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IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1994

Referred jointly to the Committees on Science, Space, and Technology and
Energy and Commerce

AN ACT

To establish programs to promote environmental technology,
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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Environmental Technology Act of 1994”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.

TITLE I—ENVIRONMENTAL TECHNOLOGY STRATEGY

- Sec. 101. Development.

TITLE II—ENVIRONMENTAL TECHNOLOGY INITIATIVE

- Sec. 201. Establishment.
- Sec. 202. Environmental Protection Agency partnership authority.
- Sec. 203. Multi-agency partnership authority.
- Sec. 204. Authorization of appropriations.

TITLE III—ENVIRONMENTAL INNOVATION RESEARCH PROGRAM;
TECHNOLOGY TESTING

Subtitle A—Environmental Innovation Research Program

- Sec. 301. Environmental innovation research program.
- Sec. 302. Guidelines of the environmental innovation research program.
- Sec. 303. Multi-agency environmental innovation research program.

Subtitle B—Innovative Technology Testing

- Sec. 311. Program.

TITLE IV—ADDITIONAL PROGRAMS

Subtitle A—Verification of Environmental Technologies

- Sec. 401. Program.

Subtitle B—Technical Assistance to Small Business in Coordination with
Existing Programs

- Sec. 411. Environmental assistance.
- Sec. 412. Statutory construction.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds that—

- 5 (1) environmental problems facing the world
- 6 pose a threat to the environmental and economic se-
- 7 curity of the United States and other nations;

1 (2) promoting a sound economy while maintain-
2 ing a healthy environment is among the urgent pub-
3 lic policy challenges of the United States;

4 (3) the development and utilization of environ-
5 mental technologies will enhance both global environ-
6 mental security and the economic standing of the
7 United States in the world marketplace;

8 (4) the growing worldwide demand for environ-
9 mentally sound products and processes, and for cost-
10 effective environmental cleanup and pollution control
11 technologies, presents significant business opportuni-
12 ties;

13 (5) innovative environmental technologies face
14 barriers to development and utilization, and are
15 often slow to be adopted;

16 (6) advances in source reduction, environmental
17 cleanup, and pollution control technologies could sig-
18 nificantly reduce Federal Government and private
19 cleanup expenditures, improve cleanup results, and
20 help prevent future contamination;

21 (7) the development and implementation of ef-
22 fective public and private partnership arrangements
23 will help promote successful technology development
24 programs;

1 (8) many technologies developed for other pur-
2 poses, such as defense or space exploration, could
3 also be used to address environmental problems;

4 (9) a coordinated, interagency strategy for envi-
5 ronmental technology will greatly facilitate the devel-
6 opment of environmental technologies that can re-
7 spond to environmental programs and create jobs
8 and new sources of income; and

9 (10) successful Federal Government programs
10 to foster the development and utilization of environ-
11 mental technologies depend on coordination and co-
12 operation among agencies involved in environmental
13 protection and agencies involved in technology devel-
14 opment.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to further environmental protection, spur
17 the creation of jobs (including the creation of jobs
18 in areas of pervasive poverty), and enhance the abil-
19 ity of domestic companies to compete in the inter-
20 national marketplace by facilitating the development
21 and utilization of environmental technologies;

22 (2) to encourage the development and utiliza-
23 tion of environmental technologies that prevent or
24 control pollution and remediate existing contamina-
25 tion;

1 (3) to help overcome barriers that hinder the
2 successful development and utilization of environ-
3 mental technologies; and

4 (4) to coordinate Federal Government policies,
5 actions, and budgets with respect to environmental
6 technologies.

7 **SEC. 3. DEFINITIONS.**

8 As used in this Act:

9 (1) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of the Environ-
11 mental Protection Agency.

12 (2) ENVIRONMENTAL TECHNOLOGY.—The term
13 “environmental technology” means a product, proc-
14 ess, or service—

15 (A) the primary purpose of which is to re-
16 duce an environmental risk by protecting or en-
17 hancing human health or the environment
18 through—

19 (i) pollution control;

20 (ii) environmental remediation; or

21 (iii) a design or process change that
22 results in source reduction or recycling;
23 and

24 (B) that is identified and listed in the
25 Strategy under section 101(a)(4).

1 (3) EXECUTIVE AGENCY.—The term “Executive
2 agency” has the same meaning as is provided in sec-
3 tion 105 of title 5, United States Code.

4 (4) PARTNERSHIP.—The term “partnership”
5 means any arrangement under which the head of an
6 Executive agency or a designee (including a Federal
7 laboratory) undertakes research, development, dem-
8 onstration, or technical assistance activities in co-
9 operation with one or more non-Federal partners or
10 partners from other Executive agencies.

11 (5) SMALL BUSINESS CONCERN.—The term
12 “small business concern” means a business concern
13 that is recognized as a small business concern under
14 section 3(a) of the Small Business Act (15 U.S.C.
15 632(a)) and that has no more than 100 employees.

