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H. R. 5931

To implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 1990

Mr. WOLPE (for himself and Ms. SCHNEIDER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, 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 AND TABLE OF CONTENTS.

4 This Act may be cited as the "Pollution Prevention Act
5 of 1990".

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1 **SEC. 2. FINDINGS AND POLICY.**

2 (a) **FINDINGS.**—The Congress finds that:

3 (1) The United States of America annually pro-
4 duces millions of tons of pollution and spends tens of
5 billions of dollars per year controlling this pollution.

6 (2) There are significant opportunities for industry
7 to reduce or prevent pollution at the source through
8 cost-effective changes in production, operation, and
9 raw materials use. Such changes offer industry sub-
10 stantial savings in reduced raw material, pollution con-
11 trol, and liability costs as well as help protect the envi-
12 ronment and reduce risks to worker health and safety.

13 (3) The opportunities for source reduction are
14 often not realized because existing regulations, and the
15 industrial resources they require for compliance, focus
16 upon treatment and disposal, rather than source reduc-
17 tion; existing regulations do not emphasize multi-media
18 management of pollution; and businesses need informa-
19 tion and technical assistance to overcome institutional
20 barriers to the adoption of source reduction practices.

1 (4) Source reduction is fundamentally different and
2 more desirable than waste management and pollution
3 control. The Environmental Protection Agency needs
4 to address the historical lack of attention to source
5 reduction.

6 (5) As a first step in preventing pollution through
7 source reduction, the Environmental Protection
8 Agency must establish a source reduction program
9 which collects and disseminates information, provides
10 financial assistance to States, and implements the other
11 activities provided for in this Act.

12 (b) **POLICY.**—The Congress hereby declares it to be the
13 national policy of the United States that pollution should be
14 prevented or reduced at the source whenever feasible; pollu-
15 tion that cannot be prevented should be recycled in an envi-
16 ronmentally safe manner, whenever feasible; pollution that
17 cannot be prevented or recycled should be treated in an envi-
18 ronmentally safe manner whenever feasible; and disposal or
19 other release into the environment should be employed only
20 as a last resort and should be conducted in an environmen-
21 tally safe manner.

22 **SEC. 3. DEFINITIONS.**

23 For purposes of this Act:

24 (1) The term "Administrator" means the Adminis-
25 trator of the Environmental Protection Agency.

1 (2) The term "Agency" means the Environmental
2 Protection Agency.

3 (3) The term "toxic chemical" means any sub-
4 stance on the list described in section 313(c) of the Su-
5 perfund Amendments and Reauthorization Act of 1986.

6 (4) The term "release" has the same meaning as
7 provided by section 329(8) of the Superfund Amend-
8 ments and Reauthorization Act of 1986.

9 (5)(A) The term "source reduction" means any
10 practice which—

11 (i) reduces the amount of any hazardous sub-
12 stance, pollutant, or contaminant entering any
13 waste stream or otherwise released into the envi-
14 ronment (including fugitive emissions) prior to re-
15 cycling, treatment, or disposal; and

16 (ii) reduces the hazards to public health and
17 the environment associated with the release of
18 such substances, pollutants, or contaminants.

19 The term includes equipment or technology modifica-
20 tions, process or procedure modifications, reformulation
21 or redesign of products, substitution of raw materials,
22 and improvements in housekeeping, maintenance, train-
23 ing, or inventory control.

24 (B) The term "source reduction" does not include
25 any practice which alters the physical, chemical, or bi-

1 ological characteristics or the volume of a hazardous
2 substance, pollutant, or contaminant through a process
3 or activity which itself is not integral to and necessary
4 for the production of a product or the providing of a
5 service.

6 (6) The term "multi-media" means water, air, and
7 land.

8 (7) The term "SIC codes" refers to the 2-digit
9 code numbers used for classification of economic ac-
10 tivity in the Standard Industrial Classification Manual.

11 **SEC. 4. EPA ACTIVITIES.**

12 (a) **AUTHORITIES.**—The Administrator shall establish
13 in the Agency an office to carry out the functions of the Ad-
14 ministrator under this Act. The office shall be independent of
15 the Agency's single-medium program offices but shall have
16 the authority to review and advise such offices on their ac-
17 tivities to promote a multi-media approach to source reduc-
18 tion. The office shall be under the direction of such officer of
19 the Agency as the Administrator shall designate.

