

ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR  
AND RADIATION AUTHORIZATION ACT OF 1999

MARCH 6, 2000.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on Science,  
submitted the following

R E P O R T

[To accompany H.R. 1743]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (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, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Amendment .....	2
II. Purpose of the Bill .....	5
III. Background and Need for Legislation .....	5
IV. Summary of Hearings .....	8
V. Committee Actions .....	11
VI. Summary of Major Provisions of the Bill .....	13
VII. Section-By-Section Analysis and Committee Views .....	14
VIII. Cost Estimate .....	20
IX. Congressional Budget Office Cost Estimate .....	21
X. Compliance with Public Law 104-4 .....	23
XI. Committee Oversight Findings and Recommendations .....	23
XII. Oversight Findings and Recommendations by the Committee on Gov- ernment Reform .....	23
XIII. Constitutional Authority Statement .....	23
XIV. Federal Advisory Committee Statement .....	23
XV. Congressional Accountability Act .....	23
XVI. Changes in Existing Law Made by the Bill, as Reported .....	23

XVII. Committee Recommendations .....	24
XVIII. Proceedings of Committee on Science Markup .....	24

## I. AMENDMENT

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999”.

### SEC. 2. DEFINITIONS.

For the purposes of this Act—

- (1) the term “Administrator” means the Administrator of the Agency;
- (2) the term “Agency” means the Environmental Protection Agency; and
- (3) the term “Assistant Administrator” means the Assistant Administrator for Air and Radiation of the Agency.

### SEC. 3. OFFICE OF AIR AND RADIATION.

(a) IN GENERAL.—There are authorized to be appropriated to the Administrator for the Office of Air and Radiation for environmental research and development and scientific and energy research, development, and demonstration and commercial application of energy technology programs for which specific sums are not authorized under other authority of law \$230,116,100 for fiscal year 2000 and \$237,019,600 for fiscal year 2001, to remain available until expended, of which—

- (1) \$124,282,600 for fiscal year 2000 and \$128,011,100 for fiscal year 2001 shall be for Science; and
- (2) \$105,833,500 for fiscal year 2000 and \$109,008,500 for fiscal year 2001 shall be for the Climate Change Technology Initiative, including—
  - (A) \$39,964,000 for fiscal year 2000 and \$41,162,900 for fiscal year 2001 for Buildings;
  - (B) \$32,702,500 for fiscal year 2000 and \$33,683,600 for fiscal year 2001 for Transportation;
  - (C) \$19,158,000 for fiscal year 2000 and \$19,732,740 for fiscal year 2001 for Industry;
  - (D) \$3,400,000 for fiscal year 2000 and \$3,502,000 for fiscal year 2001 for Carbon Removal;
  - (E) \$2,987,000 for fiscal year 2000 and \$3,076,600 for fiscal year 2001 for State and Local Climate; and
  - (F) \$7,622,000 for fiscal year 2000 and \$7,850,660 for fiscal year 2001 for International Capacity Building.

(b) LIMITATION.—None of the amounts authorized under subsection (a) may be obligated until 30 days after the Administrator submits to the Committee on Science and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report detailing, for fiscal year 2000 and each of the 2 previous fiscal years, for all Office of Air and Radiation environmental research and development and scientific and energy research, development, and demonstration and commercial application of energy technology programs, projects and activities authorized under this Act, by appropriation goal and objectives—

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

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

### SEC. 4. NOTICE.

(a) REPROGRAMMING.—The Administrator may use for any authorized activities of the Office of Air and Radiation under this Act—

- (1) up to the lesser of \$250,000 or 5 percent of the total funding for a fiscal year of an environmental research or development or scientific or energy research, development, or demonstration or commercial application of energy technology program, project or activity of the Office of Air and Radiation; or

(2) after the expiration of 60 days after transmitting to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report described in subsection (b), up to 25 percent of the total funding for a fiscal year of an environmental research or development or scientific or energy research, development, or demonstration or commercial application of energy technology program, project or activity of the Office of Air and Radiation.

(b) REPORT.—(1) The report referred to in subsection (a)(2) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

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

(c) LIMITATIONS.—In no event may funds be used pursuant to subsection (a) for an environmental research or development or scientific or energy research, development, or demonstration or commercial application of energy technology program, project or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

(d) ANNUAL OPERATING PLAN.—The Administrator shall provide simultaneously to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, any annual operating plan or other operational funding document, including any additions or amendments thereto, provided to any committee of Congress.

(e) COPY OF REPORTS.—In addition to the documents required under subsection (d), the Administrator shall provide copies simultaneously to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, of any report relating to the environmental research or development or scientific or energy research, development, or demonstration or commercial application of energy technology programs, projects or activities of the Office of Air and Radiation prepared at the direction of any committee of Congress.

(f) NOTICE OF REORGANIZATION.—The Administrator shall provide notice to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any environmental research or development or scientific or energy research, development, or demonstration or commercial application of energy technology program, project or activity of the Office of Air and Radiation.

#### SEC. 5. BUDGET REQUEST FORMAT.

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

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

The document required by this section shall be presented in the format employed by, and with the level of detail included in, the document entitled "Department of Energy FY 2000 Congressional Budget Request, DOE/CR-0062, Volume 3", dated February 1999.

#### SEC. 6. LIMITS ON USE OF FUNDS.

(a) TRAVEL.—Not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Agency or travel costs for persons awarded contracts or subcontracts by the Agency. As part of the Agency's annual budget request submission to the Congress, the Administrator shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, that identifies—

- (1) the estimated amount of travel costs by the Agency and for persons awarded contracts or subcontracts by the Agency for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

- (2) the major purposes for such travel; and
- (3) the sources of funds for such travel.

(b) **TRADE ASSOCIATIONS.**—No funds authorized by this Act may be used either directly or indirectly to fund a grant, contract, subcontract, or any other form of financial assistance awarded by the Agency to a trade association on a noncompetitive basis. As part of the Agency's annual budget request submission to the Congress, the Administrator shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, that identifies—

- (1) the estimated amount of funds provided by the Agency to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;
- (2) the services either provided or to be provided by each such trade association; and
- (3) the sources of funds for services provided by each such trade association.

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

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

The Agency shall provide funding for scientific or energy or commercial application of energy technology demonstration programs of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

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

(a) **REQUIREMENT.**—None of the funds authorized to be appropriated by this Act may be used to award, amend, or modify a contract of the Office of Air and Radiation in a manner that deviates from the Federal Acquisition Regulation, unless the Administrator grants, on a case-by-case basis, a waiver to allow for such a deviation. The Administrator may not delegate the authority to grant such a waiver.

(b) **CONGRESSIONAL NOTICE.**—At least 60 days before a contract award, amendment, or modification for which the Administrator intends to grant such a waiver, the Administrator shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

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

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

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

None of the funds authorized to be appropriated by this Act may be used by any program, project or activity of the Office of Air and Radiation to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services are not available from a commercial source in the United States.

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

(a) **IN GENERAL.**—The Administrator shall exclude from consideration for grant agreements made after fiscal year 1999 by the Office of Air and Radiation, under the programs, projects and activities for which funds are authorized under this Act, any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1999, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation.

(c) DEFINITION.—For purposes of this section, the term “grant agreement” means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

#### SEC. 12. INTERNET AVAILABILITY OF INFORMATION.

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

Amend the title so as to read:

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.

## II. PURPOSE OF THE BILL

The purpose of H.R. 1743 is to authorize appropriations for fiscal years (FYs) 2000 and 2001 for environmental research and development (R&D) and scientific and energy research, development, and demonstration (RD&D) and commercial application of energy technology programs of the Office of Air and Radiation (OAR) of the Environmental Protection Agency (EPA).

## III. BACKGROUND AND NEED FOR THE LEGISLATION

EPA was established in the Executive Branch on December 2, 1970, as an independent agency pursuant to President Nixon’s Reorganization Plan No. 3 of July 9, 1970 (5 U.S.C. app.) to “integrate environmental management activities involving pollution control into a coordinated and comprehensive program.”<sup>1</sup>

EPA’s statutory mandate for R&D has grown piecemeal from provisions of many environmental protection laws as enacted or amended over the years. Congress has conferred EPA the authority to conduct basic and applied research, to develop and demonstrate new technologies, to monitor the ambient environment, and to conduct diverse special studies in two ways: (1) In the context of at least 12 different environmental protection laws,<sup>2</sup> and (2) in the

<sup>1</sup>Library of Congress. Congressional Research Service. Environmental Protection: An Historical Review of Legislation and Programs of the Environmental Protection Agency, Report No. 83–84 ENR, March 3, 1983, p. 1 (hereafter referred to as CRS 84–34).

