

106TH CONGRESS  
1ST SESSION

# H. R. 1743

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

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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”.

1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act—

3 (1) the term “Administrator” means the Ad-  
4 ministrator of the Agency;

5 (2) the term “Agency” means the Environ-  
6 mental Protection Agency; and

7 (3) the term “Assistant Administrator” means  
8 the Assistant Administrator for Air and Radiation of  
9 the Agency.

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

11 (a) IN GENERAL.—There are authorized to be appro-  
12 priated to the Administrator for the Office of Air and Ra-  
13 diation for environmental and scientific and energy re-  
14 search, development, and demonstration and commercial  
15 application of energy technology programs, projects, and  
16 activities for which specific sums are not authorized under  
17 other authority of law \$230,116,100 for fiscal year 2000  
18 and \$237,019,600 for fiscal year 2001, to remain available  
19 until expended, of which—

20 (1) \$124,282,600 for fiscal year 2000 and  
21 \$128,011,100 for fiscal year 2001 shall be for  
22 Science and Technology; and

23 (2) \$105,833,500 for fiscal year 2000 and  
24 \$109,008,500 for fiscal year 2001 shall be for the  
25 Climate Change Technology Initiative, including—

1 (A) \$39,964,000 for fiscal year 2000 and  
2 \$41,162,900 for fiscal year 2001 for Buildings;

3 (B) \$32,702,500 for fiscal year 2000 and  
4 \$33,683,600 for fiscal year 2001 for Transpor-  
5 tation;

6 (C) \$19,158,000 for fiscal year 2000 and  
7 \$19,732,740 for fiscal year 2001 for Industry;

8 (D) \$3,400,000 for fiscal year 2000 and  
9 \$3,502,000 for fiscal year 2001 for Carbon Re-  
10 moval;

11 (E) \$2,987,000 for fiscal year 2000 and  
12 \$3,076,600 for fiscal year 2001 for State and  
13 Local Climate; and

14 (F) \$7,622,000 for fiscal year 2000 and  
15 \$7,850,660 for fiscal year 2001 for Inter-  
16 national Capacity Building.

17 (b) LIMITATION.—None of the amounts authorized  
18 under subsection (a) may be obligated until 30 days after  
19 the Administrator submits to the Committee on Science  
20 and the Committee on Appropriations of the House of  
21 Representatives, and the Committee on Environment and  
22 Public Works and the Committee on Appropriations of the  
23 Senate, a report detailing, for fiscal year 2000 and each  
24 of the 2 previous fiscal years, for all Office of Air and  
25 Radiation environmental and scientific and energy re-

1 search, development, and demonstration and commercial  
2 application of energy technology programs, projects, and  
3 activities authorized under this Act, by appropriation goal  
4 and objectives—

5 (1) a description of, and funding requested or  
6 allocated for, each such program, project, and activ-  
7 ity;

8 (2) an identification of all recipients of funds to  
9 conduct such programs, projects, and activities; and

10 (3) an estimate of the amounts to be expended  
11 by each recipient of funds identified under para-  
12 graph (2).

13 (c) EXCLUSION.—In the computation of the 30-day  
14 period described in subsection (b), there shall be excluded  
15 any day on which either House of Congress is not in ses-  
16 sion because of an adjournment of more than 3 days to  
17 a day certain.

18 **SEC. 4. NOTICE.**

19 (a) REPROGRAMMING.—The Administrator may use  
20 for any authorized activities of the Office of Air and Radi-  
21 ation under this Act—

22 (1) up to the lesser of \$250,000 or 5 percent  
23 of the total funding for a fiscal year of an environ-  
24 mental or scientific or energy research, development,  
25 or demonstration or commercial application of en-

1 energy technology program, project, or activity of the  
2 Office of Air and Radiation; or

3 (2) after the expiration of 60 days after trans-  
4 mitting to the Committee on Science and the Com-  
5 mittee on Appropriations of the House of Represent-  
6 atives, and to the Committee on Environment and  
7 Public Works and the Committee on Appropriations  
8 of the Senate, a report described in subsection (b),  
9 up to 25 percent of the total funding for a fiscal  
10 year of an environmental or scientific or energy re-  
11 search, development, or demonstration or commer-  
12 cial application of energy technology program,  
13 project, or activity of the Office of Air and Radi-  
14 ation.

15 (b) REPORT.—(1) The report referred to in sub-  
16 section (a)(2) is a report containing a full and complete  
17 statement of the action proposed to be taken and the facts  
18 and circumstances relied upon in support of such proposed  
19 action.

20 (2) In the computation of the 60-day period under  
21 subsection (a)(2), there shall be excluded any day on  
22 which either House of Congress is not in session because  
23 of an adjournment of more than 3 days to a day certain.

24 (c) LIMITATIONS.—In no event may funds be used  
25 pursuant to subsection (a) for an environmental or sci-

1 entific or energy research, development, or demonstration  
2 or commercial application of energy technology program,  
3 project, or activity for which funding has been requested  
4 to the Congress but which has not been funded by the  
5 Congress.

6 (d) ANNUAL OPERATING PLAN.—The Administrator  
7 shall provide simultaneously to the Committee on Science  
8 and the Committee on Appropriations of the House of  
9 Representatives, and to the Committee on Environment  
10 and Public Works and the Committee on Appropriations  
11 of the Senate, any annual operating plan or other oper-  
12 ational funding document, including any additions or  
13 amendments thereto, provided to the Committee on Ap-  
14 propriations of the House of Representatives or to the  
15 Committee on Appropriations of the Senate.