20 (b) **FUNCTIONS.**—The Administrator shall develop and
21 implement a strategy to promote source reduction. As part of
22 the strategy, the Administrator shall—

23 (1) establish standard methods of measurement of
24 source reduction;

1 (2) ensure that the Agency considers the effect of
2 its existing and proposed programs on source reduction
3 efforts and shall review regulations of the Agency prior
4 and subsequent to their proposal to determine their
5 effect on source reduction;

6 (3) coordinate source reduction activities in each
7 Agency Office and coordinate with appropriate offices
8 to promote source reduction practices in other Federal
9 agencies, and generic research and development on
10 techniques and processes which have broad applica-
11 bility;

12 (4) develop improved methods of coordinating, and
13 assuring public access to data collected under Federal
14 environmental statutes;

15 (5) facilitate the adoption of source reduction tech-
16 niques by businesses. This strategy shall include the
17 use of the Source Reduction Clearinghouse and State
18 matching grants provided in this Act to foster the ex-
19 change of information regarding source reduction tech-
20 niques, the dissemination of such information to busi-
21 nesses, and the provision of technical assistance to
22 businesses. The strategy shall also consider the capa-
23 bilities of various businesses to make use of source re-
24 duction techniques;

7
1 (6) identify, where appropriate, measurable goals
2 which reflect the policy of this Act, the tasks necessary
3 to achieve the goals, dates at which the principal tasks
4 are to be accomplished, required resources, organiza-
5 tional responsibilities, and the means by which progress
6 in meeting the goals will be measured;

7 (7) establish an advisory panel of technical experts
8 comprised of representatives from industry, the States,
9 and public interest groups, to advise the Administrator
10 on ways to improve collection and dissemination of
11 data;

12 (8) establish a training program on multimedia
13 source reduction opportunities, including workshops
14 and guidance documents, for State and Federal permit
15 issuance, enforcement, and inspection officials working
16 within all agency program offices.

17 (9) identify and make recommendations to Con-
18 gress to eliminate barriers to source reduction including
19 the use of incentives and disincentives;

20 (10) identify opportunities to use Federal procure-
21 ment to encourage source reduction;

22 (11) develop, test and disseminate model source
23 reduction auditing procedures designed to highlight
24 source reduction opportunities; and

1 (12) establish an annual award program to recog-
2 nize a company or companies which operate outstand-
3 ing or innovative source reduction programs.

4 **SEC. 5. GRANTS TO STATES FOR STATE TECHNICAL ASSIST-**
5 **ANCE PROGRAMS.**

6 (a) **GENERAL AUTHORITY.**—The Administrator shall
7 make matching grants to States for programs to promote the
8 use of source reduction techniques by businesses.

9 (b) **CRITERIA.**—When evaluating the requests for
10 grants under this section, the Administrator shall consider,
11 among other things, whether the proposed State program
12 would accomplish the following:

13 (1) Make specific technical assistance available to
14 businesses seeking information about source reduction
15 opportunities, including funding for experts to provide
16 onsite technical advice to businesses seeking assistance
17 and to assist in the development of source reduction
18 plans.

19 (2) Target assistance to businesses for whom lack
20 of information is an impediment to source reduction.

21 (3) Provide training in source reduction tech-
22 niques. Such training may be provided through local
23 engineering schools or any other appropriate means.

24 (c) **MATCHING FUNDS.**—Federal funds used in any
25 State program under this section shall provide no more than

1 50 per centum of the funds made available to a State in each
2 year of that State's participation in the program.

3 (d) **EFFECTIVENESS.**—The Administrator shall estab-
4 lish appropriate means for measuring the effectiveness of the
5 State grants made under this section in promoting the use of
6 source reduction techniques by businesses.

7 (e) **INFORMATION.**—States receiving grants under this
8 section shall make information generated under the grants
9 available to the Administrator.

10 **SEC. 6. SOURCE REDUCTION CLEARINGHOUSE.**

11 (a) **AUTHORITY.**—The Administrator shall establish a
12 Source Reduction Clearinghouse to compile information in-
13 cluding a computer data base which contains information on
14 management, technical, and operational approaches to source
15 reduction. The Administrator shall use the clearinghouse
16 to—

17 (1) serve as a center for source reduction technol-
18 ogy transfer;

19 (2) mount active outreach and education programs
20 by the States to further the adoption of source reduc-
21 tion technologies; and

22 (3) collect and compile information reported by
23 States receiving grants under section 5 on the oper-
24 ation and success of State source reduction programs.