<sup>2</sup>Library of Congress. Congressional Research Service. Environmental Laws: Summaries of Statutes Administered by the Environmental Protection Agency, RL30022, January 12, 1999 (hereafter referred to as CRS RL30022), p. 107. These 12 statutes include: (1) The Clean Air Act, especially sections 103, 104, 153, and 319, (2) the Clean Water Act, especially title I, sections 104–11; (3) the Safe Drinking Water Act, especially sections 1442 and 1444; (4) the Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act), especially Title II and Title IV; (5) the Solid Waste Disposal Act/Resource Conservation and Recovery Act, subtitle H, sections

Environmental Research, Development, and Demonstration Authorization Act (ERDDA).

Given the diverse R&D program activities mandated by the various statutes, the establishment of a coherent and coordinated EPA-wide environmental R&D program proved to be no easy task in the early years of the Agency's existence. One of the principal reasons that has been cited as causing the early difficulties was that "Congressional oversight was fragmented because of the diverse committee jurisdictions over the authorizing statutes."<sup>3</sup> This lack of Congressional focus changed, however, when the House of Representatives centralized jurisdiction for environmental R&D in the Committee on Science and Technology (now the Committee on Science, hereafter referred to as the Committee) in the 94th Congress.<sup>4</sup>

The Committee first sponsored legislation to authorize EPA's environmental RD&D programs in 1975, and the first ERDDA was enacted in 1976.<sup>5</sup> The ERDDA was reauthorized four times—in 1977,<sup>6</sup> in 1978,<sup>7</sup> in 1979,<sup>8</sup> and in 1980.<sup>9</sup> All of these statutes, which were originated by legislation introduced by a member of the Committee and which were solely referred in the House to the Committee, authorized specific sums for environmental RD&D activities under specific statutes, such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, etc.

Subsequent attempts to reauthorize the ERDDA after 1980 failed for various reasons,<sup>10</sup> but the Committee's jurisdiction over the original ERDDA and all subsequent ERDDA reauthorization legislation was never in question. This changed in 1997 when the Committee reported H.R. 1276, the ERDDA of 1997. H.R. 1276 was referred sequentially to the House Committee on Commerce and was never acted on by the House because the two Committees could not resolve their jurisdictional differences.

8001–8007; (6) the Federal Insecticide, Fungicide, and Rodenticide Act, section 20; (7) the Pesticide Research Act; (8) the Toxic Substances Control Act, especially section 10; (9) the Noise Control Act, section 14; (10) the National Environmental Policy Act, section 204(5); (11) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund), section 311 as amended by the Superfund Amendments and Reauthorization Act of 1986 section 209; and (12) the Acid Precipitation Act of 1980.

<sup>3</sup> CRS 84–34, p. 132.

<sup>4</sup> *Ibid.*

<sup>5</sup> Public Law 94–475, the Environmental Research, Development, and Demonstration Act (ERDDA) of 1976.

<sup>6</sup> Public Law 95–155, the ERDDA of 1978.

<sup>7</sup> Public Law 95–477, the ERDDA of 1979.

<sup>8</sup> Public Law 96–229, the ERDDA of 1980.

<sup>9</sup> Public Law 96–569, the ERDDA of 1981.

<sup>10</sup> In 1982, Congress passed S. 2577, which would have reauthorized the ERDDA for FYs 1983 and 1984, but the measure was vetoed by President Reagan, primarily because it required certain groups to be represented on the EPA Science Advisory Board. In 1984, the House passed H.R. 2899, which would have reauthorized the ERDDA for FYs 1984 and 1985, but the Senate did not act on the measure. In 1986, the Committee reported H.R. 2319, which would have reauthorized the ERDDA for FY 1986, but the House did not act on the measure. In 1984, the House passed H.R. 2355, which would have reauthorized the ERDDA for FYs 1988 and 1989, but the Senate did not act on the measure. In 1990, the Committee reported H.R. 2319, which would have reauthorized the ERDDA for FYs 1991, 1992, and 1993, but the House did not act on the measure. In 1991, the Committee reported H.R. 2404, which would have reauthorized the ERDDA for FYs 1992, 1993, and 1994, but the House did not act on the measure. In 1993, the House passed H.R. 1994, which would have reauthorized the ERDDA for FY 1994, but the Senate did not act on the measure. In 1995, the Committee reported H.R. 1814, which would have reauthorized the ERDDA for FY 1996; the text of this measure was incorporated as Title V of H.R. 2405, which passed the House in 1995, but the Senate did not act on the measure. And in 1996, the House passed H.R. 3322, which included as Title V, the ERDDA of 1996, which would have reauthorized the ERDDA for FY 1997, but the Senate did not act on the measures.

The Commerce Committee expressed three principal concerns about H.R. 1276:<sup>11</sup>

(1) H.R. 1276 contained “a significantly broader scope of programs than in previous Science Committee EPA R&D bills”;

(2) Many of the provisions were “unnecessary due to other statutory authorities”; that “[a] number of the separate statutory provisions authorizing EPA research and development activities fall within the jurisdiction of the Commerce Committee,” such as the Safe Drinking Water Act Amendments of 1996 and the Food Quality Protection Act of 1996, and

(3) the bill contained “a number of other provisions which are redundant of, and potentially inconsistent with, existing authorizations provided by the Commerce Committee,” such as the Clean Air Act, the Clean Water Act, etc.

The Commerce Committee made a valid point that H.R. 1276 contained a broader scope of programs than did previous Science Committee EPA RD&D bills. Previous ERDDA legislation had been limited to the R&D activities of EPA’s Office of Research and Development (ORD), which is responsible for the R&D needs of the Agency’s operating programs and the conduct of an integrated R&D program for the Agency. However, in 1996 Congress recognized that the OAR also performs significant R&D when it created the Science and Technology appropriation account in 1996 to fund the operating programs of the ORD, the OAR Office of Mobile Sources, and the Program Office laboratories.<sup>12</sup>

EPA’s OAR conducts not environmental R&D, but also scientific and energy RD&D and commercial application of energy technology programs. In particular, OAR Climate Change Technology Initiative (CCTI) programs are energy RD&D and commercial application of energy technology programs. Under Rule X, clause 1(n)(1) of the Rules of the House, the Committee on Science has jurisdiction over “*all* bills, resolutions, and other matters relating to \* \* \* [*all*] energy research, development, and demonstration, and projects therefor, \* \* \*” [emphases added]. Similarly, under Rule X, clause 1(n)(4), the Committee has jurisdiction over environmental R&D; under Rule X, clause 1(n)(6), the Committee has jurisdiction over the commercial application of energy technology; and under Rule X, clause 1(n)(14), the Committee has jurisdiction over scientific RD&D.

In the spirit of cooperation to address the Commerce Committee’s first concern, the Science Committee has divided the programs contained in H.R. 1276 into two bills. (1) H.R. 1742, which authorizes the environmental R&D and scientific RD&D programs of the ORD and the EPA Scientific Advisory Board; and (2) this bill, H.R. 1743, which authorizes the environmental R&D and scientific and energy RD&D and commercial application of energy technology programs for the OAR, and which also authorizes appropriations for the energy RD&D and commercial application of energy technology OAR CCTI programs. To address the Commerce Committee’s second concern, this bill limits the authorized appropriations to such environmental R&D and scientific and energy RD&D and commercial ap-

<sup>11</sup> H. Rept. 105–99, Part 2, pp. 5–7.

<sup>12</sup> Public Law 104–204, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997.

plication of energy technology programs “for which specific sums are not authorized under other authority of law.”

And finally, in order to address the Commerce Committee’s third concern, references to specific environmental statutes have been deleted.<sup>13</sup>

The Committee believes that the fact that most of EPA’s environmental R&D and scientific and energy RD&D and commercial application of energy technology programs have not been authorized for specific sums since 1981 demonstrates the need for such legislation. Further evidence of the need for such legislation is the large number of unauthorized Congressional directives contained in annual appropriation legislation, as well as EPA’s continuing inability—whether by design or ineptitude—to provide the Congress and the American people with the basic and fundamental budget information required to analyze its budget.

#### IV. SUMMARY OF HEARINGS

The Subcommittee on Energy and Environment of the Committee on Science held hearings on March 18, 1999 and April 14, 1999, to hear testimony on the Administration’s FY 2000 budget request for the environmental R&D, scientific and energy RD&D and commercial application of energy technology programs of the EPA’s OAR.

Appearing as witnesses before the Subcommittee hearing on March 18, 1999, titled “The FY 2000 EPA R&D Budget Authorization,” were Dr. Norine E. Noonan, Assistant Administrator for Research and Development, U.S. Environmental Protection Agency (EPA); Dr. William Randall Seeker, Chair, Research Strategies Advisory Committee, U.S. Environmental Protection Agency Science Advisory Board (SAB); and Mr. David G. Wood, Associate Director, Environmental Protection Issues, Resources, Community, and Economic Development Division, U.S. General Accounting Office (GAO).

