5           \$109,008,500 for fiscal year 2001 shall be for the Cli-  
6           mate Change Technology Initiative, including—

7                   (A) \$39,964,000 for fiscal year 2000 and  
8                   \$41,162,900 for fiscal year 2001 for Buildings;

9                   (B) \$32,702,500 for fiscal year 2000 and  
10                  \$33,683,600 for fiscal year 2001 for Transpor-  
11                  tation;

12                  (C) \$19,158,000 for fiscal year 2000 and  
13                  \$19,732,740 for fiscal year 2001 for Industry;

14                  (D) \$3,400,000 for fiscal year 2000 and  
15                  \$3,502,000 for fiscal year 2001 for Carbon Re-  
16                  moval;

17                  (E) \$2,987,000 for fiscal year 2000 and  
18                  \$3,076,600 for fiscal year 2001 for State and  
19                  Local Climate; and

20                  (F) \$7,622,000 for fiscal year 2000 and  
21                  \$7,850,660 for fiscal year 2001 for International  
22                  Capacity Building.

23           (b) *LIMITATION.*—None of the amounts authorized  
24           under subsection (a) may be obligated until 30 days after  
25           the Administrator submits to the Committee on Science and

1 *the Committee on Appropriations of the House of Rep-*  
2 *resentatives, and the Committee on Environment and Pub-*  
3 *lic Works and the Committee on Appropriations of the Sen-*  
4 *ate, a report detailing, for fiscal year 2000 and each of the*  
5 *2 previous fiscal years, for all Office of Air and Radiation*  
6 *environmental research and development and scientific and*  
7 *energy research, development, and demonstration and com-*  
8 *mercial application of energy technology programs, projects*  
9 *and activities authorized under this Act, by appropriation*  
10 *goal and objectives—*

11 *(1) a description of, and funding requested or al-*  
12 *located for, each such program, project and activity;*

13 *(2) an identification of all recipients of funds to*  
14 *conduct such programs, projects and activities; and*

15 *(3) an estimate of the amounts to be expended by*  
16 *each recipient of funds identified under paragraph*  
17 *(2).*

18 *(c) EXCLUSION.—In the computation of the 30-day pe-*  
19 *riod described in subsection (b), there shall be excluded any*  
20 *day on which either House of Congress is not in session*  
21 *because of an adjournment of more than 3 days to a day*  
22 *certain.*

1 **SEC. 4. NOTICE.**

2       (a) *REPROGRAMMING.*—*The Administrator may use*  
3 *for any authorized activities of the Office of Air and Radi-*  
4 *ation under this Act—*

5           (1) *up to the lesser of \$250,000 or 5 percent of*  
6 *the total funding for a fiscal year of an environ-*  
7 *mental research or development or scientific or energy*  
8 *research, development, or demonstration or commer-*  
9 *cial application of energy technology program, project*  
10 *or activity of the Office of Air and Radiation; or*

11           (2) *after the expiration of 60 days after trans-*  
12 *mitting to the Committee on Science and the Com-*  
13 *mittee on Appropriations of the House of Representa-*  
14 *tives, and to the Committee on Environment and*  
15 *Public Works and the Committee on Appropriations*  
16 *of the Senate, a report described in subsection (b), up*  
17 *to 25 percent of the total funding for a fiscal year of*  
18 *an environmental research or development or sci-*  
19 *entific or energy research, development, or demonstra-*  
20 *tion or commercial application of energy technology*  
21 *program, project or activity of the Office of Air and*  
22 *Radiation.*

23       (b) *REPORT.*—(1) *The report referred to in subsection*  
24 *(a)(2) is a report containing a full and complete statement*  
25 *of the action proposed to be taken and the facts and cir-*  
26 *cumstances relied upon in support of such proposed action.*

1       (2) *In the computation of the 60-day period under sub-*  
2 *section (a)(2), there shall be excluded any day on which*  
3 *either House of Congress is not in session because of an*  
4 *adjournment of more than 3 days to a day certain.*

5       (c) *LIMITATIONS.—In no event may funds be used pur-*  
6 *suant to subsection (a) for an environmental research or*  
7 *development or scientific or energy research, development,*  
8 *or demonstration or commercial application of energy tech-*  
9 *nology program, project or activity for which funding has*  
10 *been requested to the Congress but which has not been fund-*  
11 *ed by the Congress.*

12       (d) *ANNUAL OPERATING PLAN.—The Administrator*  
13 *shall provide simultaneously to the Committee on Science*  
14 *and the Committee on Appropriations of the House of Rep-*  
15 *resentatives, and to the Committee on Environment and*  
16 *Public Works and the Committee on Appropriations of the*  
17 *Senate, any annual operating plan or other operational*  
18 *funding document, including any additions or amendments*  
19 *thereto, provided to any committee of Congress.*