16 (6) SOURCE REDUCTION.—The term “source
17 reduction” has the same meaning as is provided in
18 section 6603(5) of the Pollution Prevention Act of
19 1990 (42 U.S.C. 13102(5)).

20 **TITLE I—ENVIRONMENTAL**
21 **TECHNOLOGY STRATEGY**

22 **SEC. 101. DEVELOPMENT.**

23 (a) IN GENERAL.—

24 (1) DEVELOPMENT.—As one of the strategies
25 required under section 822(a) of the National De-

1 fense Authorization Act for Fiscal Years 1992 and
2 1993 (42 U.S.C. 6687(a)), the President shall de-
3 velop an Environmental Technology Strategy (re-
4 ferred to in this title as the “Strategy”).

5 (2) FIRST STRATEGY.—The first Strategy shall
6 be submitted to Congress with the annual report on
7 critical technology strategies required under section
8 822(b) of such Act, due February 15, 1995.

9 (3) CONTENTS.—Notwithstanding the second
10 sentence of section 822(a)(1) of such Act, each
11 Strategy shall identify environmental requirements
12 based on trends in domestic and global environ-
13 mental threats and the potential for environmental
14 and economic benefits. To meet the requirements,
15 each Strategy shall—

16 (A) recommend effective public and private
17 partnership arrangements for the development
18 and utilization of environmental technologies;

19 (B) recommend actions that will encourage
20 the utilization of environmental technologies,
21 with special attention to environmental tech-
22 nologies that are likely to reduce risk to human
23 health and the environment in a cost-effective
24 manner;

1 (C) recommend actions that will encourage
2 the development of environmental technologies
3 by small business concerns, including small
4 business concerns located in areas of pervasive
5 poverty;

6 (D) identify economic, regulatory, and
7 other barriers to the development, utilization, or
8 export of environmental technologies, and rec-
9 ommend appropriate actions to reduce the bar-
10 riers;

11 (E) identify incentives for the development,
12 utilization, or export of environmental tech-
13 nologies, and recommend appropriate actions to
14 improve the incentives; and

15 (F) consistent with section 822(a)(3)(E) of
16 such Act, develop Federal budget estimates for
17 the activities of Executive agencies that pro-
18 mote, develop, or support environmental tech-
19 nologies identified in the Strategy.

20 (4) ENVIRONMENT TECHNOLOGIES.—As part of
21 the Strategy, the President shall identify and list
22 technologies that meet the criteria of clauses (i), (ii),
23 and (iii) of section 3(2)(A) and that address the re-
24 quirements identified under paragraph (3) of this
25 subsection. The list shall include the technologies

1 that meet the criteria of clauses (i), (ii), and (iii) of
2 section 3(2)(A) and that are identified in—

3 (A) the 5-year plan prepared by the Stra-
4 tegic Environmental Research and Development
5 Program Council pursuant to section
6 2902(d)(3) of title 10, United States Code; and

7 (B) the 5-year plan for environmental re-
8 search, development, and demonstration re-
9 quired by section 5 of the Environmental Re-
10 search, Development, and Demonstration Au-
11 thorization Act of 1976 (42 U.S.C. 4361).

12 (b) REPORT TO CONGRESS.—The President shall—

13 (1) submit to Congress any subsequent revi-
14 sions to the Strategy; and

15 (2) make the Strategy publicly available.

16 **TITLE II—ENVIRONMENTAL** 17 **TECHNOLOGY INITIATIVE**

18 **SEC. 201. ESTABLISHMENT.**

19 (a) IN GENERAL.—

20 (1) INITIATIVE.—The Administrator shall es-
21 tablish an Environmental Technology Initiative (re-
22 ferred to in this title as the “Initiative”) to coordi-
23 nate and support the implementation of the roles,
24 responsibilities, and goals identified for the Environ-

1 mental Protection Agency pursuant to the most re-
2 cent Strategy developed under title I.

3 (2) OFFICE.—

4 (A) ESTABLISHMENT.—The Administrator
5 shall establish an office to—

6 (i) coordinate the implementation of
7 the Initiative;

8 (ii) coordinate and support the imple-
9 mentation of the activities of the Environ-
10 mental Protection Agency authorized
11 under this Act; and

12 (iii) coordinate the development of
13 policies of the Environmental Protection
14 Agency that foster technological innova-
15 tion.

16 (B) HEAD.—The office shall be under the
17 direction of such officer of the Environmental
18 Protection Agency as the Administrator shall
19 designate.

20 (b) INTERAGENCY COORDINATION.—In carrying out
21 this section, the Administrator shall collaborate with the
22 appropriate officials of Department of Commerce, the De-
23 partment of Defense, the Department of Energy, and
24 other appropriate Executive agencies to—

1 (1) ensure the effective use of then existing ca-
2 pabilities within Executive agencies; and

3 (2) prevent duplication of efforts by the Envi-
4 ronmental Protection Agency with other Executive
5 agencies.