Dr. Noonan testified that EPA’s total FY 2000 request in the Science and Technology (S&T) Account—which was created in 1996 and funds the operating programs of the Office of Research and Development (ORD), the Office of Air and Radiation’s (OAR’s) Office of Mobile Sources, and the Program Office laboratories—is \$642.5 million and 2,456 total work years—a decrease of \$17.5 million and 97 work years from FY 1999. ORD’s total FY 2000 request is \$534.8 million and 2,004 work years. Of this total, ORD’s FY 2000 request in the S&T account is \$495.9 million and 1,876 work years; the remaining \$38.9 million and 128 work years are in accounts other than the S&T account to support the Superfund, Leaking Underground Storage Tank, and Oil Spills research programs.

Dr. Seeker noted that the SAB’s RSAC had conducted a formal review of the entire FY 2000 EPA S&T budget request for the first time, and as part of the review process, had responded to six charge questions:

1. *Can the objectives of the research and development program in ORD and the broader science and technology program*

<sup>13</sup>The Committee on Science still believes that reference to the authorization of appropriations for environmental R&D under specific statutes, such as the Clean Air Act, the Clean Water Act, etc., is both consistent with its jurisdiction under the Rules of the House and with the precedential patterns of referral of identical legislation dating back to the 94th Congress.



*in EPA be achieved at the resource levels requested?*—RSAC found the funding request priorities to be appropriate based on the environmental goals established in the Agency Strategic Plan, but continues to have reservations about the adequacy of the funding level given the increasing complexity and cost of environmental problems.

2. *Does the budget request reflect priorities identified in the EPA and ORD Strategic Plans?*—RSAC found that the ORD and Program Office Science and Technology budgets do set priorities aligned with the Agency and ORD strategic plans and Government Performance and Results Act (GPRA) goals, but had some reservations about the decreases and some omissions in the overall priorities. It concluded that the budgets proposed in several areas were not likely to be sufficient to meet the goals established by the Agency and ORD in their Strategic Plans.

3. *Does the budget request reflect coordination between ORD and the Program Offices?*—RSAC commended the Agency for significant improvements in the coordination between ORD projects and the needs of the program offices and found that the Agency needs to continue to build on its strategic planning process for science across the Agency and across environmental goals.

4. *Does the budget request support a reasonable balance in terms of attention to core research on multimedia capabilities and issues and to media-specific problem-driven topics?*—RSAC found that the ORD budget request does appear to provide a balance between core research and media-specific, problem-driven science needs, but noted that the overall S&T budget request is more weighted to media-specific, problem-driven activities.

5. *Does the budget request balance attention to near-term and to long-term research and science and technology issues?*—RSAC found that, in general, the Agency has given serious consideration to both long-term and short-term research and science and technology issues, but that there is still no overall explicit approach to incorporate the requirements of longer-term research programs within the short-term budgetary process.

6. *How can EPA use or improve upon the Government Performance and Results Act (GPRA) structure to communicate research plans, priorities, research requirements, and planned outcomes?*—RSAC found that the EPA had used the GPRA goals structure to organize its FY 2000 budget request, and welcomed such a structure as an organizing principle. However, RSAC also found that most of the science milestones were process (or “output”) oriented rather than results (or “outcome”) oriented; and that the ORD and Agency process for prioritizing potential research programs is not completely transparent.

Mr. Wood discussed the findings from GAO's recent report on EPA's S&T funds requested for FY 1999<sup>14</sup> and on its limited review of EPA's FY 2000 budget justification, including: (1) difficulties experienced in comparing EPA's S&T budget justification for FY 1999 with those of previous years; and (2) actions that EPA planned and implemented to improve the clarity and comparability of the FY 2000 justification and items that need further clarification. In summary, GAO found the following:

- EPA's budget justification for FY 1999 could not be readily compared to amounts requested or enacted for FY 1998 and prior years because the justification did not show how the budget would be distributed among program offices or program components—information needed to link to the prior years' justifications.
- EPA implemented several changes to its FY 2000 justification to solve problems experienced in comparing the 1998 and 1999 budget justifications. While the budget justification followed the basic format reflecting the agency's strategic goals and objectives, EPA made changes to the objectives without explanations or documentation to link the changes to the FY 1999 budget justification. As a result, the FY 2000 budget justification cannot be completely compared with the FY 1999 justification without supplemental information.

The Subcommittee hearing of April 14, 1999, titled "Fiscal Year 2000 Climate Change Budget Authorization Request," examined the Administration's FY 2000 climate change budget proposals related to the Kyoto Protocol and the Protocol's requirement that the U.S. reduce its net greenhouse gas emissions by 7 percent below 1990 levels in the 2008–2012 timeframe—a reduction in projected U.S. carbon emissions of about 550 million metric tons, according to the most recent estimate of the Energy Information Administration (EIA) contained in its Annual Outlook 1999 (AEO99) report. The hearing also considered the U.S. Global Climate Change Research Program (USGCRP).

The Administration's FY 2000 climate change budget request totals \$4.142 billion, which includes: (1) \$200 million for an EPA "Clean Air Partnership Fund"; (2) \$1.368 billion for Climate Change Technology Initiative (CCTI) spending programs; (3) \$387 million for CCTI tax incentives; (4) \$400 million in other climate-related programs (Department of Energy (DOE) clean coal and natural gas, weatherization, and state energy grants); and (5) \$1.787 billion for USGCRP.

Appearing as witnesses were: The Honorable Neal F. Lane, Assistant to the President for Science and Technology and Director, Office of Science and Technology Policy; The Honorable Dan W. Reicher, DOE Assistant Secretary for Energy Efficiency and Renewable Energy; The Honorable David M. Gardiner, EPA Assistant Administrator for Policy; and The Honorable Jay E. Hakes, EIA Administrator.

Dr. Lane testified on the Administration's FY 2000 budget requests for CCTI and USGCRP, and noted the following:

<sup>14</sup> Environmental Protection: EPA's Science and Technology Funds (GAO/RCED-99-12, Oct. 30, 1998).

- CCTI is the Administration's response to a report issued from the President's Committee of Advisors on Science and Technology (PCAST), which concluded that the federal energy R&D programs were not commensurate in scope and scale with the energy challenges and opportunities for the 21st century, PCAST also warned that this shortfall could translate into higher dependence on imported oil, higher energy costs, smaller U.S. energy technology exports, worse air quality than would otherwise be the case, and the diminished capacity to reduce greenhouse gas emissions cost effectively.

- U.S. climate change science is largely supported by the \$1.8 billion FY 2000 budget request of the USGCRP. This request includes a new Carbon Cycle Science Initiative and the U.S. climate modeling effort.

- The climate change issue requires two issues to be addressed: (1) a sustained and enhanced commitment to energy research, development, and deployment; and (2) continued research into the science of climate change.

Mr. Reicher testified on the DOE's FY 2000 climate change budget request of approximately \$1.1 billion, and Mr. Gardiner discussed EPA's role in CCTI and its FY 2000 budget requests of \$216 million for CCTI and \$200 million for a Clean Air Partnership Fund.

Finally, Dr. Hakes gave testimony on the EIA report, Analysis of The Climate Change Technology Initiative, which was conducted at the request of Science Committee Chairman Sensenbrenner and Ranking Minority Member George Brown, Jr. The EIA analysis predicts that the CCTI tax incentives would only reduce projected U.S. carbon emissions in 2010 by 3.1 million metric tons, or 0.17 percent. The EIA also found that while research, development, and deployment programs also have benefits in reducing carbon emissions, it is not possible to link program expenditures directly to program results or to separate the impacts of incremental funding requested for FY 2000 from ongoing program expenditures. In addition, Dr. Hakes testified that the current EIA AEO99 estimates already include the impacts of ongoing research and development.

#### V. COMMITTEE ACTIONS

As summarized above, the Subcommittee on Energy and Environment of the Committee on Science heard testimony relevant to the programs authorized in H.R. 1743 at hearings held on March 18 and April 14, 1999.

On May 10, 1999, Mr. Ken Calvert, Chairman of the Subcommittee on Energy and Environment, introduced H.R. 1743, the Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999, a bill to authorize appropriations for FY 2000 and FY 2001 for the environmental R&D and scientific and energy RD&D and commercial application of energy technology programs of the EPA Office of Air and Radiation.

The Committee on Science met to consider H.R. 1743 on Wednesday, May 26, 1999, and entertained the following amendments and report language.

*Amendments 1 and 5.*—Mr. Calvert, Chairman of the Science Committee's Subcommittee on Energy and Environment, asked and

received unanimous consent to offer a manager's amendment (Amendment) and a title change amendment (Amendment 5) simultaneously on behalf of himself and Mr. Costello, Ranking Minority Member of the Subcommittee on Energy and Environment making. The manager's amendment made: (1) technical and conforming changes to H.R. 1743, as introduced; (2) clarifications of the "Limitations on Demonstrations" and "Eligibility of Awards" provisions; and (3) changes in language resulting from bipartisan consultations with the Committee on Commerce that strengthen the Committee on Science's jurisdictional claims for the bill's provisions. And the title change amendment conformed the bill's title to changes made in the manager's amendment. The amendments were adopted by voice vote.

