

103^D CONGRESS
1ST SESSION

S. 980

To reduce hazardous pollution, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, APRIL 19), 1993

Mr. LIEBERMAN (for himself, Mr. MOYNIHAN, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. FEINGOLD, Mr. METZENBAUM, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To reduce hazardous pollution, 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 “Hazardous Pollution
5 Prevention Planning Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 Congress finds and declares that—

8 (1) the Environmental Protection Agency esti-
9 mates that billions of pounds of toxic chemicals are
10 released into the environment each year;

1 (2) the release of the toxic chemicals into the
2 environment can cause harm to public health, wel-
3 fare, and the environment;

4 (3) traditional approaches to environmental reg-
5 ulation that have emphasized controlling pollution
6 after the pollution has been created are not suffi-
7 cient to address all of the environmental problems of
8 the United States;

9 (4) pollution prevention approaches are more
10 effective than traditional pollution control and pro-
11 vide far-reaching benefits to human health and the
12 environment;

13 (5) pollution prevention often prevents the solu-
14 tion to one environmental problem from reemerging
15 as another type of environmental problem;

16 (6) pollution prevention must become the cen-
17 terpiece of a long-term strategy for the United
18 States achieving environmental protection;

19 (7) proven and cost-effective technologies and
20 management practices in existence on the date of en-
21 actment of this Act can achieve pollution prevention;

22 (8) pollution prevention can result in tremen-
23 dous cost benefit for industries, and lead to greater
24 international competitiveness by—

1 (A) avoiding costs of control, cleanup, and
2 liability; and

3 (B) causing increases in industrial effi-
4 ciency and productivity through savings in pur-
5 chases of chemicals, energy, water, and other
6 input materials;

7 (9) one of the reasons many facilities are miss-
8 ing the opportunities available for pollution preven-
9 tion is that operators of facilities are unaware of the
10 sources of pollution;

11 (10) an important step in achieving pollution
12 prevention is the development of plans with numeri-
13 cal goals for pollution prevention;

14 (11) pollution prevention planning helps busi-
15 nesses to make appropriate planning decisions and
16 experience the benefits of pollution prevention;

17 (12) pollution prevention planning gives busi-
18 nesses the flexibility to develop new, and environ-
19 mentally sound technologies that will enhance the
20 competitiveness of the businesses;

21 (13) there is a need to provide technical assist-
22 ance and training related to pollution prevention to
23 smaller- and medium-sized businesses, including de-
24 veloping manuals and checklists to be used in lieu of
25 preparing plans; and

1 (14) there is a need to conduct research to de-
2 velop new industrial technologies and practices that
3 will reduce the social, economic, and institutional
4 barriers to preventing hazardous pollution.

5 **SEC. 3. DEFINITIONS.**

6 As used in this Act:

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

10 (2) AGENCY.—The term “Agency” means the
11 Environmental Protection Agency.

12 (3) BY-PRODUCT.—The term “by-product”
13 means any toxic chemical other than a product that
14 results from manufacturing, extraction, servicing,
15 processing (including pollution control), handling, or
16 other activity, including any fugitive emission, proc-
17 ess residue, or other nonproduct outputs created
18 prior to recycling, treatment, disposal, or release.

19 (4) FACILITY.—The term “facility” means all
20 buildings, equipment, structures, and other station-
21 ary items that are located on a single site or contig-
22 uous or adjacent sites and that are owned or oper-
23 ated by the same person (or by a person that con-
24 trols, is controlled by, or under common control
25 with, the owner or operator).

1 (5) IN-PROCESS RECYCLING.—The term “in-
2 process recycling” means a process whereby mate-
3 rials are—

4 (A) returned to the original process or
5 processes from which they were generated; and

6 (B) reused in the production process and
7 through completion of reclamation, are enclosed
8 by being entirely connected with pipes or other
9 comparable enclosed means of conveyance.

10 (6) POLLUTION PREVENTION.—The term “pol-
11 lution prevention” means—

12 (A) toxic use reduction;

13 (B) source reduction; or

14 (C) in-process recycling.

15 (7) PRODUCTION PROCESS.—The term “pro-
16 duction process” means a production line, method,
17 activity, or technique, or combination or series there-
18 of, that is integral to, and necessary for, the produc-
19 tion of a product or products, including the storage
20 of raw materials and maintenance and handling of
21 finished goods. The term shall not include waste
22 management activities or out-of-process recycling.

23 (8) SOURCE REDUCTION.—The term “source
24 reduction” shall have the same meaning given the

1 term in section 6603(5) of the Pollution Prevention
2 Act of 1990 (42 U.S.C. 13102(5)).

