

103^D CONGRESS
1ST SESSION

H. R. 2224

To establish the Office of National Environmental Technologies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1993

Mr. KENNEDY introduced the following bill; which was referred jointly to the Committees on Science, Space, and Technology, Banking, Finance and Urban Affairs, and the Judiciary

A BILL

To establish the Office of National Environmental Technologies, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Office of National En-
5 vironmental Technologies Act”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act—

8 (1) to improve coordination and integration of
9 research and development performed by government

1 agencies and that performed through government-
2 awarded contracts and grants; and

3 (2) to assist the efforts of private industry, uni-
4 versities, nonprofit research centers, and government
5 laboratories to provide environmentally safe tech-
6 nical solutions to problems threatening the Nation's
7 environmental security and, in the process, to help
8 the Nation's competitiveness.

9 **SEC. 3. DEFINITIONS.**

10 For the purposes of this Act—

11 (1) the term “Administrator” means the Ad-
12 ministrator of the Environmental Protection Agency;

13 (2) the term “Advisory Council” means the In-
14 dustry and Academia Advisory Council established
15 by section 5;

16 (3) the term “Assistant Administrator” means
17 the Assistant Administrator, Office of National En-
18 vironmental Technologies, Environmental Protection
19 Agency;

20 (4) the term “Fund” means the Environmental
21 Advanced Research Projects Revolving Fund estab-
22 lished by section 9; and

23 (5) the term “Office” means the Office of Na-
24 tional Environmental Technologies established pur-
25 suant to section 4.

1 **SEC. 4. ESTABLISHMENT OF OFFICE.**

2 (a) ESTABLISHMENT.—(1) The Administrator shall
3 establish within the Environmental Protection Agency an
4 Office of National Environmental Technologies to be head-
5 ed by an Assistant Administrator of the Environmental
6 Protection Agency. The duties and responsibilities of the
7 Administrator set forth in this Act shall be carried out
8 through the Office.

9 (2) Section 5313 of title 5, United States Code, is
10 amended by adding at the end the following new item:

11 “Assistant Administrator, Office of National
12 Environmental Technologies, Environmental Protec-
13 tion Agency.”.

14 (b) STAFF.—The Administrator may appoint a staff
15 of professionals with skills in the area of program defini-
16 tion and management and such support staff as the Ad-
17 ministrator determines to be necessary, of which no more
18 than 3 may be in positions of a confidential or policy-
19 making character.

20 (c) FUNCTIONS.—It shall be the function of the Of-
21 fice to—

22 (1) coordinate planning by the departments,
23 agencies, and independent establishments of the
24 United States relating to restoration and protection
25 of the environment;

26 (2) identify areas that—

1 (A) need technical solutions to maintain
2 the environmental security of the Nation;

3 (B) are not receiving the long-term prod-
4 uct-oriented research that is necessary to meet
5 those needs; and

6 (C) exhibit the greatest promise for the
7 successful development of solutions;

8 (3) support and assist the development of tech-
9 nology having potential future application in the res-
10 toration and protection of the environment;

11 (4) coordinate among the departments, agen-
12 cies, independent establishments of the United
13 States and the private sector the exchange of tech-
14 nological information relating to restoration and pro-
15 tection of the environment;

16 (5) support continuing research and develop-
17 ment of advanced technologies by industrial, aca-
18 demic, and governmental and nongovernmental
19 entities;

20 (6) monitor on a continuing basis the research
21 and development being conducted on advanced tech-
22 nologies by private industry in the United States;
23 and

24 (7) promote continuing development of a tech-
25 nological industrial base in the United States.