20       (e) *COPY OF REPORTS.—In addition to the documents*  
21 *required under subsection (d), the Administrator shall pro-*  
22 *vide copies simultaneously to the Committee on Science and*  
23 *the Committee on Appropriations of the House of Rep-*  
24 *resentatives, and to the Committee on Environment and*  
25 *Public Works and the Committee on Appropriations of the*

1 *Senate, of any report relating to the environmental research*  
2 *or development or scientific or energy research, develop-*  
3 *ment, or demonstration or commercial application of en-*  
4 *ergy technology programs, projects or activities of the Office*  
5 *of Air and Radiation prepared at the direction of any com-*  
6 *mittee of Congress.*

7       (f) *NOTICE OF REORGANIZATION.*—*The Administrator*  
8 *shall provide notice to the Committee on Science and the*  
9 *Committee on Appropriations of the House of Representa-*  
10 *tives, and to the Committee on Environment and Public*  
11 *Works and the Committee on Appropriations of the Senate,*  
12 *not later than 15 days before any major reorganization of*  
13 *any environmental research or development or scientific or*  
14 *energy research, development, or demonstration or commer-*  
15 *cial application of energy technology program, project or*  
16 *activity of the Office of Air and Radiation.*

17 **SEC. 5. BUDGET REQUEST FORMAT.**

18       *The Administrator shall provide to the Congress, to be*  
19 *transmitted at the same time as the Agency's annual budget*  
20 *request submission, a detailed justification for budget au-*  
21 *thorization for the programs, projects and activities for*  
22 *which funds are authorized by this Act. Each such docu-*  
23 *ment shall include, for the fiscal year for which funding*  
24 *is being requested and for the 2 previous fiscal years—*

- 1           (1) a description of, and funding requested or al-  
2       located for, each such program, project and activity;  
3           (2) an identification of all recipients of funds to  
4       conduct such programs, projects and activities; and  
5           (3) an estimate of the amounts to be expended by  
6       each recipient of funds identified under paragraph  
7       (2).

8       *The document required by this section shall be presented*  
9       *in the format employed by, and with the level of detail in-*  
10      *cluded in, the document entitled “Department of Energy FY*  
11      *2000 Congressional Budget Request, DOE/CR–0062, Vol-*  
12      *ume 3”, dated February 1999.*

13      **SEC. 6. LIMITS ON USE OF FUNDS.**

14      (a) *TRAVEL.*—Not more than 1 percent of the funds  
15      *authorized by this Act may be used either directly or indi-*  
16      *rectly to fund travel costs of the Agency or travel costs for*  
17      *persons awarded contracts or subcontracts by the Agency.*  
18      *As part of the Agency’s annual budget request submission*  
19      *to the Congress, the Administrator shall submit a report*  
20      *to the Committee on Science and the Committee on Appro-*  
21      *priations of the House of Representatives, and to the Com-*  
22      *mittee on Environment and Public Works and the Com-*  
23      *mittee on Appropriations of the Senate, that identifies—*  
24           (1) *the estimated amount of travel costs by the*  
25      *Agency and for persons awarded contracts or sub-*



1        *contracts by the Agency for the fiscal year of such*  
2        *budget submission, as well as for the 2 previous fiscal*  
3        *years;*

4            *(2) the major purposes for such travel; and*

5            *(3) the sources of funds for such travel.*

6        *(b) TRADE ASSOCIATIONS.—No funds authorized by*  
7        *this Act may be used either directly or indirectly to fund*  
8        *a grant, contract, subcontract, or any other form of finan-*  
9        *cial assistance awarded by the Agency to a trade associa-*  
10       *tion on a noncompetitive basis. As part of the Agency's an-*  
11       *nual budget request submission to the Congress, the Admin-*  
12       *istrator shall submit a report to the Committee on Science*  
13       *and the Committee on Appropriations of the House of Rep-*  
14       *resentatives, and to the Committee on Environment and*  
15       *Public Works and the Committee on Appropriations of the*  
16       *Senate, that identifies—*

17            *(1) the estimated amount of funds provided by*  
18        *the Agency to trade associations, by trade association,*  
19        *for the fiscal year of such budget submission, as well*  
20        *as for the 2 previous fiscal years;*

21            *(2) the services either provided or to be provided*  
22        *by each such trade association; and*

23            *(3) the sources of funds for services provided by*  
24        *each such trade association.*

1       (c) *KYOTO PROTOCOL*.—None of the funds authorized  
2 by this Act may be used to propose or issue rules, regula-  
3 tions, decrees, or orders for the purpose of implementation,  
4 or in preparation for implementation, of the *Kyoto Protocol*  
5 which was adopted on December 11, 1997, in Kyoto, Japan,  
6 at the Third Conference of the Parties to the United Nations  
7 Framework Convention on Climate Change, which has not  
8 been submitted to the Senate for advice and consent to rati-  
9 fication pursuant to article II, section 2, clause 2 of the  
10 United States Constitution, and which has not entered into  
11 force pursuant to article 25 of the Protocol.