3 (9) TARGETED PRODUCTION PROCESS.—The
4 term “targeted production process” means any pro-
5 duction process that significantly contributes to the
6 use, generation as a by-product, or release of toxic
7 chemicals, as determined by the owner or operator
8 of a facility pursuant to criteria established by the
9 Administrator.

10 (10) TOXIC CHEMICAL.—The term “toxic chem-
11 ical” means a chemical described in section 313(c)
12 of the Emergency Planning and Community Right
13 to Know Act of 1986 (42 U.S.C. 11023(c)).

14 (11) TOXIC USE REDUCTION.—The term “toxic
15 use reduction” means any source reduction method
16 that reduces or eliminates the use of any toxic chem-
17 ical in processes or products so as to reduce overall
18 risks to the public, workers, consumers, and the en-
19 vironment without shifting risks between workers,
20 consumers, or parts of the environment.

21 **SEC. 4. POLLUTION PREVENTION PLANS.**

22 (a) IN GENERAL.—The owner or operator of each fa-
23 cility for which a toxic chemical release form is required
24 to be submitted pursuant to section 313 of the Emergency
25 Planning and Community Right-To-Know Act of 1986 (42

1 U.S.C. 11023) as of the date of enactment of this Act,
2 and each Federal facility, shall periodically prepare pollu-
3 tion prevention plans, pollution prevention plan sum-
4 maries, and pollution prevention plan progress reports
5 that meet the requirements of this section.

6 (b) SCHEDULE.—

7 (1) POLLUTION PREVENTION PLAN.—

8 (A) IN GENERAL.—Subject to subpara-
9 graph (B), the owner or operator of each facil-
10 ity described in subsection (a) shall prepare a
11 pollution prevention plan as described in sub-
12 section (d) not later than the end of the third
13 full calendar year after the date of enactment
14 of this Act.

15 (B) PHASE-IN OPTION.—The Adminis-
16 trator may establish and publish a schedule for
17 requiring the preparation and submission of
18 plans described in subsection (d). The schedule
19 shall phase in the date on which the prepara-
20 tion and submission of the plans is required, be-
21 ginning not later than the end of the fifth full
22 calendar year after the date of enactment of
23 this Act.

24 (2) SUMMARY.—The owner or operator of each
25 facility that is subject to this section shall prepare

1 a pollution prevention plan summary, as described in
2 subsection (e), in accordance with the schedule for
3 the preparation of a pollution prevention plan, as de-
4 scribed in paragraph (1).

5 (3) PROGRESS REPORT.—

6 (A) IN GENERAL.—The owner or operator
7 of each facility subject to this section shall, not
8 later than the date specified in subparagraph
9 (B), and annually thereafter, prepare a pollu-
10 tion prevention plan progress report, as de-
11 scribed in subsection (f), in accordance with the
12 schedule for the submission of toxic release
13 forms under section 313 of the Emergency
14 Planning and Community Right-To-Know Act
15 of 1986 (42 U.S.C. 11023).

16 (B) INITIAL REPORT.—An initial pollution
17 prevention plan progress report shall be pre-
18 pared for the first full calendar year beginning
19 after a pollution prevention plan has been pre-
20 pared pursuant to paragraph (1).

21 (c) ADDITIONAL CATEGORIES.—

22 (1) FACILITIES.—The Administrator may re-
23 quire that the owner or operator of a facility that is
24 in a Standard Industrial Classification code added
25 by the Administrator after the date of enactment of

1 this Act pursuant to section 313(a)(1)(B) of the
2 Emergency Planning and Community Right-To-
3 Know Act of 1986 (42 U.S.C. 11023(a)(1)(B)) shall
4 prepare a pollution prevention plan, plan summary,
5 and progress report, according to a schedule estab-
6 lished by the Administrator.

7 (2) CHEMICALS.—

8 (A) IN GENERAL.—The Administrator may
9 require the expansion of a pollution prevention
10 plan to include chemicals added to the list
11 under section 313(d) of the Emergency Plan-
12 ning and Community Right-To-Know Act of
13 1986 (42 U.S.C. 11023(d)) after the date of
14 enactment of this paragraph. The Adminis-
15 trator may only require that the owner or oper-
16 ator expand a pollution prevention plan pursu-
17 ant to this paragraph if the expansion is a revi-
18 sion of the pollution prevention plan of the
19 owner or operator for the purposes of updating
20 the plan.

21 (B) BASIS FOR DECISION TO ADD CAT-
22 EGORIES.—A decision by the Administrator to
23 add industrial categories or subcategories to the
24 list of categories subject to the reporting re-
25 quirements of this section shall be based on—

1 (i) the extent to which the category
2 contributes to the total amount of toxic
3 chemicals used, generated, or released; and

4 (ii) the extent to which a pollution
5 prevention plan could result in—

6 (I) a reduction in the use, gen-
7 eration of by-product, or release of
8 toxic chemicals; and

9 (II) a reduction in any threat
10 posed to the environment or public
11 health.