1 (d) INTERAGENCY ADVISORY COMMITTEE.—(1)

2 There is established an interagency advisory committee

3 composed of—

4 (A) the Administrator, who shall be chair of the
5 committee;

6 (B) the Director of the Office of Science and
7 Technology Policy, or the Director's designee;

8 (C) the Secretary of Energy, or the Secretary's
9 designee;

10 (D) the Secretary of Commerce, or the Sec-
11 retary's designee;

12 (E) the Secretary of State, or the Secretary's
13 designee;

14 (F) the Secretary of Defense, or the Secretary's
15 designee;

16 (G) the Administrator of the National Aero-
17 nautics and Space Administration, or the Adminis-
18 trator's designee;

19 (H) the Secretary of the Interior, or the Sec-
20 retary's designee; and

21 (I) the Secretary of Agriculture, or the Sec-
22 retary's designee.

23 (2) The interagency advisory committee shall advise
24 and provide information to the Office with respect to the

1 needs and concerns of their agencies in the field of envi-
2 ronmental technologies.

3 **SEC. 5. INDUSTRY AND ACADEMIA ADVISORY COUNCIL.**

4 (a) ESTABLISHMENT.—There is established the In-
5 dustry and Academia Advisory Council.

6 (b) MEMBERSHIP.—(1) The Advisory Council shall
7 consist of 9 members appointed by the Administrator, at
8 least 5 of whom shall be from United States industry.

9 (2) The persons appointed as members of the Advi-
10 sory Council—

11 (A) shall be eminent in fields such as business,
12 research, new product development, engineering,
13 labor, education, management consulting, environ-
14 ment, and international relations;

15 (B) shall be selected solely on the basis of es-
16 tablished records of distinguished service; and

17 (C) shall not be employees of the Federal Gov-
18 ernment.

19 (3) In making appointments of persons as members
20 of the Advisory Council, the Administrator shall give due
21 consideration to any recommendations that may be sub-
22 mitted to the Director by the National Academies, profes-
23 sional societies, business associations, labor associations,
24 and other appropriate organizations.

1 (c) TERMS.—(1)(A) Subject to paragraph (2), the
2 term of office of a member of the Advisory Council shall
3 be 3 years.

4 (B) A member appointed to fill a vacancy occurring
5 prior to the expiration of the term for which the member's
6 predecessor was appointed shall be appointed for the re-
7 mainder of that term.

8 (C) A member who has completed 2 consecutive full
9 terms on the Advisory Council shall not be eligible for re-
10 appointment until 1 year after the expiration of the second
11 such term.

12 (2) The initial members of the Advisory Council shall
13 be appointed to three classes of 3 members each, one class
14 having a term of 1 year, one a term of 2 years, and one
15 a term of 3 years.

16 (3)(A) The Advisory Council shall meet at least quar-
17 terly at the call of the chair or whenever one-third of the
18 members so request in writing.

19 (B) A majority of the members of the council not hav-
20 ing a conflict of interest in a matter under consideration
21 by the Advisory Council shall constitute a quorum.

22 (C) Each member shall be given appropriate notice
23 of a meeting of the Advisory Council, not less than 15
24 days prior to any meeting, if possible.

1 (4)(A) The Advisory Council shall appoint from
2 among its members a person to serve as chair and a per-
3 son to serve as vice chair.

4 (B) The vice chair of the Advisory Council shall per-
5 form the duties of the chair in the absence of the chair.

6 (5) The Advisory Council shall review and make rec-
7 ommendations regarding general policy for the Office, its
8 organization, its budget, and its programs within the
9 framework of national policies set forth by the President
10 and the Congress.

11 **SEC. 6. GENERAL AUTHORITY OF THE ADMINISTRATOR.**

12 (a) AUTHORITY.—In carrying out the functions of
13 the Office, the Administrator may—

14 (1) enter into, perform, and guarantee con-
15 tracts, leases, grants, and cooperative agreements
16 with any department, agency, or independent estab-
17 lishment of the United States or with any person;

18 (2) use the services, equipment, personnel, or
19 facilities of any other department, agency, or inde-
20 pendent establishment of the United States, with the
21 consent of the head of the department, agency, or
22 independent establishment and with or without reim-
23 bursement, and cooperate with public and private
24 entities in the use of such services, equipment, and
25 facilities;

1 cational institution, or any other public or private person
2 or entity.