6 (c) FUNCTIONS.—Consistent with subsections (a)
7 and (b), the Administrator, in collaboration with the Sec-
8 retary of Defense, the Secretary of Commerce, the Sec-
9 retary of Energy, and the heads of other appropriate Ex-
10 ecutive agencies, shall—

11 (1) through partnerships, pursuant to sections
12 202 and 203, including the provision of grants or
13 loans, support the development and demonstration of
14 environmental technologies at the precommercial
15 stage by industrial, academic, governmental, and
16 nongovernmental entities;

17 (2) using information that is in the public do-
18 main or voluntarily submitted, track on a continuing
19 basis the research and development being conducted
20 on environmental technologies by private industry in
21 the United States;

22 (3) cooperate in developing and improving
23 mechanisms to—

24 (A) promote the transfer of environmental
25 technologies domestically and internationally;

1 (B) provide information to private and
2 public concerns that develop, apply, or export
3 environmental technologies;

4 (C) use electronic databases and other
5 means to collect and disseminate nonproprietary
6 information on environmental technologies, in-
7 cluding descriptions of environmental tech-
8 nologies developed, tested, or verified under the
9 programs established under this Act; and

10 (D) provide a locator service that would di-
11 rect users to information relating to environ-
12 mental technologies, including information on
13 new products and services, regulations, export
14 opportunities and assistance, demonstration
15 programs, and verification and testing pro-
16 grams;

17 (4) advise other officials, as appropriate, within
18 the other Executive agencies, concerning programs,
19 strategies, and regulatory reforms for promoting the
20 development and utilization of environmental tech-
21 nologies;

22 (5) facilitate market acceptance for environ-
23 mental technologies;

1 (6) develop recommendations for changes in
2 Federal procurement guidelines to give preference to
3 environmental technologies;

4 (7) provide advice and assistance to regional
5 technology centers and similar community-based alli-
6 ances that are supporting a transition from defense
7 technology research, development, and production to
8 environmental technology research, development, and
9 production;

10 (8) pursuant to section 401, establish a pro-
11 gram to verify the cost and performance characteris-
12 tics of environmental technologies; and

13 (9) report to Congress not less frequently than
14 annually on—

15 (A) description of the research, develop-
16 ment and testing conducted under programs au-
17 thorized pursuant to title II, title III, and title
18 IV of this Act;

19 (B) resources and staff devoted to the pro-
20 grams listed under paragraph (A); and

21 (C) estimated environmental and economic
22 benefits resulting from the programs listed
23 under paragraph (A) and the cost of the pro-
24 grams.

1 (d) CONSULTATION WITH OTHER GROUPS.—The
2 goals and programs in support of the Initiative shall be
3 developed and implemented by the Administrator in con-
4 sultation with other Executive agencies, private sector or-
5 ganizations, academic institutions, and nonprofit groups
6 involved in technology development and utilization, envi-
7 ronmental protection, labor, education, or international re-
8 lations.

9 **SEC. 202. ENVIRONMENTAL PROTECTION AGENCY PART-**
10 **NERSHIP AUTHORITY.**

11 (a) IN GENERAL.—To support the development of en-
12 vironmental technologies, the Administrator may enter
13 into partnerships that—

14 (1) are in accordance with the statutory duties
15 of the Environmental Protection Agency;

16 (2) are consistent with the roles, responsibil-
17 ities, and goals identified for the Environmental
18 Protection Agency pursuant to the Strategy devel-
19 oped under title I; and

20 (3) do not duplicate specific technology develop-
21 ment projects being conducted by other Executive
22 agencies.

23 (b) ECONOMIC BENEFITS.—In carrying out the pro-
24 grams established under this title, the Administrator shall
25 ensure that the principal economic benefits pursuant to

1 any partnership accrue to the domestic economy of the
2 United States.

3 (c) LIMITATIONS.—The period of a partnership that
4 provides a grant or loan pursuant to this section—

5 (1) with a single firm may not exceed 3 years;
6 and

7 (2) with a consortium of companies or other en-
8 tities may not exceed 5 years.

9 (d) SMALL BUSINESS CONCERNS.—In carrying out
10 this section, the Administrator shall give special consider-
11 ation to the needs of small business concerns (including
12 small business concerns located in areas of pervasive pov-
13 erty) in entering partnerships.

14 (e) ADMINISTRATION OF PROGRAM FUNDS.—In car-
15 rying out this section, the Administrator shall—

16 (1) determine categories of projects to be fund-
17 ed under the Initiative;

18 (2) issue solicitations for partnerships to be
19 funded;

20 (3) receive and evaluate proposals resulting
21 from solicitations;

22 (4) ensure that partnerships are selected under
23 a merit-based, competitive procedure; and

1 (5) in selecting participants for partnerships,
2 give preference to partnerships that support the de-
3 velopment of environmental technologies that—

4 (A) meet the definition of source reduction;

5 or

6 (B) are likely to reduce risks to human
7 health or the environment in a cost-effective
8 manner.