*Amendment 2.*—Ms. Lofgren's amendment, which was not offered, would have stricken subsection 6(c) of the bill, which prohibited any of the funds authorized by the Act to be used either directly or indirectly for the purpose of implementation of, or in preparation for implementation of, the Kyoto Protocol, unless it has been ratified by the Senate and has entered into force pursuant to article 25 of the Protocol.

*Amendment 3.*—On behalf of Ms. Lofgren, Mr. Sensenbrenner offered an amendment providing that none of the funds authorized by this Act may be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation of, or in preparation for implementation of, the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advise and consent to ratification pursuant to article II, section 2, clause 2 of the United Constitution and which has not entered into force pursuant to article 25 of the Protocol. The amendment was adopted by voice vote.

*Amendment 4.*—Ms. Biggert offered an amendment requiring the EPA Administrator to make available through EPA's Internet home page abstracts relating to all research grants and awards made with funds authorized by this Act, with the proviso that nothing in the amendment shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public. The amendment was adopted by voice vote.

*Report Language 1.*—Mr. Gutknecht offered report language addressing concerns of EPA Inspector General about computer security at EPA. The language was adopted by voice vote.

*Report Language 2.*—Mr. Calvert asked and received unanimous consent that: (1) the budget table for H.R. 1743 be included in the bill's report language; (2) staff be permitted to make technical corrections to the table; (3) the minority be given the opportunity to examine the table in detail and negotiate over its content; and (4) upon completion of negotiations a final version be signed by a majority of the Committee, and thereafter the minority have two subsequent days to file any minority supplemental or additional views.

With a quorum present, Mr. Costello moved that the Committee favorably report the bill, H.R. 1743, as amended, to the House with the recommendation that the bill, as amended, do pass; that the

staff be instructed to prepare the legislative report and make necessary technical and conforming changes; and that the Chairman take all necessary steps to bring the bill before the House for consideration. The motion was approved by voice vote.

Mr. Sensenbrenner asked and received unanimous consent that: (1) Members have two subsequent calendar days in which to submit supplemental, minority or additional views on the measure; (2) pursuant to clause 1 of Rule XXII of the Rules of the House of Representatives, the Chairman may offer such motions as may be necessary in the House to go to conference with the Senate on H.R. 1743 or a similar Senate bill; (3) staff be given authority to make technical and conforming changes; and (4) the bill be reported in the form of a single amendment in the nature of a substitute reflecting amendments adopted.

#### VI. SUMMARY OF MAJOR PROVISIONS OF THE BILL

As shown in the Table below, Subsection 3(a) of the bill authorizes to be appropriated to the EPA Administrator for the OAR for environmental R&D and scientific and energy RD&D and commercial application of energy technology programs \$230,116,100 for FY 2000 and \$237,019,600 for FY 2001, to remain available until expended, of which—(1) \$124,282,600 for FY 2000 and \$128,011,100 for FY 2001 shall be for Science; and (2) \$105,833,500 for FY 2000 and \$109,008,500 for FY 2001 shall be for CCTI.

The bill also:

- Limits the amounts of funds that may be reprogrammed;
- Requires EPA to submit its budget requests in a format that is transparent and in sufficient detail so that it is understandable;
- Limits wasteful travel by EPA and its contractors.
- Prohibits EPA from making noncompetitive awards of grants, contracts, subcontracts, or any other forms of financial assistance to trade associations.
- Prohibits EPA from using of any funds authorized by the bill for the purpose of proposing or issuing rules, regulations, decrees, or orders for the purpose of implementing, or in preparation for implementing, the Kyoto Protocol which has not been submitted to the Senate for advise and consent to ratification and which has not entered into force.
- Limits EPA funding for scientific or energy demonstrations or commercial application of energy technology programs of OAR to technologies and processes that can reasonably be expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process;
- Prohibits EPA from using of any funds authorized by the bill to: (1) award, amend, or modify a contract of the OAR in a manner that deviates from the Federal Acquisition Regulation, unless the EPA Administrator grants a case-by-case waiver and reports to Congress; (2) to prepare or initiate Requests for Proposals (RFPs) for unauthorized programs, projects or activities; or (3) produce or provide articles or services for the purpose of selling them to a person outside the Federal Government, unless the EPA Administrator determines that com-

parable articles or services are not available from a commercial source in the U.S.

- Excludes from consideration for grant agreements made after 1999 by the OAR for a period of five years—under the programs, projects and activities for which funds are authorized under the bill—any person who received funding for a project not subject to a competitive, merit-based award process, except as specifically authorized by the bill.

- Requires the EPA Administrator to make available through EPA’s Internet home page the abstracts relating to all research grants and awards made with funds authorized by the bill.

TABLE H.R. 1743.—ENVIRONMENTAL PROTECTION AGENCY OFFICE OF AIR AND RADIATION AUTHORIZATION ACT OF 1999: SUMMARY

[In dollars]

Office/program/activity	FY 1999 appropriation	FY 2000 request	FY 2000 recommendation	FY 2000 recommendation compared with (+ or –) FY 1999 appropriation	FY 2001 recommendation	FY 2001 recommendation compared with (+ or –) FY 2000 appropriation
Office of Air and Radiation Science .....	120,662,700	122,389,800	124,282,600	+3,619,900	128,011,100	+3,728,500
Climate Change Technology Initiative (CCTI):						
Buildings .....	38,800,000	80,100,000	39,964,000	+1,164,000	41,162,900	+1,198,900
Transportation .....	31,750,000	61,900,000	32,702,500	+952,500	33,683,600	+981,100
Industry .....	18,600,000	55,600,000	19,158,000	+558,000	19,732,740	+574,740
Carbon Removal .....	0	3,400,000	3,400,000	3,400,000	3,502,000	+102,000
State and Local Climate .....	2,900,000	5,000,000	2,987,000	+87,000	3,076,600	+89,600
International Capacity Building .....	7,400,000	10,400,000	7,622,000	+222,000	7,850,660	+228,660
Partnership with Industrial and Other Countries .....	160,000	409,100	0	– 160,000	0	0
Total, CCTI .....	99,610,000	216,809,100	105,833,500	+6,223,500	109,008,500	+3,175,000
Total, H.R. 1743 Budget Authority/Authorization .....	220,272,700	339,198,900	230,116,100	+9,843,400	237,019,600	+6,903,500

## VII. SECTION-BY-SECTION ANALYSIS AND COMMITTEE VIEWS

### *Section 1. Short title*

Section 1 cites the Act as the “Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999.”

### *Section 2. Definitions*

Section 2 defines: (1) the “Agency” as the Environmental Protection Agency; (2) the “Administrator” as the Administrator of Environmental Protection Agency; and (3) “Assistant Administrator” as the Assistant Administrator for Air and Radiation of the Agency.

*Section 3. Office of Air and Radiation*

Subsection 3(a) authorizes to be appropriated to the EPA Administrator for the OAR for environmental R&D and scientific and energy RD&D and commercial application of energy technology programs \$230,116,110 for fiscal year (FY) 2000 and \$237,019,600 for FY 2001, to remain available until expended, of which—(1) \$124,282,600 for FY 2000 and \$128,011,100 for FY 2001 shall be for Science; and (2) \$105,833,500 for FY 2000 and \$109,008,500 for FY 2001 shall be for the Climate Change Technology Initiative, including (A) \$39,964,000 for FY 2000 and \$41,162,900 for FY 2001 for Buildings; (B) \$32,702,500 for FY 2000 and \$33,683,600 for FY 2001 for Transportation; (C) \$19,158,000 for FY 2000 and \$19,732,740 for FY 2001 for Industry; (D) \$3,400,000 for FY 2000 and \$3,502,000 for FY 2001 for Carbon Removal; (E) \$2,987,000 for FY 2000 and \$3,076,600 for FY 2001 for State and Local Climate; and (F) \$7,622,000 for FY 2000 and \$7,850,660 for FY 2001 for International Capacity Building.

Subsection 3(b) prohibits the obligation of any amounts authorized under subsection 3(a) until 30 days after the Administrator submits to the Committee on Science and the Committee on Appropriations of the House and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report detailing for all ORD environmental R&D and scientific RD&D programs, projects and activities, by appropriation goal and objectives, for FY 2000 and each of the previous two FYs—(1) a description of, and funding requested or allocated for, each such program, project and activity; (2) an identification of all recipients of funds to conduct such programs, projects and activities; and (3) an estimate of the amounts to be expended by each recipient of funds identified in (2).