12 (d) CONTENTS OF POLLUTION PREVENTION PLAN.—

13 Each pollution prevention plan prepared under this section
14 shall include—

15 (1) a statement by the highest ranking official
16 at the facility supporting the pollution prevention
17 plan;

18 (2) pollution prevention goals for the 5-year pe-
19 riod beginning on the date of the preparation of the
20 plan, including, if appropriate—

21 (A) toxic use reduction goals;

22 (B) source reduction goals; and

23 (C) in-process recycling goals for the facil-
24 ity as a whole and for each targeted production
25 process;

1 (3) an evaluation of options for achieving reduc-
2 tions in the annual accumulation and output quan-
3 tities of each toxic chemical, including reductions in
4 the use of toxic chemicals, generation of by-products,
5 release, or transfer as a product, for the facility and
6 for each targeted production process, including—

7 (A) a search for pollution prevention op-
8 tions, including the substitution of raw mate-
9 rials, the reformulation or redesign of products,
10 production unit modifications, improvements in
11 operation and maintenance, and in-process re-
12 cycling (except that the options shall not in-
13 clude waste management activities);

14 (B) an economic analysis of selected tech-
15 nically feasible options, including, with respect
16 to each option, a description of the cost of im-
17 plementing the option and anticipated savings
18 from the option for the purposes of comparison
19 with refraining from carrying out the option;
20 and

21 (C) any technical assistance study required
22 by the Administrator pursuant to section 5;

23 (4) a description and implementation schedule
24 for the pollution prevention measures and activities
25 selected by the owner or operator of the facility;

1 (5) for each plan prepared after the preparation
2 of an initial plan under this section, a report con-
3 cerning the success in achieving past goals; and

4 (6) if appropriate, a description of any pollution
5 prevention strategies implemented prior to 1987.

6 (e) CONTENTS OF PLAN SUMMARY.—Each pollution
7 prevention plan summary prepared pursuant to this sec-
8 tion shall include, for the facility as a whole, and for each
9 targeted production unit—

10 (1) a description of the facility, and an identi-
11 fication of each targeted production process;

12 (2) the 5-year numeric goals for pollution pre-
13 vention for the facility and each targeted production
14 process;

15 (3) a description of the techniques and meas-
16 ures that will be implemented to reach each goal re-
17 ferred to in paragraph (2); and

18 (4) a copy of the plan certification.

19 (f) CONTENTS OF PROGRESS REPORT.—Each pollu-
20 tion prevention progress report prepared pursuant to this
21 section shall include—

22 (1) a description of the facility and an identi-
23 fication of each targeted production process;

24 (2) a numerical statement demonstrating the
25 progress of the facility towards achieving each 5-

1 year goal for pollution prevention under the pollution
2 prevention plan of the facility; and

3 (3) if, for the year of the report, the facility
4 does not achieve the level of progress anticipated in
5 the schedule for implementation of the applicable
6 pollution prevention plan, an explanation of the rea-
7 sons that the level of progress was not achieved.

8 (g) GUIDELINES.—

9 (1) PUBLICATION.—Not later than 18 months
10 after the date of enactment of this section, and after
11 notice and opportunity for public comment, the Ad-
12 ministrator shall publish guidelines for the prepara-
13 tion of pollution prevention plans, pollution preven-
14 tion plan summaries, and pollution prevention plan
15 progress reports prepared pursuant to this section.

16 (2) CRITERIA FOR IDENTIFICATION OF TAR-
17 GETED PRODUCTION PROCESSES.—

18 (A) IN GENERAL.—Not later than 18
19 months after the date of enactment of this sec-
20 tion, the Administrator shall establish, by regu-
21 lation, criteria pursuant to which an owner or
22 operator of a facility shall identify targeted pro-
23 duction processes for the purpose of focusing
24 pollution prevention strategies on the targeted
25 production processes.

1 (B) CONSIDERATIONS.—The criteria for
2 the identification of targeted production proc-
3 esses shall—

4 (i) be based on a consideration of the
5 toxicity of specific chemicals used, gen-
6 erated as a by-product, or released in the
7 targeted production process; and

8 (ii) require that a targeted production
9 process be a production process that makes
10 a significant contribution to the use, gen-
11 eration, or release of chemicals.

12 (h) AVAILABILITY OF PLANS, SUMMARIES, AND RE-
13 PORTS.—

14 (1) IN GENERAL.—Each pollution prevention
15 plan prepared for a facility pursuant to this section
16 shall be retained at the facility and shall be available
17 to the Administrator, the State in which the facility
18 is located, and any department or agency of a politi-
19 cal subdivision of a State with respect to which the
20 State grants the authority to inspect the plans.