3 (b) COOPERATION OF FEDERAL AGENCIES.—The
4 heads of departments and agencies shall cooperate fully
5 with the Administrator—

6 (1) in carrying out the functions of the Office;

7 (2) in establishing appropriate interagency
8 agreements to develop cooperative programs and im-
9 prove coordination and integration of environmental
10 research and development; and

11 (3) to avoid unnecessary duplication.

12 (c) AUTHORITY TO REQUIRE PAYMENT.—(1) A co-
13 operative agreement or other arrangement entered into
14 under subsection (a) may include a provision that requires
15 a person or other entity to make payments to the Office
16 (or any other department, agency, or independent estab-
17 lishment of the United States) as a condition to receiving
18 assistance from the Office under the agreement or other
19 arrangement.

20 (2) The amount of any payment received by a depart-
21 ment, agency, or independent establishment of the United
22 States pursuant to a provision required under paragraph
23 (1) shall be credited to the Fund in such amount as the
24 Administrator may specify.

1 (d) NONDUPLICATION AND OTHER CONDITIONS.—

2 The Administrator shall ensure that—

3 (1) the authority under this section is used only
4 when the use of standard contracts or grants is not
5 feasible or appropriate; and

6 (2) to the maximum extent practicable, a coop-
7 erative agreement or other arrangement entered into
8 under this section—

9 (A) does not provide for research that du-
10 plicates research being conducted under other
11 programs carried out by a department, agency,
12 or independent establishment of the United
13 States; and

14 (B) requires the other party to the agree-
15 ment or arrangement to share the cost of the
16 project or activity concerned.

17 **SEC. 8. PROGRAM REQUIREMENTS.**

18 (a) SELECTION CRITERIA.—Not later than 90 days
19 after the date of enactment of this Act, the Administrator
20 shall publish in the Federal Register proposed criteria,
21 and not later than 180 days after the date of enactment
22 of this Act, following a public comment period, final cri-
23 teria, for the selection of recipients of contracts, leases,
24 grants, and cooperative agreements under this Act.

1 (b) FINANCIAL REPORTING AND AUDITING.—The
2 Administrator shall establish procedures regarding finan-
3 cial reporting and auditing to ensure that contracts and
4 awards are used for the purposes specified in this section,
5 are in accordance with sound accounting practices, and
6 are not funding existing or planned research programs
7 that would be conducted in the same time period in the
8 absence of financial assistance under this Act.

9 (c) ADVICE OF THE ADVISORY COUNCIL.—The Ad-
10 ministrator shall ensure that the advice of the Advisory
11 Council is considered routinely in carrying out the respon-
12 sibilities of the Office.

13 (d) DISSEMINATION OF RESEARCH RESULTS.—The
14 Administrator shall provide for appropriate dissemination
15 of research results of the Office's program.

16 (e) CONTRACTS OR AWARDS; CRITERIA; RESTRIC-
17 TIONS.—(1) No contract or award may be made under
18 this Act until the research project in question has been
19 subject to a merit review, and has, in the opinion of the
20 reviewers appointed by the Administrator, been shown to
21 have scientific and technical merit.

22 (2) Federal funds made available under this Act shall
23 be used only for direct costs and not for indirect costs,
24 profits, or management fees of the contractor.

1 (3) In determining whether to make an award to a
2 joint venture, the Administrator shall consider whether the
3 members of the joint venture have provided for the appro-
4 priate participation of small United States businesses in
5 the joint venture.

6 (4) Section 552 of title 5, United States Code, shall
7 not apply to the following information obtained by the
8 Federal Government on a confidential basis in connection
9 with the activities of any business or any joint venture
10 that receives funding under this Act:

11 (A) Information on the business operation of a
12 member of the business or joint venture.

13 (B) Trade secrets possessed by any business or
14 by a member of the joint venture.