9 (f) FEDERAL SHARE.—The Federal share of the cost
10 of a partnership conducted under this section may exceed
11 50 percent only if—

12 (1) the partnership is conducted pursuant to an
13 agreement entered into with a small business con-
14 cern under this section, except that the Federal
15 share of the cost of a partnership described in this
16 paragraph may not exceed 75 percent;

17 (2) the partnership supports the development of
18 an environmental technology that meets the defini-
19 tion of source reduction, except that the Federal
20 share of the cost of a partnership described in this
21 paragraph may not exceed 75 percent; or

22 (3) the partnership supports fundamental re-
23 search for the development of an environmental
24 technology.

25 (g) CONFIDENTIAL INFORMATION.—

1 (1) PROPRIETARY INFORMATION.—Except as
2 provided in paragraph (2), information classified for
3 reasons of national security, trade secrets, confiden-
4 tial business information, or other proprietary infor-
5 mation may not be disclosed by an officer or em-
6 ployee of the United States acting under any provi-
7 sion of this Act. The information shall not be subject
8 to disclosure under section 552 of title 5, United
9 States Code.

10 (2) EXCEPTION.—Confidential business infor-
11 mation may be disclosed only in accordance with a
12 written agreement between—

13 (A) the owner or developer of the informa-
14 tion; and

15 (B) the Administrator or the head of the
16 appropriate Executive agency.

17 (3) DISSEMINATION OF RESEARCH RESULTS.—
18 Pursuant to paragraphs (1) and (2) and section
19 201(c)(3)(C), the Administrator or the head of the
20 appropriate Executive agency shall provide for the
21 dissemination of nonproprietary research results of
22 the projects supported under the programs estab-
23 lished under this title.

24 (h) MINIMUM ALLOCATION FOR SMALL BUSINESS.—
25 Not less than 25 percent of the Federal funds made avail-

1 able to carry out this section shall be awarded to small
2 business concerns pursuant to partnerships authorized
3 under this section.

4 **SEC. 203. MULTI-AGENCY PARTNERSHIP AUTHORITY.**

5 (a) IN GENERAL.—The Administrator may enter into
6 a partnership with the Secretary of Defense, the Secretary
7 of Commerce, the Secretary of Energy, or the head of any
8 other appropriate Executive agency, or any combination
9 thereof, to develop an environmental technology that will
10 assist the Environmental Protection Agency and the other
11 agency or agencies involved achieve their respective re-
12 sponsibilities and missions.

13 (b) AUTHORITY.—In carrying out this section, the
14 head of an Executive agency may enter into a partnership
15 in accordance with provisions of law that are applicable
16 to the agency.

17 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—There are authorized to be appro-
19 priated to carry out the programs established under this
20 title—

- 21 (1) \$36,000,000 for fiscal year 1994;
- 22 (2) \$80,000,000 for fiscal year 1995; and
- 23 (3) \$120,000,000 for fiscal year 1996.

24 (b) FEDERAL AGREEMENTS.—The Administrator
25 shall allocate a substantial percentage of funds made

1 available by appropriations pursuant to subsection (a),
2 with a goal of reaching 50 percent, for partnerships en-
3 tered into pursuant to section 203.

4 **TITLE III—ENVIRONMENTAL IN-**
5 **NOVATION RESEARCH PRO-**
6 **GRAM; TECHNOLOGY TEST-**
7 **ING**

8 **Subtitle A—Environmental**
9 **Innovation Research Program**

10 **SEC. 301. ENVIRONMENTAL INNOVATION RESEARCH PRO-**
11 **GRAM.**

12 (a) ESTABLISHMENT.—For each fiscal year, the Ad-
13 ministrator is authorized to provide for an environmental
14 innovation and research program an amount not more
15 than 1.25 percent of the amount of funds made available
16 to the Environmental Protection Agency from the Hazard-
17 ous Substance Superfund established under section 9507
18 of the Internal Revenue Code of 1986 (referred to in this
19 subtitle as “Superfund”) pursuant to the Comprehensive
20 Environmental Response, Compensation, and Liability Act
21 of 1980 (42 U.S.C. 9601 et seq.), notwithstanding any
22 other provision of such Act and subject to the availability
23 of appropriations.

24 (b) USE OF FUNDS.—

1 (1) IN GENERAL.—The Administrator shall use
2 the amount allocated under subsection (a) to make
3 awards to private concerns or other entities, through
4 a uniform process (described in subsection (e)), for
5 the development of environmental technology that
6 contributes to the program objectives of the
7 Superfund.

8 (c) WAIVER.—

9 (1) IN GENERAL.—The Administrator may
10 waive the requirements of this section in full or part
11 if—

12 (A) unforeseen emergency circumstances
13 require the Administrator to redirect funds for
14 technology development to other purposes; and

15 (B) the Administrator has redirected all
16 technology development funds (other than funds
17 allocated pursuant to subsection (a)) available
18 to the Administrator from the Superfund to ad-
19 dress the unforeseen emergency circumstances.