21 (2) NOT PUBLIC RECORDS.—Any document and
22 other record obtained or reviewed pursuant to para-
23 graph (1) shall not be considered a public record or
24 document.

1 (3) SUMMARIES.—Each pollution prevention
2 plan prepared pursuant to this section for a facility
3 shall be—

4 (A) submitted to the Administrator and to
5 the State in which the facility is located at the
6 same time as a toxic release form required to
7 be submitted under section 313 of the Emer-
8 gency Planning and Community Right-To-Know
9 Act of 1986 (42 U.S.C. 11023) is submitted for
10 the year for which the summary is required;
11 and

12 (B) made available to the public at the fa-
13 cility during normal business hours, except as
14 provided in section 8.

15 (4) PROGRESS REPORTS.—Each pollution pre-
16 vention plan progress report prepared pursuant to
17 this section for a facility shall be—

18 (A) submitted to the Administrator and to
19 the State at the same time as a toxic release
20 form required under section 313 of the Emer-
21 gency Planning and Community Right-To-Know
22 Act of 1986 (42 U.S.C. 11023) is submitted;
23 and

1 (B) made available to the public at the fa-
2 cility during normal business hours, except as
3 provided in section 8.

4 (i) COMPLETENESS REVIEW.—

5 (1) IN GENERAL.—The Administrator or a rep-
6 resentative of a State authorized by the Adminis-
7 trator may review a pollution prevention plan or pol-
8 lution prevention plan summary prepared pursuant
9 to this section and require a modification of the pol-
10 lution prevention plan or pollution prevention plan
11 summary if the Administrator or the appropriate of-
12 ficial of the State finds that the plan or summary
13 does not address each of the applicable requirements
14 of subsection (d) or (e).

15 (2) MODIFICATION.—A modification required
16 under this subsection shall be completed by the
17 owner or operator of a facility not later than 90
18 days after the Administrator or the appropriate offi-
19 cial of the State provides written notice that the
20 modification is necessary.

21 (j) PRODUCT FORMULAS.—Nothing in this section
22 shall be construed to authorize the Administrator or an
23 official of a State to require that information concerning
24 nontoxic chemicals, or product formulas for mixtures that
25 include nontoxic chemicals, be included in a pollution pre-

1 vention plan, summary, or progress report prepared pur-
2 suant to this section.

3 (k) GROUPING OF PROCESSES.—The Administrator
4 may publish rules establishing criteria pursuant to which
5 the Administrator may permit an owner or operator of a
6 facility to consider, as a single production process, produc-
7 tion processes that use similar ingredients to produce 1
8 or more similar products.

9 (l) SMALL BUSINESS OPTION.—

10 (1) SMALL BUSINESS DEFINED.—As used in
11 this subsection, the term “small business” means a
12 business that is a small business concern, as defined
13 in section 3(a) of the Small Business Act (15 U.S.C.
14 632(a)).

15 (2) SMALL BUSINESS POLLUTION PREVENTION
16 COMPLIANCE AND TECHNICAL ASSISTANCE PRO-
17 GRAM.—

18 (A) ESTABLISHMENT.—The Administrator
19 shall establish a small business pollution pre-
20 vention compliance and technical assistance
21 program to assist facilities with identifying and
22 applying methods of pollution prevention.

23 (B) EMPHASIS OF PROGRAM.—The pro-
24 gram referred to in subparagraph (A) shall em-
25 phasize compliance assistance, technical assist-

1 ance, and other assistance to small businesses
2 that have inadequate technical and financial re-
3 sources for obtaining information and assessing
4 pollution prevention opportunities.

5 (3) PROGRAM REQUIREMENTS.—The require-
6 ments described in this paragraph include the follow-
7 ing:

8 (A) ASSESSMENT MANUALS AND CHECK-
9 LISTS.—

10 (i) IN GENERAL.—The program shall
11 provide for establishment by regulation of
12 pollution prevention opportunities assess-
13 ment manuals and checklists for industrial
14 categories for which waste audit studies
15 have been prepared by the Department of
16 Environmental Protection of the State of
17 California. Each manual and checklist re-
18 ferred to in the preceding sentence shall
19 require that the owner or operator—

20 (I) evaluate production processes,
21 material, storage, and treatment prac-
22 tices;

23 (II) evaluate pollution prevention
24 opportunities, including toxic use re-

1 duction, source reduction, and in-proc-
2 ess recycling; and

3 (III) provide an economic impact
4 analysis of options for achieving re-
5 ductions.

6 (ii) MANUAL AND CHECKLIST IN LIEU
7 OF PLAN AND SUMMARY.—The Adminis-
8 trator may permit a small business subject
9 to the requirements of section 4 within an
10 industrial category for which a pollution
11 prevention opportunity assessment manual
12 and checklist has been promulgated to pre-
13 pare and retain onsite a manual and
14 checklist in lieu of preparing a pollution
15 prevention plan and summary.