1 (b) PUBLIC AVAILABILITY.—The Administrator shall
2 make available to the public such information on source re-
3 duction as is gathered pursuant to this Act and such other
4 pertinent information and analysis regarding source reduction
5 as may be available to the Administrator. The data base shall
6 permit entry and retrieval of information to any person.

7 **SEC. 7. SOURCE REDUCTION AND RECYCLING DATA COLLEC-**
8 **TION.**

9 (a) REPORTING REQUIREMENTS.—Each owner or op-
10 erator of a facility required to file an annual toxic chemical
11 release form under section 313 of the Superfund Amend-
12 ments and Reauthorization Act of 1986 ("SARA") for any
13 toxic chemical shall include with each such annual filing a
14 toxic chemical source reduction and recycling report for the
15 preceding calendar year. The toxic chemical source reduction
16 and recycling report shall cover each toxic chemical required
17 to be reported in the annual toxic chemical release form filed
18 by the owner or operator under section 313(c) of that Act.
19 This section shall take effect with the annual report filed
20 under section 313 for the first full calendar year beginning
21 after the enactment of this Act.

22 (b) ITEMS INCLUDED IN REPORT.—The toxic chemical
23 source reduction and recycling report required under subsec-
24 tion (a) shall set forth each of the following on a facility-by-
25 facility basis for each toxic chemical:

1 (1) The quantity of the chemical entering any
2 waste stream (or otherwise released into the environ-
3 ment) prior to recycling, treatment, or disposal during
4 the calendar year for which the report is filed and the
5 percentage change from the previous year. The quanti-
6 ty reported shall not include any amount reported
7 under paragraph (7). When actual measurements of the
8 quantity of a toxic chemical entering the waste streams
9 are not readily available, reasonable estimates should
10 be made based on best engineering judgment.

11 (2) The amount of the chemical from the facility
12 which is recycled (at the facility or elsewhere) during
13 such calendar year, the percentage change from the
14 previous year, and the process of recycling used.

15 (3) The source reduction practices used with re-
16 spect to that chemical during such year at the facility.
17 Such practices shall be reported in accordance with the
18 following categories unless the Administrator finds
19 other categories to be more appropriate:

20 (A) Equipment, technology, process, or pro-
21 cedure modifications.

22 (B) Reformulation or redesign of products.

23 (C) Substitution of raw materials.

1 (D) Improvement in management, training,
2 inventory control, materials handling, or other
3 general operational phases of industrial facilities.

4 (4) The amount expected to be reported under
5 paragraphs (1) and (2) for the two calendar years im-
6 mediately following the calendar year for which the
7 report is filed. Such amount shall be expressed as a
8 percentage change from the amount reported in para-
9 graphs (1) and (2).

10 (5) A ratio of production in the reporting year to
11 production in the previous year. The ratio should be
12 calculated to most closely reflect all activities involving
13 the toxic chemical. In specific industrial classifications
14 subject to this section, where a feedstock or some vari-
15 able other than production is the primary influence on
16 waste characteristics or volumes, the report may pro-
17 vide an index based on that primary variable for each
18 toxic chemical. The Administrator is encouraged to de-
19 velop production indexes to accommodate individual in-
20 dustries for use on a voluntary basis.

21 (6) The techniques which were used to identify
22 source reduction opportunities. Techniques listed
23 should include, but are not limited to, employee recom-
24 mendations, external and internal audits, participative
25 team management, and material balance audits. Each

1 type of source reduction listed under paragraph (3)
2 should be associated with the techniques or multi-
3 ples of techniques used to identify the source reduc-
4 tion technique.

5 (7) The amount of any toxic chemical released
6 into the environment which resulted from a catastroph-
7 ic event, remedial action, or other one-time event and
8 is not associated with production processes during e
9 reporting year.

10 (8) The amount of the chemical from the facility
11 which is treated (at the facility or elsewhere) during
12 such calendar year and the percentage change from the
13 previous year.

14 For the first year of reporting under this subsection, compari-
15 son with the previous year is required only to the extent such
16 information is available.

17 (c) SARA PROVISIONS.—The provisions of sections
18 322, 325(c), and 326 of the Superfund Amendments and
19 Reauthorization Act of 1986 shall apply to the reporting re-
20 quirements of this section in the same manner as to the re-
21 ports required under section 313 of that Act. The Adminis-
22 trator may modify the form required for purposes of reporting
23 information under section 313 of that Act to the extent he
24 deems necessary to include the additional information re-
25 quired under this section.