20 (2) REPORT.—If the Administrator waives a re-
21 quirement of this section pursuant to paragraph (1),
22 the Administrator shall provide a report that ex-
23 plains the reasons for the waiver to Congress.

24 (d) CONSTRUCTION.—Nothing in this Act limits the
25 amount of funds that the Administrator may spend on the

1 research, development, or commercialization of environ-
2 mental technology.

3 (e) PHASES OF ENVIRONMENTAL INNOVATION RE-
4 SEARCH PROGRAM.—The Administrator shall carry out an
5 environmental innovation research program in the follow-
6 ing 3 phases:

7 (1)(A) A first phase for determining, insofar as
8 practicable, the scientific and technical merit and
9 feasibility of proposals that are submitted pursuant
10 to environmental innovation research program solici-
11 tations and appear to have commercial potential.

12 (B) With respect to the first phase, the Admin-
13 istrator may enter into partnerships (including
14 grants and loans), each of which shall be in an
15 amount not to exceed \$250,000 to support the initial
16 development of proposed environmental technologies.

17 (2)(A) A second phase to fund the further de-
18 velopment of environmental technologies funded
19 under paragraph (1) that meet particular program
20 needs, and with respect to which awards shall be
21 made on the basis of the scientific and technical
22 merit and feasibility of each proposal, as evidenced
23 by the first phase (as described in paragraph (1)),
24 taking into consideration, among other consider-

1 ations, the commercial potential of each proposal, as
2 evidenced by—

3 (i) the record of the private concern or
4 other entity of successfully commercializing
5 technologies, products, or processes developed
6 as a result of environmental innovation research
7 or other research;

8 (ii) the existence of funding commitments,
9 from the private sector or sources other than
10 the environmental innovation research program,
11 to fund the further development of the environ-
12 mental technology;

13 (iii) the existence of funding commitments
14 from the private sector or sources other than
15 the environmental innovation research program
16 for the third phase of research to be conducted
17 pursuant to paragraph (3)(A); and

18 (iv) the presence of other indicators of the
19 commercial potential of the environmental tech-
20 nology.

21 (B) With respect to the second phase, the Ad-
22 ministrator may enter into partnerships, each of
23 which shall be in an amount not to exceed \$750,000,
24 unless the Administrator finds that additional fund-
25 ing is necessary and appropriate.

1 (3)(A) If appropriate, a third phase, in which—

2 (i) environmental innovation research fund-
3 ing is used to continue development activity
4 that has demonstrated outstanding commercial
5 potential in the second phase of the environ-
6 mental innovation research program and merits
7 further environmental innovation research fund-
8 ing;

9 (ii) awards from funding sources other
10 than the environmental innovation research pro-
11 gram are used for the continuation of research
12 or research and development that has been
13 competitively selected using peer review or sci-
14 entific review criteria; or

15 (iii) commercial applications of research or
16 research and development funded by the envi-
17 ronmental innovation research program are
18 funded by non-Federal sources of funds or, for
19 environmental technologies intended for use by
20 the Federal Government, by Federal funding
21 sources other than the environmental innovation
22 research program.

23 (B) With respect to a research or research and
24 development project funded under subparagraph (A)
25 and consistent with section 202(f), the Federal share

1 shall not exceed 50 percent of the total cost of the
2 project.

3 (C) With respect to the assistance provided
4 under this paragraph, the Administrator may assist
5 the private concern or other entity in pursuing fund-
6 ing or procurement from other Federal programs
7 and in pursuing financial and technical assistance
8 for the export of technology developed under the en-
9 vironmental innovation research program.

10 (D) The Administrator may, in lieu of the 3-
11 phase process established under this subsection,
12 fund proposals for the development of certain tech-
13 nologies through an alternative competitive process,
14 on the basis of a written finding that—

15 (i) the proposed technology is at a stage in
16 development comparable to the stage in develop-
17 ment of technologies that would emerge from
18 the second phase of the process established
19 under this subsection; and

20 (ii) employing the first 2 phases of the
21 process established under this section would be
22 inappropriate.

23 (E) With respect to a development project fund-
24 ed under subparagraph (D)—

1 (i) awards shall be based on scientific and
2 technical merit and demonstrated outstanding
3 commercial potential;

4 (ii) consistent with section 202(f), the Fed-
5 eral share shall not exceed 50 percent; and

6 (iii) the Administrator shall notify Con-
7 gress in writing of the award and provide a
8 copy of the written finding made under sub-
9 paragraph (D).

10 (f) SMALL BUSINESS.—In carrying out the program
11 established under this section, the Administrator shall
12 consider the needs of small business concerns for the de-
13 velopment and utilization of environmental technology.

14 (g) TESTING ENVIRONMENTAL TECHNOLOGY.—
15 Partnerships authorized under paragraph (2), or subpara-
16 graph (A) or (D) of paragraph (3), of subsection (e) may
17 make available, if appropriate, funds to test environmental
18 technology in the program established under section 311.