Subsection 3(c) provides that the 30 days described in subsection 3(b) will not include any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

*Committee views*

For FY 2000, the Committee's recommendations provide a 3 percent increase above the FY 1999 appropriated levels for these programs; and, for FY 2001, the Committee's recommendations also provide a 3 percent increase above the FY 2000 recommended levels. These levels are recommended to provide a stable and predictable funding pattern in which to conduct this important research.

In spite of repeated discussions and meetings with the EPA over a period of years about the inadequacy of its budget information, the Agency has proved unwilling or unable to provide the Congress and the American people with the basic and fundamental information required to analyze its budget. In fact, the situation has worsened since the Agency reformulated its budget in a format it claims is consistent with both the letter and spirit of the Government Performance and Results Act of 1993.<sup>15</sup> The Committee respectfully disagrees with the EPA and has included a provision that prohibits the obligation of any amounts authorized in the bill until 30 days

<sup>15</sup>Public Law 103-62.

after the Administrator submits to the Committee on Science and the Committee on Appropriations of the House and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a detailed report for FY 2000 and each of the previous two FYs, for all OAR environmental R&D and scientific and energy RD&D and commercial application of energy technology programs, projects and activities, by appropriation goal and objectives authorized under this Act, which shall include (1) a description of, and funding requested or allocated for, each such program, project and activity; (2) an identification of all recipients of funds to conduct such programs, projects and activities; and (3) an estimate of the amounts to be expended by each recipient of funds identified in (2). The Committee must take this action because the Agency's long-standing and continuing refusal to comply with Committee requests for budget information leaves no alternative.

#### *Section 4. Notice*

Subsections 4(a) and (b) would allow the Administrator to reprogram funds for any authorized activities of the OAR under this Act—(1) up to the lesser of \$250,000 or 5 percent of the total funding for a fiscal year of an environmental research or development or scientific or energy research, development or demonstration or commercial application of energy technology program, project or activity of the OAR; or (2) up to 25 percent of the total funding for a fiscal year of an environmental research or development or scientific or energy research, development or demonstration or commercial application of energy technology project or activity of the OAR after the Administrator has transmitted a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances that support such proposed action to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and a period of 60 days has elapsed after the date on which the report is received (excluding any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain).

Subsection 4(c) prohibits the use of reprogrammed funds for an environmental research or development or scientific or energy research, development or demonstration or commercial application of energy technology program, project or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

Subsection 4(d) requires the Administrator to provide simultaneously to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, any annual operating plan or other operational funding document, including any additions or amendments thereof, provided to the Committee on Appropriations of the House or the Senate.

Subsection 4(e) also requires the Administrator to provide copies simultaneously to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Environ-



ment and Public Works and the Committee on Appropriations of the Senate, of any report relating to the environmental research or development or scientific or energy research, development or demonstration or commercial application of energy technology programs, projects or activities of the OAR prepared at the direction of any committee of Congress.

Subsection 4(f) requires the Administrator to provide notice to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of environmental research or development or scientific or energy research, development or demonstration or commercial application of energy technology program, project or activity of the OAR.

#### *Section 5. Budget request format*

Section 5 requires the Administrator to provide to the Congress at the same time as the budget request submission a detailed budget justification for programs, projects and activities authorized by this Act. Each such document shall include, for the FY requested and for two previous FYs—(1) a description and funding requested levels for each program, project and activity; (2) identification of all recipients of these funds; and (3) an estimate of the amount to be expended by each recipient in paragraph (2). In addition, Section 5 stipulates that the document required by this section shall be presented in the format employed by, and with the level of detail included in, the document entitled “Department of Energy FY 2000 Congressional Budget Request, DOE/CR-0062, Volume 3”, dated February 1999.

#### *Committee views*

As noted above, the Committee must take this action because the Agency’s long-standing and continuing refusal to comply with Committee requests for budget information leaves no alternative.

#### *Section 6. Limits on use of funds*

Subsection 6(a) provides that not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Agency or travel costs for persons awarded contracts or subcontracts by the Agency. As part of the Agency’s annual budget request submission to the Congress, the Administrator must submit a report to the Committee on Science and Committee on Appropriations of the House, and to the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate that identifies—(1) the estimated amount of travel costs by the Agency and for persons awarded contracts or subcontracts by the Agency for the fiscal year of such budget submission, as well as for the two previous years; (2) the major purposes for such travel; and (3) the sources of funds for such travel.

Subsection 6(b) provides that no funds authorized by the Act may be used either directly or indirectly to fund a grant, contract, subcontract or any other form of financial assistance awarded by the Agency to a trade association on a noncompetitive basis. As part of the Agency’s annual budget request submission to the Congress,

the Administrator shall also submit a report to the Committee on Science and Committee on Appropriations of the House, and to the Committee on Environment and Public Works and Committee on Appropriations of the Senate that shall identify—(1) the estimated amount of funds provided by the Agency to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the two previous fiscal years; (2) the services either provided or to be provided by each such trade association; and (3) the sources of funds for services provided by each such trade association.

Subsection 6(c) provides that none of the funds authorized by this Act may be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation of, or in preparation for implementation of, the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advise and consent to ratification pursuant to article II, section 2, clause 2 of the United Constitution and which has not entered into force pursuant to article 25 of the Protocol.

#### *Committee views*

The subsection 6(c) prohibition on the use of funds authorized by this Act to propose or issue rules, decrees, or orders for the purpose of implementation of, or in preparation for implementation of, the Kyoto Protocol, is virtually identical to that contained in Public Law 105–276, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999. It is the Committee's view that the Kyoto Protocol should not be implemented prematurely.

#### *Section 7. Limitation on demonstrations*

Subsection 7 requires that the Agency only provide funding for scientific or energy or commercial application of energy technology demonstration programs of the OAR for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

#### *Section 8. Federal acquisition regulation*

Subsection 8(a) prohibits the use of funds authorized by this Act may be used to award, amend, or modify a contract of OAR in a manner that deviates from the Federal Acquisition Regulation unless the Administrator grants, on a case-by-case basis, a waiver to allow for such a deviation. The Administrator may not delegate the authority to grant such a waiver.

Subsection 8(b) requires that at least 60 days before a contract award, amendment, or modification for which the Administrator intends to grant such a waiver, the Administrator shall submit to the Committee on Science and the Committee on Appropriations of the House, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

*Section 9. Requests for proposals*

Subsection 9 prohibits the Agency from using funds authorized by this Act to prepare or initiate RFPs for a program, project or activity if the program, project or activity has not been specifically authorized by Congress.

*Section 10. Production or provision of articles or services*

Section 10 prohibits the use of funds authorized under this Act by any program, project or activity of OAR to produce or provide articles or services for the purpose of selling to a person outside the Federal Government, unless the Administrator determines that comparable articles or services are not available from a commercial source in the U.S.

*Section 11. Eligibility for awards*

Subsection 11(a) requires the Administrator to exclude from consideration for grant agreements made after FY 1999 by OAR, under the programs, projects and activities for which funds are authorized under this Act, any person who received funds, other than those described in subsection 11(b), appropriated for a fiscal year after FY 1999, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

Subsection 11(b) provides that subsection 11(a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation.

Subsection 11(c) defines the term "grant agreement" to mean a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term also does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

*Committee views*

The Committee has a long-standing position that awards should be based on a competitive, merit-based process. Merit review allows taxpayers' dollars to be spent in the most cost-effective manner.

*Section 12. Internet availability of information*

Section 12 requires the Administrator to make available through EPA's Internet home page the abstracts relating to all research grants and awards made with the funds authorized by this Act. Nothing in this section shall be construed to require or permit the

release of any information prohibition by law or regulation from being released to the public.

*Committee views*

The Committee believes that by giving public access to information about how tax dollars are spent, it is acting as a responsible steward of taxpayer resources. Such information can also stimulate additional public and private sector research by informing the research community.

*Additional committee views—computer security*

The Committee is concerned with computer security at EPA. The Committee feels that no later than October 1, 1999, EPA should:

1. Review and evaluate the costs and benefits of implementing formal firewall technologies. Based on the results of this review, implement formal firewall technologies or document the risks that EPA is willing to assume by not implementing a firewall;
2. Implement correctives actions (e.g., filtering, software patches, workarounds) to prevent intruders from accessing EPA through Internet services with known weaknesses.
3. Review industry recommendations (e.g., CERT advisories and summaries) in a timely manner and, if applicable, implement the recommended corrective actions;
4. Maintain and monitor sufficient audit logs of network system activities that will provide a useful audit trail to assist in reconstructing events, detecting security violations and analyzing performance problems; and
5. Develop and implement a security plan for EPA's Internet connectivity that meets the requirements in the Computer Security Act of 1987 and OMB Circular A-130.

In addition, the Committee believes that by January 1, 2000, EPA should develop and implement an EPA Network Security Policy that:

1. Defines the Internet services that will be allowed and/or denied;
2. Clearly delineates network security responsibilities;
3. Defines procedures to prevent and respond to security incidents;
4. Defines appropriate use of the Internet; and
5. States how different types of information (e.g., publicly releasable, limited release, Privacy Act, etc.) will be treated when using Internet services.