16 (B) MATCHING GRANTS.—

17 (i) IN GENERAL.—Subject to the
18 availability of appropriations, the Adminis-
19 trator shall award grants from funds made
20 available to the Administrator pursuant to
21 section 6605 of the Pollution Prevention
22 Act of 1990 (42 U.S.C. 13104) to States
23 to conduct programs to promote the use of
24 pollution prevention techniques by small
25 businesses.

1 (ii) MATCHING REQUIREMENT.—The
2 Administrator may not make a grant to a
3 State under this subparagraph unless that
4 State agrees that, with respect to the costs
5 to be incurred by the State in carrying out
6 the program for which the grant was
7 awarded, the State will make available (di-
8 rectly or through donations from public or
9 private entities) non-Federal contributions
10 in an amount equal to not less than \$1 for
11 every \$1 of Federal funds provided under
12 the grant.

13 (C) SMALL BUSINESS POLLUTION PREVEN-
14 TION PANEL.—The Administrator shall estab-
15 lish a Small Business Pollution Prevention
16 Panel (referred to in this subparagraph as a
17 “Panel”) within each Regional Office of the En-
18 vironmental Protection Agency. Each Panel
19 shall monitor the effectiveness of the small busi-
20 ness pollution prevention compliance and tech-
21 nical assistance program.

22 (m) TRAINING.—The Administrator or a representa-
23 tive of an authorized State may require each person re-
24 sponsible for the preparation of a pollution prevention plan
25 under this section to attend seminars and workshops con-

cerning the proper preparation of toxic release inventories,
pollution prevention plans, and available pollution preven-
tion measures or to receive another form of training that
includes the items listed in this sentence.

(n) RESEARCH AND DEVELOPMENT LABORATORIES.—The owner or operator of a facility shall not be required to prepare a pollution prevention plan, pollution prevention plan summary, or pollution prevention progress report under this section, concerning a research and development laboratory located at the facility.

(o) PILOT FACILITIES.—The owner or operator of a facility shall not be required to prepare a pollution prevention plan, pollution prevention plan summary, or pollution prevention plan progress report under this section, for a pilot facility.

SEC. 5. REPORTS AND IMPROVEMENT MEASURES.

(a) POLLUTION PREVENTION REPORTS.—

(1) IN GENERAL.—The Administrator shall submit a report that meets the requirements of this subsection to the President and to Congress not later than the date specified in paragraph (3), and not less frequently than every 3 years thereafter.

(2) CONTENTS.—The report referred to in paragraph (1) shall include—

1 (A) a description of the pollution preven-
2 tion plans that have been prepared pursuant to
3 section 4;

4 (B) a detailed analysis that describes the
5 progress achieved toward any pollution preven-
6 tion goals established by the Administrator pur-
7 suant to section 6604(b)(6) of the Pollution
8 Prevention Act of 1990 (42 U.S.C.
9 13103(b)(6)); and

10 (C) the steps that must be taken to ensure
11 that the goals referred to in subparagraph (B)
12 are achieved, including an identification of the
13 industrial categories or subcategories that—

14 (i) should be the highest priority for
15 pollution prevention measures; and

16 (ii) need improvement with respect to
17 pollution prevention.

18 (3) INITIAL REPORT.—The initial report sub-
19 mitted to Congress pursuant to this subsection shall
20 be submitted not later than 4 years after the date
21 of enactment of this Act.

22 (b) TECHNICAL ASSISTANCE.—

23 (1) IN GENERAL.—The Administrator may, on
24 request from a facility, provide technical assistance
25 with respect to pollution prevention planning to any

1 facility in an industrial category or subcategory
2 identified by the Administrator pursuant to sub-
3 section (a)(2)(C)(i) as having the highest priority for
4 pollution prevention.

5 (2) EVALUATION.—In providing technical as-
6 sistance pursuant to this subsection, the Adminis-
7 trator may require an owner or operator of a facility
8 required to prepare a pollution prevention plan pur-
9 suant to section 4 to evaluate alternatives to a pollu-
10 tion prevention measure referred to in the plan, in-
11 cluding—

12 (A) the use of out-of-process recycling in
13 any case in which no pollution prevention meas-
14 ures are available;

15 (B) the use of methods and techniques
16 that may achieve a greater degree of pollution
17 prevention at the facility; and

18 (C) the use of a particular pollution pre-
19 vention measure at the facility or targeted pro-
20 duction process.

21 (3) SCHEDULE; PUBLICATION.—An evaluation
22 required by the Administrator under this subsection
23 shall be conducted according to a schedule estab-
24 lished by the Administrator. The results of the eval-
25 uation shall be included in the next pollution preven-

1 tion plan prepared for the facility after the date of
2 the evaluation.