1 (d) **ADDITIONAL OPTIONAL INFORMATION.**—Any
2 person filing a report under this section for any year may
3 include with the report additional information regarding
4 source reduction, recycling, and other pollution control tech-
5 niques in earlier years.

6 (e) **AVAILABILITY OF DATA.**—Subject to section 322 of
7 the Superfund Amendments and Reauthorization Act of
8 1986, the Administrator shall make data collected under this
9 section publicly available in the same manner as the data
10 collected under section 313 of the Superfund Amendments
11 and Reauthorization Act of 1986. In addition, if the public
12 disclosure of any quantity specified in section 7, paragraphs
13 (1), (2), and (8) of subsection (b) would divulge information
14 qualifying as a trade secret under section 322 of the Super-
15 fund Amendments and Reauthorization Act of 1986, the Ad-
16 ministrator shall only make available the percentage by
17 which the volume of the toxic chemical has changed.

18 **SEC. 8. EPA REPORT.**

19 (a) **BIENNIAL REPORTS.**—The Administrator shall pro-
20 vide Congress with a report within eighteen months after en-
21 actment of this Act and biennially thereafter, containing a
22 detailed description of the actions taken to implement the
23 strategy to promote source reduction developed under section
24 4(b) and of the results of such actions. The report shall in-
25 clude an assessment of the effectiveness of the clearinghouse.

1 and grant program established under this Act in promoting
2 the goals of the strategy, and shall evaluate data gaps and
3 data duplication with respect to data collected under Federal
4 environmental statutes.

5 (b) **SUBSEQUENT REPORTS.**—Each biennial report sub-
6 mitted under subsection (a) after the first report shall contain
7 each of the following:

8 (1) An analysis of the data collected under section
9 7 on an industry-by-industry basis for not less than five
10 SIC codes or other categories as the Administrator
11 deems appropriate. The analysis shall begin with those
12 SIC codes or other categories of facilities which gener-
13 ate the largest quantities of toxic chemical waste. The
14 analysis shall include an evaluation of trends in source
15 reduction by industry, firm size, production, or other
16 useful means. Each such subsequent report shall cover
17 five SIC codes or other categories which were not cov-
18 ered in a prior report until all SIC codes or other cate-
19 gories have been covered.

20 (2) An analysis of the usefulness and validity of
21 the data collected under section 7 for measuring trends
22 in source reduction and the adoption of source reduc-
23 tion by business.

24 (3) Identification of regulatory and nonregulatory
25 barriers to source reduction, and of opportunities for

1. using existing regulatory programs, and incentives and
2. disincentives to promote and assist source reduction.

3. (4) Identification of industries and pollutants that
4. require priority assistance in multi-media source reduc-
5. tion.

6. (5) Recommendations as to incentives needed to
7. encourage investment and research and development in
8. source reduction.

9. (6) Identification of opportunities and development
10. of priorities for research and development in source re-
11. duction methods and techniques.

12. (7) An evaluation of the cost and technical feasi-
13. bility, by industry and processes, of source reduction
14. opportunities and current activities and an identifica-
15. tion of any industries for which there are significant
16. barriers to source reduction with an analysis of the
17. basis of this identification.

18. (8) An evaluation of methods of coordinating,
19. streamlining, and improving public access to data col-
20. lected under Federal environmental statutes.

21. (9) An evaluation of data gaps and data duplica-
22. tion with respect to data collected under Federal envi-
23. ronmental statutes.

1 In the report following the first biennial report provided for
2 under this subsection, paragraphs (3) through (9) may be in-
3 cluded at the discretion of the Administrator.

4 **SEC. 9. SAVINGS PROVISIONS.**

5 (a) Nothing in this Act shall be construed to modify or
6 interfere with the implementation of title III of the Super-
7 fund Amendments and Reauthorization Act of 1986.

8 (b) Nothing contained in this Act shall be construed, in-
9 terpreted or applied to supplant, displace, preempt or other-
10 wise diminish the responsibilities and liabilities under other
11 State or Federal law, whether statutory or common.

12 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 There is authorized to be appropriated to the Adminis-
14 trator \$8,000,000 for each of the fiscal years 1991, 1992,
15 and 1993 for functions carried out under this Act (other than
16 State grants), and \$8,000,000 for each of the fiscal years
17 1991, 1992, and 1993, for grant programs to States issued
18 pursuant to section 5.

19 **SEC. 11. IMPLEMENTATION.**

20 The Administrator is authorized to issue such rules, reg-
21 ulations, and orders as may be necessary to carry out the
22 provisions of this Act.

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