## VIII. COST ESTIMATE

Rule XIII, clause 3(d)(2) of Rules of the House of Representatives requires that each report of a committee on a public bill or public joint resolution contain: (A) an estimate by the committee of the costs that would be incurred in carrying out the bill or joint resolution in the fiscal year in which it is reported, and in each of the five fiscal years following that fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years); (B) a comparison of the estimate of costs described in subdivision (A) made by the committee with any esti-

mate of such costs made by a Government agency and submitted to such committee; and (C) when practicable, a comparison of the total estimated funding level for the relevant programs with the appropriate levels under current law. However, House Rule XIII, clause 3(d)(3)(B) provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been included in the report pursuant to House Rule XIII, clause 3(c)(3). A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted to the Committee on Science prior to the filing of this report and is included in Section IX of this report pursuant to House Rule XIII, clause 3(c)(3).

Rule XIII, clause 3(c)(2) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures include the statement required by section 308(a) of the Congressional Budget Act of 1974, except that an estimate of new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant programs to the appropriate levels under current law. H.R. 1743 does not contain any new budget authority, new spending authority, or new credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 1743 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section IX of this report.

#### IX. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Rule XIII, clause 3(c)(3) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include an estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 if timely submitted to the committee before the filing of the report. The Committee on Science has received the following cost estimate for H.R. 1743 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 8, 1999.*

Hon. F. JAMES SENSENBRENNER, Jr.,  
*Chairman, Committee on Science,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1743, the Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), and Lisa Cash Driskill (for the state and local impact).  
Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 1743—Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999*

Summary: H.R. 1743 would authorize appropriations for research, development, and commercial application programs for the Office of Air and Radiation of the Environmental Protection Agency (EPA). The bill would authorize appropriations of \$230 million for 2000 and \$237 million for 2001 for these programs.

CBO estimates that appropriation of the authorized amounts would result in additional discretionary spending of \$467 million over the 2000–2003 period. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 1743 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 1743 is shown in the following table. For purposes of this estimate, CBO assumes that the amounts authorized will be appropriated by the beginning of each fiscal year and that outlays will occur at rates similar to those of past appropriations for research and development (R&D) by the Office of Air and Radiation. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending on Air and Radiation R&D Under Current Law:						
Budget Authority <sup>1</sup> .....	301	0	0	0	0	0
Estimated Outlays .....	120	135	45	0	0	0
Proposed Changes:						
Authorization Level .....	0	230	237	0	0	0
Estimated Outlays .....	0	92	198	141	36	0
Spending on Air and Radiation R&D Under H.R. 1743:						
Authorization Level <sup>1</sup> .....	301	230	237	0	0	0
Estimated Outlays .....	120	227	243	141	36	0

<sup>1</sup>The 1999 level is the amount appropriated for clean air R&D and the climate change initiative.

Pay-as-you-go-considerations: None.

Intergovernmental and private-sector impact: H.R. 1743 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Some of the funds authorized in the bill would be used for research at academic institutions, including public universities.

Estimate prepared by: Federal costs: Kim Cawley; Impact on State, local, and tribal governments: Lisa Cash Driskill.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### X. COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1743 contains no unfunded mandates.

#### XI. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Rule XIII, clause 3(c)(1) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include oversight findings and recommendations under clause 2(b)(1) of rule X. The Committee of Science's oversight findings and recommendations are reflected in the body of this report.

#### XII. OVERSIGHT FINDINGS AND RECOMMENDATIONS BY THE COMMITTEE ON GOVERNMENT REFORM

Rule XIII, clause 3(c)(4) of the Rules of the House of Representatives requires that the report of a committee on a measure that has been approved by the committee include a summary of oversight findings and recommendations made by the Committee on Government Reform under clause 4(c)(2) of rule X if such findings and recommendations have been submitted to the reporting committee in time to allow it to consider such findings and recommendations during its deliberations on the measure. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform.

#### XIII. CONSTITUTIONAL AUTHORITY STATEMENT

Rule XIII, clause 3(d)(1) of the Rules of the House of Representatives requires that each report of a committee on a public bill or public joint resolution contain a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1743.

#### XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

H.R. 1743 does not establish or authorize the establishment of any advisory committee.

#### XV. CONGRESSIONAL ACCOUNTABILITY ACT

The Committee finds that H.R. 1743 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

#### XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

#### XVII. COMMITTEE RECOMMENDATIONS

On May 26, 1999, a quorum being present, the Committee favorably reported H.R. 1743, the Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999, as amended, by a voice vote, and recommended its enactment.

## XVIII. PROCEEDINGS OF COMMITTEE ON SCIENCE MARKUP

PROCEEDINGS OF THE COMMITTEE ON SCIENCE FULL COMMITTEE  
MARKUP ON H.R. 1743, ENVIRONMENTAL PROTECTION AGENCY, OF-  
FICE OF AIR AND RADIATION AUTHORIZATION ACT OF 1999, MAY 26,  
1999

The committee met, pursuant to notice, at 3:05 p.m., in room 2318, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr., (chairman of the committee) presiding.

Chairman SENSENBRENNER. The next bill up is H.R. 1743, the EPA Office of Air and Radiation Authorization Act. Without objection, the Chair will put his opening statement in the record saying what this bill does.

[The information follows:]

## OPENING STATEMENT OF CHAIRMAN F. JAMES SENSENBRENNER, JR.

H.R. 1743 authorizes \$230.1 million for fiscal year (FY) 2000 and \$237.0 million for FY 2001 for Environmental Protection Agency's (EPA's) Office of Air and Radiation (OAR). Highlights of the bill's authorizations for fiscal years 2000 and 2001 include:

- Science and Technology—*H.R. 1743 supports the Administration's request for EPA's Office of Air and Radiation (OAR) Science and Technology programs, projects and activities.* The bill recommends \$124.3 million in FY 2000—an increase of \$3.6 million, or 3.0 percent above the amount appropriated for FY 1999 and \$1.9 million above the Administration's request; and recommends \$128.0 million for FY 2001—an increase of \$3.7 million, or 3.0 percent above the amount recommended for FY 2000.
- Climate Change Technology Initiative (CCTI)—*H.R. 1743 supports growth of EPA's CCTI programs, projects and activities.* The bill recommends \$105.8 million in FY 2000—an increase of \$6.1 million, or 3.0 percent above the amount appropriated for FY 1999; and recommends \$109.0 million for FY 2001—an increase of \$3.2 million, or 3.0 percent above the amount recommended for FY 2000.

Other provisions of the bill include the following:

- Requires EPA to submit its budget requests in a format that is transparent and in sufficient detail so that it is understandable;
- Prohibits the use of any funds in the bill for the purpose of implementing or in preparation of implementing the Kyoto Protocol until the Protocol has been ratified by the Senate and entered into force;
- Limits wasteful travel by EPA and its contractors;
- Prohibits noncompetitive awards of grants, contracts, subcontracts, or any other forms of financial assistance to trade associations;
- Prohibits deviations from the Federal Acquisition Regulation (FAR), unless the EPA Administrator grants case-by-case waivers and reports to Congress;
- Prohibits the use of funds by EPA to prepare or initiate Requests for Proposals (RFPs) for unauthorized program, projects, or activities;
- Sets limits on amounts of funds that may be reprogrammed;
- Limits demonstrations to technologies and processes that are substantially new, and not for incremental improvements for technologies or processes that exist in the marketplace; and
- Excludes from consideration for grant agreements, for a period of five years, any person who received funding for a project not subject to a competitive, merit-based award process, except as specifically authorized by the Act.

Chairman SENSENBRENNER. Does the gentleman from Illinois wish to be recognized?

Mr. COSTELLO. Mr. Chairman, I will insert my statement in the record so we can move on to amendments.

Chairman SENSENBRENNER. Without objection, the gentleman from Illinois' opening statement is put in the record. Without objection, all members will have permission to put opening statements in the record at this point.



[The information follows:]

STATEMENT OF HON. JERRY COSTELLO

Mr. Chairman, I realize the Administration will be disappointed with this bill. The authorization levels in the bill are adequate, but obviously fall short of the request for some of the Administrations' programs.

As with the other bill, I believe our members would have preferred to see some more specific guidance in the bill on spending levels for specific programs. Many of us have expressed a desire to see the Agency rely on the best possible information base to guide its decision-making, especially in the area of air quality. I hope we can work together to include some specific guidance on funding for important research programs on criteria air pollutants in the accompanying report.

I look forward to continuing to work with you as we proceed to consideration of this bill by the full House.

Thank you.

STATEMENT OF CHAIRMAN KEN CALVERT

The next order of business is H.R. 1743, the Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999.