19 **SEC. 302. GUIDELINES OF THE ENVIRONMENTAL INNOVA-**
20 **TION RESEARCH PROGRAM.**

21 (a) GUIDELINES.—The Administrator shall issue
22 guidelines for environmental innovation research con-
23 ducted pursuant to this subtitle.

24 (b) CONTENTS.—The guidelines issued by the Ad-
25 ministrator shall, at a minimum, provide for—

1 **Subtitle B—Innovative Technology**
2 **Testing**

3 **SEC. 311. PROGRAM.**

4 (a) ESTABLISHMENT.—In collaboration with the
5 heads of other appropriate Executive agencies, the Admin-
6 istrator is authorized to establish a program for testing
7 environmental technologies at federally owned facilities
8 and other sites, including sites—

9 (1) on the National Priorities List established
10 under section 105(a)(8)(B) of the Comprehensive
11 Environmental Response, Compensation, and Liabil-
12 ity Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

13 (2) in the inventory of Federal agency hazard-
14 ous waste facilities under section 3016 of the Solid
15 Waste Disposal Act (42 U.S.C. 6937),
16 collectively referred to in this section as “applicable sites”.

17 (b) FEDERAL SITES.—In exercising the authority
18 under the program established under this section, the Ad-
19 ministrator shall enter into partnerships with other Execu-
20 tive agencies, and, if appropriate, non-Federal partners,
21 for the purpose of testing environmental technologies at
22 federally owned sites. Each partnership shall include
23 agreements regarding the selection of sites and the man-
24 agement and oversight of the testing and evaluation of en-

1 vironmental technologies at such sites, subject to the
2 guidelines established under subsection (d).

3 (c) DESCRIPTION.—As part of the program estab-
4 lished under this section, the Administrator shall—

5 (1) solicit and accept applications to test envi-
6 ronmental technologies suitable for the prevention,
7 control, or remediation of contamination at applica-
8 ble sites, subject to the guidelines established under
9 subsection (d);

10 (2) subject to subsection (b) and in consultation
11 and cooperation with representatives of other Execu-
12 tive agencies, State and local governments, industry
13 consortia, and other groups interested in the control,
14 source reduction, and remediation of contamination
15 at an applicable site, manage and oversee testing
16 and evaluation of environmental technologies at the
17 site, subject to the guidelines established under sub-
18 section (d);

19 (3) document the performance and cost charac-
20 teristics of an environmental technology tested at an
21 applicable site;

22 (4) consistent with section 201(c)(3)(C), list
23 and disseminate nonproprietary information regard-
24 ing the performance and cost characteristics of an

1 environmental technology that has been tested at 1
2 or more applicable sites; and

3 (5) to the extent feasible, incorporate Environ-
4 mental Protection Agency programs in existence on
5 the date of enactment of this Act that facilitate test-
6 ing of environmental technologies at applicable sites,
7 including the alternative or innovative treatment
8 technology research and demonstration program es-
9 tablished under section 311(b) of the Comprehensive
10 Environmental Response, Compensation, and Liabil-
11 ity Act of 1980 (42 U.S.C. 9660(b)).

12 (d) GUIDELINES.—The Administrator, in agreement
13 with the heads of other appropriate Executive agencies,
14 shall, after notice and opportunity for comment, issue
15 guidelines for the operation of the program established
16 under this section. The guidelines shall include—

17 (1) an initial listing of applicable sites poten-
18 tially available for the testing of environmental tech-
19 nologies categorized by site characteristics, including
20 production processes and technologies and, in the
21 case of contaminated sites requiring remediation,
22 site geology and site contaminants;

23 (2) criteria for designating the eligibility of ap-
24 plicants to the program established under this sec-
25 tion;

1 (3) the application procedures for applicants
2 designated under paragraph (2), including, consist-
3 ent with section 202(f), provisions for sharing the
4 costs of testing with applicants;

5 (4) criteria for the verification of the efficacy of
6 tested environmental technologies;

7 (5) specific procedures for the management and
8 oversight of testing at applicable sites, including pro-
9 cedures for consultation with communities in the vi-
10 cinity of applicable sites;

11 (6) criteria for determining whether and to
12 what extent legal authorities should be used to in-
13 demnify successful applicants to the program estab-
14 lished under this section; and

15 (7) provisions for terminating partnerships.

16 (e) LISTING OF TESTED TECHNOLOGIES.—In the
17 case of a technology tested under the program established
18 under this section, the Administrator shall publish the
19 nonproprietary test results, cost information, and a gen-
20 eral description of the tested environmental technology,
21 and, consistent with section 201(c)(3)(C), disseminate the
22 information.

23 (f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section
25 \$10,000,000 for each of fiscal years 1995 through 1998.