15 (5) Intellectual property owned and developed by a
16 business or joint venture that receives funding under this
17 Act or by any member of such a joint venture may not
18 be disclosed by any officer or employee of the United
19 States except in accordance with a written agreement be-
20 tween the owner or developer and the Administrator.

21 (6) The United States shall be entitled to a share
22 of the licensing fees and royalty payments made to and
23 retained by a business or joint venture to which it contrib-
24 utes under this section in an amount proportionate to the

1 Federal share of the costs incurred by the business or joint
2 venture, as determined by independent audit.

3 (7) A contract or award under this Act shall contain
4 appropriate provisions for discontinuance of the project
5 and return of the unspent Federal funds to the Office
6 (after payment of all allowable costs and an audit) if it
7 appears that, due to technical difficulties, financial dif-
8 ficulty on the part of the recipient, or for any other reason,
9 the recipient is not making satisfactory progress toward
10 successful completion of the project.

11 (8) Upon dissolution of a joint venture that receives
12 funding under this Act or at a time otherwise agreed upon,
13 the United States shall be entitled to a share of the resid-
14 ual assets of a joint venture that is proportionate to the
15 Federal share of the costs of the joint venture, as deter-
16 mined by independent audit.

17 **SEC. 9. REVOLVING FUND.**

18 (a) ESTABLISHMENT.—There is established in the
19 Treasury of the United States a revolving fund to be
20 known as the “Environmental Advanced Research
21 Projects Revolving Fund”, which shall consist of such
22 amounts as are appropriated or credited to it from time
23 to time.

1 (b) EXPENDITURES FROM THE FUND.—Amounts in
2 the Fund shall be available, as provided in appropriations
3 Acts, to carry out the purposes of this Act.

4 (c) LOANS, GRANTS, AND OTHER FINANCIAL ASSIST-
5 ANCE.—(1) The Administrator may use the Fund for the
6 purpose of making loans, grants, and other financial as-
7 sistance to industrial and nonprofit research centers, uni-
8 versities, and other entities that serve the long-term envi-
9 ronmental security needs of the United States, to carry
10 out the purposes of this Act.

11 (2) A loan made under this section shall bear interest
12 at a rate determined by the Secretary of the Treasury (as
13 of the close of the calendar month preceding the month
14 in which the loan is made) to be 3 percent less than the
15 current market yield on outstanding marketable obliga-
16 tions of the United States with remaining periods to matu-
17 rity comparable to the period for which the loan is made.

18 (3) Repayments on a loan made under this section
19 and the proceeds from any other agreement entered into
20 by the Administrator under this Act shall be credited to
21 the Fund.

22 (d) MANAGEMENT OF FUND.—(1) The Secretary of
23 the Treasury shall manage the Fund and, after consulta-
24 tion with the Administrator, report to Congress each year
25 on the financial condition and the results of the operation

1 of the Fund during the preceding fiscal year and on the
2 expected condition and operations of the Fund during the
3 next 5 fiscal years.

4 (2)(A) The Secretary of the Treasury shall invest the
5 portion of the Fund that is not, in the judgment of the
6 Secretary, required to meet current withdrawals.

7 (B) Investments of monies in the Fund may be made
8 only in interest-bearing obligations of the United States.

9 **SEC. 10. ANNUAL REPORT.**

10 The Administrator shall submit a report to Congress
11 annually describing—

12 (1) the activities of the Office;

13 (2) the Office's plans for future activities;

14 (3) the manner and extent to which tech-
15 nologies developed with assistance from the Office
16 have been used; and

17 (4) the extent to which those technologies have
18 been transferred overseas.

19 **SEC. 11. APPROPRIATIONS.**

20 (a) AMOUNTS.—There are authorized to be appro-
21 priated to carry out the purposes of this Act \$85,000,000
22 for fiscal year 1994, \$165,000,000 for fiscal year 1995,
23 and \$250,000,000 for fiscal year 1996.

1 (b) LIMITATION ON USE.—Of amounts appropriated
2 under subsection (a), no more than 5 percent may be used
3 to pay for administrative expenses of the Office.

○

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