This bill contains funding for science and technology (S&T) funding for the Office of Air and Radiation (OAR) as well as funding for the Climate Change Technology Initiative (CCTI) which is entirely within OAR, but comes out of the environmental program management (RPM) account.

This bill authorizes the expenditure of a total of 230.1 million dollars for FY 2000 and 237 million dollars for FY 2001, of which 124.3 million dollars in FY 2000 and 128 million dollars in fiscal year 2001 are for the S&T account.

The CCTI is authorized at 105.8 million dollars in FY 2000 and 109 million dollars in FY 2001.

Major programs within CCTI include 40 million dollars in FY 2000 and 41.2 million dollars in FY 2001 for Buildings; 32.7 million dollars in FY 2000 and 33.7 million dollars in FY 2001 for Transportation programs, including the Partnership for a New Generation of Vehicles (PNGV); and 19.2 million dollars in FY 2000 and 19.7 million dollars in FY 2001 for Industry-based programs.

These authorization level for OAR is in line with the Administration's request while the CCTI authorization is an increase from last year's appropriated levels. I believe that this bill provides generous support for research on the complex issues of air quality, while maintaining CCTI programs, which are largely aimed at reducing emissions through energy efficiency.

I will conclude my comments at this point and ask for your support on this bill.

Mr. Chairman, I thank you for your time.

Chairman SENSENBRENNER. Without objection, the bill is read a first time and open for amendment at any point.

[The information follows:]

H.R. 1743

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Environmental Protection Agency Office of Air and Radiation Authorization Act of 1999".

**SEC. 2. DEFINITIONS.**

For the purposes of this Act—

- (1) the term "Administrator" means the Administrator of the Agency;
- (2) the term "Agency" means the Environmental Protection Agency; and
- (3) the term "Assistant Administrator" means the Assistant Administrator for Air and Radiation of the Agency.

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

(a) IN GENERAL.—There are authorized to be appropriated to the Administrator for the Office of Air and Radiation for environmental and scientific and energy research, development, and demonstration and commercial application of energy technology programs, projects, and activities for which specific sums are not authorized

under other authority of law \$230,116,100 for fiscal year 2000 and \$237,019,600 for fiscal year 2001, to remain available until expended, of which—

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

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

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

(B) \$32,702,500 for fiscal year 2000 and \$33,683,600 for fiscal year 2001 for Transportation;

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

(D) \$3,400,000 for fiscal year 2000 and \$3,502,000 for fiscal year 2001 for Carbon Removal;

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

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

(b) **LIMITATION.**—None of the amounts authorized under subsection (a) may be obligated until 30 days after the Administrator submits to the Committee on Science and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report detailing, for fiscal year 2000 and each of the 2 previous fiscal years, for all Office of Air and Radiation environmental and scientific and energy research, development, and demonstration and commercial application of energy technology programs, projects, and activities authorized under this Act, by appropriation goal and objectives—

(1) a description of, and funding requested or allocated for, each such program, project, and activity;

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

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

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

#### **SEC. 4. NOTICE.**

(a) **REPROGRAMMING.**—The Administrator may use for any authorized activities of the Office of Air and Radiation under this Act—

(1) up to the lesser of \$250,000 or 5 percent of the total funding for a fiscal year of an environmental or scientific or energy research, development, or demonstration or commercial application of energy technology program, project, or activity of the Office of Air and Radiation; or

(2) after the expiration of 60 days after transmitting to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report described in subsection (b), up to 25 percent of the total funding for a fiscal year of an environmental or scientific or energy research, development, or demonstration or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

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

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

(c) **LIMITATIONS.**—In no event may funds be used pursuant to subsection (a) for an environmental or scientific or energy research, development, or demonstration or commercial application of energy technology program, project, or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

(d) **ANNUAL OPERATING PLAN.**—The Administrator shall provide simultaneously to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, any annual operating plan or other operational funding document, including any additions or amendments thereto, pro-

vided to the Committee on Appropriations of the House of Representatives or to the Committee on Appropriations of the Senate.

(e) **COPY OF REPORTS.**—In addition to the documents required under subsection (d), the Administrator shall provide copies simultaneously to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, of any report relating to the environmental or scientific or energy research, development, or demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation prepared at the direction of any committee of Congress.

(f) **NOTICE OF REORGANIZATION.**—The Administrator shall provide notice to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any environmental or scientific or energy research, development, or demonstration or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

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

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

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

The document required by this section shall be presented in the format employed by, and with the level of detail included in, the document entitled "Department of Energy FY 2000 Congressional Budget Request, DOE/CR-0062, Volume 3", dated February 1999.

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

(a) **TRAVEL.**—Not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Agency or travel costs for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Agency. As part of the Agency's annual budget request submission to the Congress, the Administrator shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, that identifies—

- (1) the estimated amount of travel costs by the Agency and for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Agency for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;
- (2) the major purposes for such travel; and
- (3) the sources of funds for such travel.

(b) **TRADE ASSOCIATIONS.**—No funds authorized by this Act may be used either directly or indirectly to fund a grant, contract, subcontract, or any other form of financial assistance awarded by the Agency to a trade association on a noncompetitive basis. As part of the Agency's annual budget request submission to the Congress, the Administrator shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, that identifies—

- (1) the estimated amount of funds provided by the Agency to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;
- (2) the services either provided or to be provided by each such trade association; and
- (3) the sources of funds for services provided by each such trade association.

(c) **KYOTO PROTOCOL.**—None of the funds authorized by this Act may be used either directly or indirectly for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan, at the Third Conference of the Parties to the United Nations Frame-

work Convention on Climate Change, unless it has been ratified by the Senate and has entered into force pursuant to article 25 of the Protocol.

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

The Agency shall provide funding for environmental or scientific or energy demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation only for technologies or processes that are substantially new, and not for incremental improvements to technologies or processes that exist in the marketplace.

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

(a) **REQUIREMENT.**—None of the funds authorized to be appropriated by this Act may be used to award, amend, or modify a contract of the Office of Air and Radiation in a manner that deviates from the Federal Acquisition Regulation, unless the Administrator grants, on a case-by-case basis, a waiver to allow for such a deviation. The Administrator may not delegate the authority to grant such a waiver.

(b) **CONGRESSIONAL NOTICE.**—At least 60 days before a contract award, amendment, or modification for which the Administrator intends to grant such a waiver, the Administrator shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

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

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

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

None of the funds authorized to be appropriated by this Act may be used by any program, project, or activity of the Office of Air and Radiation to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services are not available from a commercial source in the United States.

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

(a) **IN GENERAL.**—The Administrator shall exclude from consideration for grant agreements made after fiscal year 1999 by the Office of Air and Radiation, under the programs, projects, and activities for which funds are authorized under this Act, any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1999, under a grant agreement from any Federal funding source for a project that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) **EXCEPTION.**—Subsection (a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which assistance is awarded to members of the class according to a formula provided by law.

(c) **DEFINITION.**—For purposes of this section, the term “grant agreement” means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

Chairman SENSENBRENNER. The first amendment on the roster is by the gentleman from California, Mr. Calvert.

For what purpose do you seek recognition?

Mr. CALVERT. Thank you, Mr. Chairman. I have an amendment at the desk, and I would ask unanimous consent that the amendment number 5, the title amendment, be heard along with the en bloc amendment.

Chairman SENSENBRENNER. Okay. Without objection, amendment number 1 will be considered en bloc. Amendment number 5 will be considered simultaneously. The clerk will report the amendments.

The CLERK. Amendment to H.R. 1743 offered by Mr. Calvert and Mr. Costello.

Chairman SENSENBRENNER. Without objection, the amendments are considered as read.

[The information follows:]

AMENDMENT TO H.R. 1743 OFFERED BY MR. CALVERT AND MR. COSTELLO

Strike "environmental and scientific" each place it appears in the bill and insert "environmental research and development and scientific".

Strike "environmental or scientific" each place it appears in the bill and insert "environmental research or development or scientific".

Page 2, lines 19 and 20, strike ", projects, and activities".

Page 2, line 26, strike "and Technology".

Strike "programs, projects, and activities" each place it appears in the bill and insert "programs, projects and activities".

Strike "programs, projects, or activities" each place it appears in the bill and insert "programs, projects or activities".

Strike "program, project, and activity" each place it appears in the bill and insert "program, project and activity".

Strike "program, project, or activity" each place it appears in the bill and insert "program, project or activity".

Page 8, lines 18 and 19, strike "grants, contracts, subcontracts, or any other form of financial assistance" and insert "contracts or subcontracts".

Page 9, lines 4 through 6, strike "grants, contracts, subcontracts, or any other form of financial assistance" and insert "contracts or subcontracts".

Page 10, line 19, through page 11, line 2, amend section 7 to read as follows:

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

The Agency shall provide funding for scientific or energy or commercial application of energy technology demonstration programs of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

Page 13, line 7, insert "or under circumstances permitting other than full and open competition under the Federal Acquisition Regulation" after "provided by law".