3 (4) REIMBURSEMENT.—The Administrator may
4 seek full, or in the case of a small business, partial,
5 reimbursement from an owner or operator for any
6 technical assistance provided to a facility. The reim-
7 bursement shall be in an amount determined by the
8 Administrator and shall be made to the Adminis-
9 trator for deposit in the Treasury of the United
10 States.

11 (c) CONGRESSIONAL INTENT.—Nothing in this sec-
12 tion is intended to be interpreted, construed, or applied
13 to authorize the Administrator to require a particular pol-
14 lution prevention measure to be implemented, or any pol-
15 lution prevention performance standard to be achieved, at
16 a facility or unit.

17 **SEC. 6. STATE DELEGATION.**

18 (a) STATE PROGRAM.—A State may submit to the
19 Administrator for review and approval a program to exer-
20 cise the authorities under sections 4 and 5. A State pro-
21 gram under this section shall be approved by the Adminis-
22 trator if the State demonstrates that the program—

23 (1) requires plan summaries and progress re-
24 ports addressing each element referred to in sub-
25 sections (d) through (f) of section 4 to be submitted

1 according to the schedule established under section
2 4(b); and

3 (2) includes authority for—

4 (A) conducting completeness reviews; and

5 (B) taking enforcement actions.

6 (b) EFFECT OF APPROVAL.—On approval of a State
7 program by the Administrator, each owner or operator of
8 a facility in the State shall be exempt from the require-
9 ments of section 4 relating to the submittal to the Admin-
10 istrator of plans and plan summaries during the period
11 that the State program is in effect and the State enforces
12 the program in a manner satisfactory to the Adminis-
13 trator.

14 **SEC. 7. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.**

15 (a) IN GENERAL.—The Administrator shall carry out
16 a comprehensive program of research, development, and
17 demonstration concerning pollution prevention in coordi-
18 nation and consultation with other Federal agencies in-
19 volved in pollution prevention.

20 (b) ELEMENTS OF PROGRAM.—The comprehensive
21 program referred to in subsection (a) may include—

22 (1) a product research program designed to—

23 (A) develop, evaluate, and demonstrate

24 methods for measuring the pollution burden at-

25 tributable to the use and disposal of a product;

1 (B) identify and evaluate environmentally
2 safe substitutes for products and the harmful
3 components of products;

4 (C) promote and facilitate the design, de-
5 velopment, production, and use of environ-
6 mentally preferable product alternatives by
7 members of the private sector; and

8 (D) evaluate, develop, and demonstrate
9 methods for assessing the effectiveness of pollu-
10 tion prevention efforts related to product use
11 and disposal;

12 (2) a process research program designed to—

13 (A) evaluate, develop, and demonstrate
14 methods to assess the pollution burden attrib-
15 utable to production, use, maintenance and re-
16 pair, and disposal processes;

17 (B) evaluate and demonstrate alternative,
18 environmentally preferable processes;

19 (C) promote and facilitate the use and de-
20 velopment of pollution prevention and waste
21 minimization process technology by members of
22 the private sector; and

23 (D) evaluate, develop, and demonstrate
24 methods to assess pollution reduction resulting
25 from process changes;

1 (3) a recycling and reuse research program de-
2 signed to—

3 (A) identify, evaluate, and demonstrate en-
4 vironmentally safe product and pollutant recov-
5 ery, reuse, and recycling methods;

6 (B) promote and facilitate the development
7 and implementation of more effective reuse and
8 recycling technologies; and

9 (C) identify innovative uses of and markets
10 for recycled products and pollutants;

11 (4) a socioeconomic and institutional research
12 program designed to—

13 (A) identify barriers in existence at the
14 time of the program and potential barriers to
15 and incentives for the development and imple-
16 mentation of pollution prevention, reuse, and
17 recycling activities; and

18 (B) develop viable means to reduce bar-
19 riers and increase incentives in order to stimu-
20 late the development and implementation of
21 waste minimization and pollution prevention
22 technology; and

23 (5) an anticipatory research program designed
24 to—

1 (A) identify emerging environmental prob-
2 lems;

3 (B) evaluate, develop, and demonstrate
4 methods to prevent or minimize waste from
5 nascent pollution sources;

6 (C) facilitate the development of improved
7 pollution prevention technologies designed to
8 avoid anticipated pollution problems; and

9 (D) develop and implement methods to as-
10 sess the effectiveness of pollution prevention re-
11 search in meeting changing environmental
12 needs.