1 **TITLE IV—ADDITIONAL**
2 **PROGRAMS**
3 **Subtitle A—Verification of**
4 **Environmental Technologies**

5 **SEC. 401. PROGRAM.**

6 (a) ESTABLISHMENT.—As part of the Environmental
7 Technology Initiative established under title II, the Ad-
8 ministrator shall establish a program to verify, evaluate,
9 and disseminate performance and, to the extent prac-
10 ticable, estimates of the capital and operating cost (re-
11 ferred to in this section as “cost estimates”) of environ-
12 mental technologies, including environmental technologies
13 appropriate for meeting the performance criteria of regu-
14 lations issued as performance standards under laws that
15 the Administrator determines are appropriate, collectively
16 referred to in this section as “applicable regulations”.

17 (b) PURPOSE.—The purpose of the program estab-
18 lished under this section is to provide businesses, munici-
19 palities, and other persons subject to environmental regu-
20 lations or concerned with environmental improvement,
21 with greater access to suitable environmental technologies
22 by establishing a process of verification of the performance
23 characteristics and cost estimates of environmental tech-
24 nologies.

1 (c) ADMINISTRATION.—As part of the program estab-
2 lished under this section, the Administrator, in collabora-
3 tion with appropriate officials of other Executive agencies,
4 shall—

5 (1) establish procedures for soliciting applica-
6 tions for and selecting, pursuant to the criteria es-
7 tablished under subsection (d), non-Federal entities
8 to perform the functions described in subsection (e);

9 (2) pursuant to subsection (g), develop and
10 issue common guidelines and protocols to verify and
11 evaluate the performance and cost estimates of envi-
12 ronmental technologies; and

13 (3) pursuant to subsection (h), list and dissemi-
14 nate the results of the verification and evaluation of
15 environmental technologies.

16 (d) SELECTION CRITERIA.—The Administrator, in
17 collaboration with the heads of appropriate Executive
18 agencies, shall, through a merit based selection process,
19 select non-Federal entities to perform the functions de-
20 scribed in subsection (e) based on—

21 (1) the capability of the entity to provide thor-
22 ough and credible technical and financial verification
23 and evaluation of environmental technologies;

24 (2) the likelihood of continued viability of the
25 entity; and

1 (3) such other criteria as the Administrator
2 considers appropriate.

3 (e) NON-FEDERAL VERIFICATION.—Each non-Fed-
4 eral entity selected under subsection (d) shall—

5 (1) accept applications to verify and evaluate
6 performance characteristics and cost estimates of en-
7 vironmental technologies;

8 (2) using appropriate protocols developed under
9 subsection (g), verify the quality and credibility of
10 performance data and cost estimates submitted by
11 applicants;

12 (3) using the criteria developed under sub-
13 section (g), evaluate performance data and cost esti-
14 mates for environmental technologies; and

15 (4) report to the Administrator performance
16 data and cost estimates regarding the environmental
17 technologies verified and evaluated.

18 (f) FEDERAL VERIFICATION.—As part of the pro-
19 gram established under this section, the head of an Execu-
20 tive agency may, individually or pursuant to a partnership,
21 verify and evaluate the performance and cost estimates of
22 environmental technologies at federally owned sites. The
23 head of the Executive agency shall ensure that—

24 (1) the common protocols and guidelines devel-
25 oped under subsection (g) are employed for the ver-

1 ification and evaluation of all environmental tech-
2 nologies; and

3 (2) the results for each environmental tech-
4 nology verified and evaluated are reported to the Ad-
5 ministrator.

6 (g) GUIDELINES.—

7 (1) IN GENERAL.—Not later than 2 years after
8 the date of enactment of this Act, the Administrator,
9 in agreement with the Secretary of Energy, the Sec-
10 retary of Commerce, the Secretary of Defense, the
11 Administrator of the Small Business Administration,
12 and appropriate officials of other Executive agencies,
13 shall, after notice and opportunity for comment,
14 issue guidelines for the operation of the program es-
15 tablished under this section. The guidelines shall be
16 revised from time-to-time as appropriate.

17 (2) DESCRIPTION.—The guidelines shall in-
18 clude—

19 (A) criteria for designating the eligibility of
20 applicants to the program established under
21 this section;

22 (B) application requirements and proce-
23 dures for submitting data for verification;

1 (C) appropriate protocols to verify the
2 quality and credibility of performance data and
3 cost estimates submitted by applicants;

4 (D) general criteria for the evaluation of
5 environmental technologies, including an evalua-
6 tion, with respect to each technology evaluated,
7 of the ability of the technology to—

8 (i) meet the performance criteria of
9 any applicable regulation under tested con-
10 ditions with additional source reduction,
11 control, or remediation benefits as com-
12 pared to otherwise applicable technology;

13 (ii) meet the performance criteria of
14 any applicable regulation under tested con-
15 ditions at a comparable or lower estimates
16 of cost than the estimated cost of other-
17 wise applicable technology; or

18 (iii) constitute a significant advance in
19 the development of an environmental tech-
20 nology with broad applicability;

21 (E) a schedule of fees for applications to
22 cover the costs of the program, including—

23 (i) lower fees for each applicant des-
24 ignated as a small business concern, non-
25 profit group, institution of higher edu-

1 cation, or State or local government entity;
2 and

3 (ii) lower fees for applications to ver-
4 ify environmental technologies that provide
5 source reduction;

6 (F) consistent with section 202(g), criteria
7 and appropriate procedures for the protection
8 of proprietary information regarding environ-
9 mental technologies; and

10 (G) such other provisions as the Adminis-
11 trator or the head of another agency listed in
12 paragraph (1) may consider appropriate.