TITLE AMENDMENT TO H.R. 1743 OFFERED BY MR. CALVERT AND MR. COSTELLO

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."

Chairman SENSENBRENNER. The gentleman from California is recognized for five minutes.

Mr. CALVERT. Thank you, Mr. Chairman. I offer this manager's amendment on behalf of myself and my friend, Ranking Minority Member of the Subcommittee on Energy and Environment, the gentleman from Illinois, Mr. Costello. The bipartisan manager's amendment makes technical and conforming changes to H.R. 1743 as introduced, better clarifies the intent of the limitations and demonstrations and eligibility of award sections.

Again, after consultations with the Commerce Committee, this amendment also makes clarifications in language and provisions to strengthen the Committee's jurisdictional claim for the bill's provisions.

I want to thank my good friend for his cooperation in crafting this bipartisan manager's amendment, and would ask my colleagues for support. With that, I would like to yield the balance of my time to my good friend, the gentleman from Illinois.

Mr. COSTELLO. I thank the gentleman for yielding. I thank Chairman Calvert for working with the Minority to craft this amendment. We support the amendment, and I move its adoption.

Chairman SENSENBRENNER. The time is yielded back. Is there any further discussion on amendments number 1 and 5 combined? [No response.]

If not, the question is on agreeing to the amendments.

Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it and the amendments are adopted.

On behalf of the gentlewoman from California, Ms. Lofgren, I offer amendment number 3, which the clerk will report.

The CLERK. Amendment to H.R. 1743 offered by Ms. Lofgren.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

AMENDMENT TO H.R. 1743 ORDERED BY MS. LOFGREN

Page 10, lines 5 through 13, amend subsection (c) to read as follows:

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

Chairman SENSENBRENNER. The Chair is recognized for five minutes. This is the same amendment that the gentlewoman from California offered to the previous bill, which I accept. I urge an aye vote, and yield back the balance of my time.

Any further discussion on amendment number 3? Hearing none, all those in favor of agreeing to the amendment will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it. Amendment number 3 is agreed to.

The next amendment is amendment number 4 by the gentlewoman from Illinois, Mrs. Biggert.

For what purpose does she seek recognition?

Mrs. BIGGERT. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 1743 offered by Mrs. Biggert.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The information follows:]

## AMENDMENT TO H.R. 1743 OFFERED BY MRS. BIGGERT

Page 13, after line 20, insert the following new section:

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

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

Chairman SENSENBRENNER. The gentlewoman from Illinois is recognized for five minutes.

Mrs. BIGGERT. I thank you, Mr. Chairman. This is the same amendment that you heard on the last bill and previous bills, to make available on the Internet all abstracts related to research grants and awards with the funds authorized by this bill. I would ask for support.

Chairman SENSENBRENNER. Does the gentlewoman yield back the balance of her time?

Mrs. BIGGERT. Yes. I yield back the balance of my time.

Chairman SENSENBRENNER. Further discussion on Biggert amendment number 4? Hearing none, the question is agreeing to the amendment.

Those in favor will signify by saying aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Are there further amendments to the bill? Hearing none, report language?

The gentleman from Minnesota, Mr. Gutknecht. While we're finding Mr. Gutknecht, the gentleman from California, Mr. Calvert on tables.

Mr. CALVERT. Mr. Chairman, I ask unanimous consent that the budget tables for H.R. 1743 be included in the bill's report language and that the staff be permitted to make technical corrections. This is consistent with Mr. Hall's unanimous consent offered yesterday on H.R. 1655. I ask for my colleagues to support its adoption.

Chairman SENSENBRENNER. Is there any objection to the unanimous consent request by the gentleman from California?

[No response.]

Hearing none, so ordered.

Report language of the gentleman from Minnesota. For what purpose does he seek recognition? Do you have report language at the desk?

Mr. GUTKNECHT. Are we still on H.R. 1743?

Chairman SENSENBRENNER. Yes, sir.

Mr. GUTKNECHT. Yes. I do.

Chairman SENSENBRENNER. The clerk will report the report language.

The CLERK. Report language offered by Representative Gil Gutknecht to H.R. 1743.

Chairman SENSENBRENNER. Without objection, the report language is considered as read.

[The information follows:]

## REPORT LANGUAGE OFFERED BY REPRESENTATIVE GIL GUTKNECHT

## EXPLANATION

The Inspector General (IG) of the Environmental Protection Agency (EPA) issued a 1997 audit report, Information Technology: EPA's Internet Connectivity Controls. The IG provided six recommendations in the report to correct the weaknesses identified. However, the EPA has not fully implemented the recommendations and continues to remain vulnerable to hacker attacks. On April 9, 1999, the EPA sent a letter to the IG stating that the EPA would implement a firewall by the Spring of 2000. In that letter, the EPA stated it would make every effort to accelerate the schedule to January 2000, but cautioned that its Y2K management plan may delay this date.

## REPORT LANGUAGE: COMPUTER SECURITY

The Committee is concerned with computer security at EPA. The Committee feels that no later than October 1, 1999, EPA should:

1. Review and evaluate the costs and benefits of implementing formal firewall technologies. Based on the results of this review, implement formal firewall technologies or document the risks that EPA is willing to assume by not implementing a firewall;
2. Implement correctives actions (e.g., filtering, software patches, workarounds) to prevent intruders from accessing EPA through Internet services with known weaknesses.
3. Review industry recommendations (e.g., CERT advisories and summaries) in a timely manner and, if applicable, implement the recommended corrective actions;
4. Maintain and monitor sufficient audit logs of network system activities that will provide a useful audit trail to assist in reconstructing events, detecting security violations and analyzing performance problems; and
5. Develop and implement a security plan for EPA's Internet connectivity that meets the requirements in the Computer Security Act of 1987 and OMB Circular A-130.

In addition, the Committee believes that by January 1, 2000, EPA should develop and implement an EPA Network Security Policy that:

1. Defines the Internet services that will be allowed and/or denied;
2. Clearly delineates network security responsibilities;
3. Defines procedures to prevent and respond to security incidents;
4. Defines appropriate use of the Internet; and
5. States how different types of information (e.g., publicly releasable, limited release, Privacy Act, etc.) will be treated when using Internet services.

Chairman SENSENBRENNER. The gentleman from Minnesota is recognized for five minutes.

Mr. GUTKNECHT. Thank you, Mr. Chairman. I will be as brief as I possibly can. In 1997, the Inspector General of the Environmental Protection Agency issued an audit report, Information Technology: EPA's Internet Connectivity Controls. The IG provided six recommendations in the report to correct the weakness identified. However, the EPA has not fully implemented the recommendations and continues to remain vulnerable to cyber attacks.

On April 9, 1999, the EPA sent a letter to the IG stating that the EPA would eliminate a firewall by the spring of the year 2000—I'm sorry, would implement a firewall by the spring of 2000. In that letter, the EPA stated that it would make every effort to accelerate the schedule to January of 2000. As we all know, the EPA requires that certain private companies provide proprietary information when doing business with the EPA. Proprietary information is by its definition not for public consumption. Without basic security measures, and we have all learned a little bit about basic security here the last several weeks, this information is vulnerable. It is concerning that the EPA requires certain information to be filed with them, and yet they cannot guarantee its security.



As other departments have recently found, security measures can fail if they are not up-to-date. However, without implementing basic security measures, a department is asking for trouble, and in my opinion, is acting irresponsibly.

This report language simply states that the Committee feels that the EPA should protect its computer system. Now is the time to act, before we have another computer security crisis. I ask my colleagues to join me in supporting this report language. I yield back my time.

Chairman SENSENBRENNER. Further discussion on the Gutknecht proposed report language? Hearing none, all those in favor of agreeing to the report language will signify by saying aye.

Opposed no.

The ayes appear to have it. The ayes have it, and the report language is agreed to.

Further suggestions for report language? Hearing none, it is now time for a motion to report the bill favorably. Who would like to do that? The gentleman from Illinois, Mr. Costello.

Mr. COSTELLO. Mr. Chairman, I move that the Committee favorably report H.R. 1743, as amended, to the House with recommendation that the bill, as amended, do pass. Furthermore, I move that staff be instructed to prepare the legislative report and make necessary technical and conforming amendments, and that the Chairman take all necessary steps to bring the bill before the House for consideration.

Chairman SENSENBRENNER. The members have heard the motion. The question is on reporting the bill favorably. The Chair notes the presence of a reporting quorum.

Those in favor will signify by saying aye.

Opposed no.

The ayes appear to have it. The ayes have it, and the bill is favorably reported.

Members will have two subsequent calendar days in which to submit supplemental, minority, dissenting or additional views on the measure. I ask unanimous consent, pursuant to clause 1 of rule 22 of the Rules of the House that the Committee authorize the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill. Without objection, the staff will be given authority to make technical and conforming changes.