13 (c) STATE COOPERATION.—The research program
14 established under this section shall be conducted by the
15 Administrator in close cooperation with the States. In car-
16 rying out the program, the Administrator shall award such
17 grants and make such contracts with institutions of higher
18 education (as defined in section 1201(a) of the Higher
19 Education Act of 1965 (20 U.S.C. 1141(a)) as are nec-
20 essary to ensure that the institutions of higher education
21 play a principal role in carrying out the program.

22 **SEC. 8. CONFIDENTIALITY.**

23 (a) TRADE SECRETS; ENFORCEMENT.—The require-
24 ments of sections 322 and 325(d) of the Emergency Plan-
25 ning and Community Right-To-Know Act of 1986 (42

1 U.S.C. 11042 and 11045(d), respectively) shall apply to
2 the plan summaries and progress reports required under
3 this Act in the same manner as the requirements apply
4 to the reports under section 313 of such Act (42 U.S.C.
5 11023).

6 (b) AVAILABILITY OF SUMMARY FORM OF DISCLO-
7 SURE.— If the public disclosure of any numeric goals for
8 pollution prevention or measures or techniques for imple-
9 menting the goals would divulge information qualifying as
10 a trade secret, the Administrator shall make available the
11 information in summary form.

12 **SEC. 9. ENFORCEMENT.**

13 (a) CIVIL PENALTIES.—

14 (1) FAILURE TO SUBMIT PROGRESS REPORT.—
15 Any person who fails to prepare and submit a pollu-
16 tion prevention plan progress report or pollution pre-
17 vention plan summary, as required under section 4,
18 shall be subject to a civil penalty in an amount not
19 to exceed \$10,000. Each day of violation shall con-
20 stitute a separate offense.

21 (2) FAILURE TO SUBMIT A POLLUTION PRE-
22 VENTION PLAN OR OPPORTUNITIES CHECKLIST.—
23 Any person who fails to prepare a pollution preven-
24 tion plan or a pollution prevention opportunities
25 checklist as required under section 4 shall be subject

1 to a civil penalty in an amount not to exceed
2 \$10,000. Each day of violation shall constitute a
3 separate offense.

4 (b) JURISDICTION.—

5 (1) ADMINISTRATIVE ORDERS.—The Adminis-
6 trator may issue an administrative order assessing a
7 penalty or requiring compliance with the terms of
8 this Act.

9 (2) CIVIL ACTIONS.—The Administrator may
10 bring an action in the United States district court
11 of the district in which the person against whom the
12 penalty is sought resides, or in which the principal
13 place of business of the person is located, to—

14 (A) assess and collect a penalty; and

15 (B) secure a permanent or temporary in-
16 junction to require compliance with this Act or
17 of an administrative order issued pursuant to
18 this Act.

19 (c) PROCEDURES FOR ADMINISTRATIVE PEN-
20 ALTIES.—

21 (1) REVIEW.—

22 (A) IN GENERAL.—A person against whom
23 a civil penalty is assessed by administrative
24 order under this section may obtain review in

1 the appropriate United States district court
2 by—

3 (i) filing a notice of appeal in the
4 court not later than 30 days after the date
5 of the order; and

6 (ii) simultaneously sending a copy of
7 the notice of appeal by certified mail to the
8 Administrator.

9 (B) RECORD.—The Administrator shall
10 promptly file in the court a certified copy of the
11 record upon which the violation was found or
12 the penalty was imposed.

13 (2) COLLECTION OF PENALTY; SCOPE OF RE-
14 VIEW.—

15 (A) COLLECTION OF PENALTY.—If a per-
16 son fails to pay an assessment of a civil penalty
17 after the assessment has become a final and
18 unappealable order, or after the appropriate
19 court has entered final judgment in favor of the
20 United States, the Administrator may request
21 the Attorney General to institute a civil action
22 in an appropriate United States district court
23 to collect the penalty.

1 (B) SCOPE OF REVIEW.—The court shall
2 have jurisdiction to review the violation and the
3 assessment of the civil penalty on the record.

4 (3) SUBPOENAS.—The Administrator may issue
5 subpoenas for the attendance and testimony of wit-
6 nesses and the production of relevant papers, books,
7 or documents in connection with a hearing under
8 this section. In case of contumacy or refusal to obey
9 a subpoena issued pursuant to this paragraph and
10 served upon any person, the district court of the
11 United States for any district in which the person is
12 found, resides, or transacts business, on application
13 by the United States and after notice to the person,
14 shall have jurisdiction to issue an order requiring
15 such person to appear and give testimony before the
16 district court, and any failure to obey the order of
17 the court shall be held in contempt of court.

18 **SEC. 10. RELATION TO OTHER LAWS.**

19 (a) STATE AUTHORITY.—Nothing in this Act is in-
20 tended to preclude or deny the right of any State or politi-
21 cal subdivision of a State to adopt or enforce any law (in-
22 cluding a regulation, requirement, or standard) that is
23 more stringent than a provision under this subtitle or a
24 regulation, requirement, or standard of performance pro-

1 mulgated pursuant to this subtitle, or to impose any addi-
2 tional liability.