12 **SEC. 7. LIMITATION ON DEMONSTRATIONS.**

13       The Agency shall provide funding for scientific or en-  
14 ergy or commercial application of energy technology dem-  
15 onstration programs of the Office of Air and Radiation only  
16 for technologies or processes that can be reasonably expected  
17 to yield new, measurable benefits to the cost, efficiency, or  
18 performance of the technology or process.

19 **SEC. 8. FEDERAL ACQUISITION REGULATION.**

20       (a) *REQUIREMENT*.—None of the funds authorized to  
21 be appropriated by this Act may be used to award, amend,  
22 or modify a contract of the Office of Air and Radiation  
23 in a manner that deviates from the Federal Acquisition  
24 Regulation, unless the Administrator grants, on a case-by-  
25 case basis, a waiver to allow for such a deviation. The Ad-

1 *ministrator may not delegate the authority to grant such*  
2 *a waiver.*

3       (b) *CONGRESSIONAL NOTICE.—At least 60 days before*  
4 *a contract award, amendment, or modification for which*  
5 *the Administrator intends to grant such a waiver, the Ad-*  
6 *ministrator shall submit to the Committee on Science and*  
7 *the Committee on Appropriations of the House of Rep-*  
8 *resentatives, and to the Committee on Environment and*  
9 *Public Works and the Committee on Appropriations of the*  
10 *Senate, a report notifying the committees of the waiver and*  
11 *setting forth the reasons for the waiver.*

12 **SEC. 9. REQUESTS FOR PROPOSALS.**

13       *None of the funds authorized to be appropriated by this*  
14 *Act may be used by the Agency to prepare or initiate Re-*  
15 *quests for Proposals (RFPs) for a program, project or activ-*  
16 *ity if the program, project or activity has not been specifi-*  
17 *cally authorized by Congress.*

18 **SEC. 10. PRODUCTION OR PROVISION OF ARTICLES OR**  
19 **SERVICES.**

20       *None of the funds authorized to be appropriated by this*  
21 *Act may be used by any program, project or activity of*  
22 *the Office of Air and Radiation to produce or provide arti-*  
23 *cles or services for the purpose of selling the articles or serv-*  
24 *ices to a person outside the Federal Government, unless the*  
25 *Administrator determines that comparable articles or serv-*

1 ices are not available from a commercial source in the  
2 United States.

3 **SEC. 11. ELIGIBILITY FOR AWARDS.**

4 (a) *IN GENERAL.*—The Administrator shall exclude  
5 from consideration for grant agreements made after fiscal  
6 year 1999 by the Office of Air and Radiation, under the  
7 programs, projects and activities for which funds are au-  
8 thorized under this Act, any person who received funds,  
9 other than those described in subsection (b), appropriated  
10 for a fiscal year after fiscal year 1999, under a grant agree-  
11 ment from any Federal funding source for a project that  
12 was not subjected to a competitive, merit-based award proc-  
13 ess, except as specifically authorized by this Act. Any exclu-  
14 sion from consideration pursuant to this section shall be  
15 effective for a period of 5 years after the person receives  
16 such Federal funds.

17 (b) *EXCEPTION.*—Subsection (a) shall not apply to the  
18 receipt of Federal funds by a person due to the membership  
19 of that person in a class specified by law for which assist-  
20 ance is awarded to members of the class according to a for-  
21 mula provided by law or under circumstances permitting  
22 other than full and open competition under the Federal Ac-  
23 quisition Regulation.

24 (c) *DEFINITION.*—For purposes of this section, the  
25 term “grant agreement” means a legal instrument whose

1 *principal purpose is to transfer a thing of value to the re-*  
 2 *cipient to carry out a public purpose of support or stimula-*  
 3 *tion authorized by a law of the United States, and does*  
 4 *not include the acquisition (by purchase, lease, or barter)*  
 5 *of property or services for the direct benefit or use of the*  
 6 *United States Government. Such term does not include a*  
 7 *cooperative agreement (as such term is used in section 6305*  
 8 *of title 31, United States Code) or a cooperative research*  
 9 *and development agreement (as such term is defined in sec-*  
 10 *tion 12(d)(1) of the Stevenson-Wydler Technology Innova-*  
 11 *tion Act of 1980 (15 U.S.C. 3710a(d)(1))).*

12 **SEC. 12. INTERNET AVAILABILITY OF INFORMATION.**

13 *The Administrator shall make available through the*  
 14 *Internet home page of the Environmental Protection Agency*  
 15 *the abstracts relating to all research grants and awards*  
 16 *made with funds authorized by this Act. Nothing in this*  
 17 *section shall be construed to require or permit the release*  
 18 *of any information prohibited by law or regulation from*  
 19 *being released to the public.*

Amend the title to read as follows: “A bill to authorize appropriations for fiscal years 2000 and 2001 for the environmental research and development and scientific and energy research, development, and demonstration and commercial application of energy technology programs of the Office of Air and Radiation of the Environmental Protection Agency, and for other purposes.”.



**Union Calendar No. 286**

106TH CONGRESS  
2D SESSION

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**[Report No. 106-511]**

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