16 (e) COPY OF REPORTS.—In addition to the docu-  
17 ments required under subsection (d), the Administrator  
18 shall provide copies simultaneously to the Committee on  
19 Science and the Committee on Appropriations of the  
20 House of Representatives, and to the Committee on Envi-  
21 ronment and Public Works and the Committee on Appro-  
22 priations of the Senate, of any report relating to the envi-  
23 ronmental or scientific or energy research, development,  
24 or demonstration or commercial application of energy  
25 technology programs, projects, or activities of the Office

1 of Air and Radiation prepared at the direction of any com-  
2 mittee of Congress.

3 (f) NOTICE OF REORGANIZATION.—The Adminis-  
4 trator shall provide notice to the Committee on Science  
5 and the Committee on Appropriations of the House of  
6 Representatives, and to the Committee on Environment  
7 and Public Works and the Committee on Appropriations  
8 of the Senate, not later than 15 days before any major  
9 reorganization of any environmental or scientific or energy  
10 research, development, or demonstration or commercial  
11 application of energy technology program, project, or ac-  
12 tivity of the Office of Air and Radiation.

13 **SEC. 5. BUDGET REQUEST FORMAT.**

14 The Administrator shall provide to the Congress, to  
15 be transmitted at the same time as the Agency's annual  
16 budget request submission, a detailed justification for  
17 budget authorization for the programs, projects, and ac-  
18 tivities for which funds are authorized by this Act. Each  
19 such document shall include, for the fiscal year for which  
20 funding is being requested and for the 2 previous fiscal  
21 years—

22 (1) a description of, and funding requested or  
23 allocated for, each such program, project, and activ-  
24 ity;

- 1           (2) an identification of all recipients of funds to  
2           conduct such programs, projects, and activities; and  
3           (3) an estimate of the amounts to be expended  
4           by each recipient of funds identified under para-  
5           graph (2).

6 The document required by this section shall be presented  
7 in the format employed by, and with the level of detail  
8 included in, the document entitled “Department of Energy  
9 FY 2000 Congressional Budget Request, DOE/CR–0062,  
10 Volume 3”, dated February 1999.

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

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

- 24           (1) the estimated amount of travel costs by the  
25           Agency and for persons awarded grants, contracts,

1       subcontracts, or any other form of financial assist-  
2       ance by the Agency for the fiscal year of such budg-  
3       et submission, as well as for the 2 previous fiscal  
4       years;

5               (2) the major purposes for such travel; and

6               (3) the sources of funds for such travel.

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

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

22               (2) the services either provided or to be pro-  
23       vided by each such trade association; and

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

1           (c) KYOTO PROTOCOL.—None of the funds author-  
2 ized by this Act may be used either directly or indirectly  
3 for the purpose of implementation, or in preparation for  
4 implementation, of the Kyoto Protocol which was adopted  
5 on December 11, 1997, in Kyoto, Japan, at the Third  
6 Conference of the Parties to the United Nations Frame-  
7 work Convention on Climate Change, unless it has been  
8 ratified by the Senate and has entered into force pursuant  
9 to article 25 of the Protocol.

10 **SEC. 7. LIMITATION ON DEMONSTRATIONS.**

11           The Agency shall provide funding for environmental  
12 or scientific or energy demonstration or commercial appli-  
13 cation of energy technology programs, projects, or activi-  
14 ties of the Office of Air and Radiation only for tech-  
15 nologies or processes that are substantially new, and not  
16 for incremental improvements to technologies or processes  
17 that exist in the marketplace.

18 **SEC. 8. FEDERAL ACQUISITION REGULATION.**

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

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

3 (b) CONGRESSIONAL NOTICE.—At least 60 days be-  
4 fore a contract award, amendment, or modification for  
5 which the Administrator intends to grant such a waiver,  
6 the Administrator shall submit to the Committee on  
7 Science and the Committee on Appropriations of the  
8 House of Representatives, and to the Committee on Envi-  
9 ronment and Public Works and the Committee on Appro-  
10 priations of the Senate, a report notifying the committees  
11 of the waiver and setting forth the reasons for the waiver.

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

13 None of the funds authorized to be appropriated by  
14 this Act may be used by the Agency to prepare or initiate  
15 Requests for Proposals (RFPs) for a program, project, or  
16 activity if the program, project, or activity has not been  
17 specifically authorized by Congress.

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

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

1 cles or services are not available from a commercial source  
2 in the 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  
11 agreement from any Federal funding source for a project  
12 that was not subjected to a competitive, merit-based award  
13 process, except as specifically authorized by this Act. Any  
14 exclusion from consideration pursuant to this section shall  
15 be effective for a period of 5 years after the person re-  
16 ceives such Federal funds.

17 (b) EXCEPTION.—Subsection (a) shall not apply to  
18 the receipt of Federal funds by a person due to the mem-  
19 bership of that person in a class specified by law for which  
20 assistance is awarded to members of the class according  
21 to a formula provided by law.

22 (c) DEFINITION.—For purposes of this section, the  
23 term “grant agreement” means a legal instrument whose  
24 principal purpose is to transfer a thing of value to the  
25 recipient to carry out a public purpose of support or stim-

1 ulation authorized by a law of the United States, and does  
2 not include the acquisition (by purchase, lease, or barter)  
3 of property or services for the direct benefit or use of the  
4 United States Government. Such term does not include  
5 a cooperative agreement (as such term is used in section  
6 6305 of title 31, United States Code) or a cooperative re-  
7 search and development agreement (as such term is de-  
8 fined in section 12(d)(1) of the Stevenson-Wydler Tech-  
9 nology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

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