3 (b) DENIAL OF PERMITS.—The Administrator or an
4 authorized State may deny a permit under any environ-
5 mental law to the owner or operator of any facility who
6 is required to prepare a pollution prevention plan or pollu-
7 tion prevention opportunities checklist pursuant to section
8 4, if the owner or operator fails to prepare, pursuant to
9 an applicable requirement under section 4—

10 (1) a pollution prevention plan or opportunities
11 checklist; or

12 (2) a pollution prevention plan summary or
13 progress report.

14 **SEC. 11. REGULATORY INCENTIVES.**

15 (a) DEMONSTRATION PROGRAMS.—Not later than 12
16 months after the date of enactment of this Act, the Ad-
17 ministrator shall establish a demonstration program to
18 provide regulatory incentives for achieving pollution pre-
19 vention. The Administrator may designate up to 50 facili-
20 ties for inclusion in the demonstration program.

21 (b) AUTHORITY TO MODIFY TERMS OF PERMITS OR
22 AGREEMENTS.—

23 (1) IN GENERAL.—The Administrator, as part
24 of the demonstration program, is authorized to mod-
25 ify the requirements imposed by the terms of all or

1 part of any permit or agreement. Any modification
2 granted under this subsection shall specify the re-
3 quirements being modified and the length of time
4 the modification is to be in effect.

5 (2) NOTICE; OPPORTUNITY FOR PUBLIC COM-
6 MENT.—Not later than 60 days before the approval
7 of any modification under this subsection, the Ad-
8 ministrator shall—

9 (A) publish a notice of the proposed modi-
10 fication including an explanation and appro-
11 priate documentation supporting the modifica-
12 tion; and

13 (B) provide a reasonable opportunity for
14 submission of written and oral comments and
15 an opportunity for a public meeting at or near
16 the facility regarding the proposed modification.

17 (3) CRITERIA FOR APPROVAL.—The Adminis-
18 trator may approve a modification if the Adminis-
19 trator determines that—

20 (A) the facility applying for the modifica-
21 tion is in compliance with the terms of existing
22 environmental laws, regulations, permits, or-
23 ders, or other requirements applicable to the fa-
24 cility and has a history of compliance that the

1 Administrator and the State determine is satis-
2 factory;

3 (B) greater net protection of human health
4 and the environment than that required under
5 environmental laws existing on the date of ap-
6 proval of the modification will result, with a
7 special consideration to ensuring that the risks
8 are not shifted from one environmental medium
9 to another;

10 (C) a significant increase in pollution pre-
11 vention will result, as compared to the reduc-
12 tions that would have resulted, under environ-
13 mental laws existing on the date of approval of
14 the modification; and

15 (D) the modification provided for in this
16 section will contribute to achieving greater pol-
17 lution prevention.

18 (4) CONTENTS OF APPROVAL.—An approval by
19 the Administrator shall be accompanied by a re-
20 sponse to each of the significant oral and written
21 comments submitted in response to the notice pro-
22 vided under paragraph (2).

23 (5) MONITORING.—As part of any modification
24 granted under this section, the Administrator shall
25 require that the owner or operator of the facility

1 granted the modification shall undertake monitoring
2 operations adequate to determine compliance with
3 the modified terms of any permit or agreement. The
4 monitoring shall be carried out at such time as the
5 Administrator shall provide. The owner or operator
6 shall report the results of the monitoring operations
7 in such form and at such times as the Administrator
8 shall require.

9 (6) DURATION; RENEWAL.—The duration of
10 any modification shall not exceed 1 year. Upon expi-
11 ration of any modification granted pursuant to this
12 section, the Administrator may renew the modified
13 permit or agreement for a period not to exceed the
14 original modification, if the Administrator deter-
15 mines that the requirements of paragraph (3) con-
16 tinue to be met.

17 (7) REPORT.—Not later than 24 months after
18 the date of enactment of this Act, the Administrator
19 shall submit a report to the Committee on Environ-
20 ment and Public Works of the Senate and the Com-
21 mittee on Energy and Commerce of the House of
22 Representatives concerning the implementation of
23 this section. The Administrator shall include rec-
24 ommendations on whether or not the scope of the
25 regulatory incentives program should be expanded.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—To carry out sections 1, 2, 3, 4,
3 5, 6, 8, 9, 10, and 11, there are authorized to be appro-
4 priated to the Environmental Protection Agency such
5 sums as are necessary.

6 (b) RESEARCH AND DEVELOPMENT.—To carry out
7 section 7, there is authorized to be appropriated
8 \$5,000,000 per year for each of fiscal years 1994 through
9 1998.

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