13 (h) REVIEW AND REPORTING OF TECHNOLOGIES.—

14 (1) IN GENERAL.—In the case of a technology
15 verified and evaluated by a non-Federal entity se-
16 lected under subsection (d), the Administrator shall
17 conduct appropriate review of the accuracy of the
18 data and the results of the verification and evalua-
19 tion, prior to publication of the information under
20 paragraph (2).

21 (2) PUBLICATION OF DESCRIPTION.—Consist-
22 ent with section 201(c)(3), the Administrator shall
23 publish a nonproprietary description of the environ-
24 mental technologies verified and evaluated under this
25 section and disseminate the information.

1 (3) SIGNIFICANT ADVANCES.—The Adminis-
2 trator may establish a list of technologies verified
3 under the program established by this section that
4 represent significant advances as compared to then
5 current available technologies.

6 (i) NO REVISION OF REGULATIONS.—Nothing in this
7 Act shall be construed, interpreted, or applied in any man-
8 ner to revise any regulation or release a person subject
9 to any regulation from the duty to comply with the regula-
10 tion.

11 (j) JUDICIAL REVIEW.—

12 (1) EFFECT OF VERIFICATION.—The verifica-
13 tion or evaluation of a technology under the program
14 established under this section shall not—

15 (A) constitute a final action by the Admin-
16 istrator; and

17 (B) be subject to judicial review.

18 (2) FAILURE TO COMPLY.—If a technology veri-
19 fied, evaluated, and listed pursuant to the program
20 established under this section fails to result in com-
21 pliance with any applicable regulation, the verifica-
22 tion, evaluation, and listing shall not constitute a de-
23 fense in an enforcement action or citizen suit and
24 shall not create a cause of action against the Envi-
25 ronmental Protection Agency.

1 (k) NO FEDERAL CAUSE OF ACTION.—Nothing in
2 this section creates a cause of action or in any other man-
3 ner increases or decreases the liability of a person.

4 **Subtitle B—Technical Assistance to**
5 **Small Business in Coordination**
6 **with Existing Programs**

7 **SEC. 411. ENVIRONMENTAL ASSISTANCE.**

8 (a) AGREEMENTS.—Not later than 180 days after
9 the date of enactment of this Act, the Administrator, the
10 Secretary of Commerce, and the heads of other Executive
11 agencies shall enter into such agreements as are necessary
12 to permit the Environmental Protection Agency to provide
13 technical assistance and support to the Manufacturing
14 Technology Centers and other similar Extension Centers
15 administered by the National Institute of Standards and
16 Technology of the Department of Commerce and other
17 technology assistance programs for small business con-
18 cerns as appropriate.

19 (b) ASSISTANCE.—The assistance shall include—

20 (1) the preparation of environmental assistance
21 packages for small business concerns generally and,
22 if appropriate, for specific small business sectors, in-
23 cluding information on—

24 (A) environmental compliance require-
25 ments and methods for achieving compliance;

1 (B) new environmental technologies;

2 (C) alternatives for source reduction that
3 are generally applicable to the small business
4 sectors; and

5 (D) guidance for identifying and applying
6 opportunities for source reduction at individual
7 facilities;

8 (2) providing technical assistance to small busi-
9 ness concerns seeking to act on the information pro-
10 vided under paragraph (1);

11 (3) coordinating with the heads of other Execu-
12 tive agencies to identify those small business sectors
13 that need improvement in environmental compliance
14 or in developing methods for source reduction; and

15 (4) developing and carrying out an action plan
16 for providing assistance to improve the environ-
17 mental performance of small business sectors in
18 need of improvement.

19 (c) COORDINATION.—The Administrator may coordi-
20 nate with—

21 (1) small business development centers (estab-
22 lished pursuant to section 21 of the Small Business
23 Act (15 U.S.C. 648)); and

24 (2) as appropriate, other small business and ag-
25 ricultural extension programs and centers,

1 to provide environmental assistance to small business con-
2 cerns.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$7,000,000 for each of fiscal years 1995 through 1998.

6 **SEC. 412. STATUTORY CONSTRUCTION.**

7 Nothing in this Act shall be construed, interpreted,
8 or applied in any manner to—

9 (1) affect the obligation or duty of any Execu-
10 tive agency to comply with all applicable environ-
11 mental laws and requirements; or

12 (2) limit the authority of any Executive Agency
13 to carry out or administer any program, duty, or re-
14 sponsibility.

Passed the Senate May 11 (legislative day, May 2),
1994.

Attest:

MARTHA S. POPE,

Secretary.

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