

103^D CONGRESS
1ST SESSION

H. R. 908

To disqualify any individual or business concern who violates a Federal environmental law, or who holds a beneficial business interest in a person who has violated such a law, from being eligible to receive certain benefits from the Environmental Protection Agency for a period of 10 years.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1993

Mr. PAXON introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To disqualify any individual or business concern who violates a Federal environmental law, or who holds a beneficial business interest in a person who has violated such a law, from being eligible to receive certain benefits from the Environmental Protection Agency for a period of 10 years.

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

1 **SECTION 1. DENIAL OF EPA BENEFITS FOR CERTAIN PER-**
2 **SONS.**

3 (a) INELIGIBILITY.—Any person who applies for an
4 Environmental Protection Agency benefit is ineligible from
5 receiving the benefit if the person has been—

6 (1) convicted of violating any Federal environ-
7 mental law; or

8 (2) found by the Administrator to hold, or pre-
9 viously to have held, a beneficial business interest in
10 any business concern which is required to be listed
11 on the person's disclosure statement under section 2
12 and which has been convicted of violating a Federal
13 environmental law.

14 (b) DETERMINATION OF INELIGIBILITY.—The Ad-
15 ministrator shall determine whether a person applying for
16 an Environmental Protection Agency benefit is ineligible
17 for the benefit by reason of subsection (a). Such deter-
18 mination shall be made not later than 6 months after the
19 person submits a disclosure statement under section 2.

20 (c) REHABILITATION.—The Administrator may not
21 determine that a person is ineligible for a benefit by rea-
22 son of subsection (a)(1) if the person demonstrates by
23 clear and convincing evidence that the person has been
24 rehabilitated. Factors that the Administrator may con-
25 sider in reviewing the evidence include the following:

1 (1) The nature and responsibilities of the posi-
2 tion held by the person.

3 (2) The nature and seriousness of the offense.

4 (3) The circumstances under which the offense
5 occurred.

6 (4) The date of the offense.

7 (5) The age of the person when the offense was
8 committed.

9 (6) Whether the offense was an isolated or re-
10 peated incident.

11 (d) PERIOD OF INELIGIBILITY.—The ineligibility for
12 benefits under this section shall apply for a period, as de-
13 termined by the Administrator of the Environmental Pro-
14 tection Agency, of not less than 10 years after the date
15 of the conviction or finding by the Administrator under
16 subsection (a).

17 **SEC. 2. DISCLOSURE STATEMENT.**

18 (a) REQUIREMENT FOR SUBMISSION OF DISCLOSURE
19 STATEMENT.—For purposes of enforcing section 1, the
20 Administrator of the Environmental Protection Agency
21 shall require any person who—

22 (1) applies for any permit under a Federal envi-
23 ronmental law;

24 (2) applies for any type of grant or loan from
25 the Environmental Protection Agency;

1 (3) in the case of a procurement for goods or
2 services being conducted by the Environmental Pro-
3 tection Agency, submits a sealed bid or competitive
4 proposal to the agency in response to a solicitation
5 for bids or request for proposals for the goods or
6 services; or

7 (4) applies for any other Environmental Protec-
8 tion Agency benefit;

9 to submit a disclosure statement as described in sub-
10 section (b). Such disclosure statement shall be submitted
11 to the Environmental Protection Agency at the same time
12 as the application, bid, or proposal is submitted.

13 (b) CONTENTS OF DISCLOSURE STATEMENT.—The
14 following information shall be included in the disclosure
15 statement submitted under subsection (a):

16 (1) In the case of an individual, the full name
17 and business address of the individual. In the case
18 of a business concern, the full name and business
19 address of any officers, directors, partners, or key
20 employees of the business concern and all individuals
21 or business concerns holding any equity in or debt
22 liability of the business concern, or, if the business
23 concern is a publicly traded corporation, all individ-
24 uals or business concerns holding more than 5 per-

1 cent of the equity in or debt liability of the business
2 concern.

3 (2) The full name and business address of all
4 officers, directors, or partners of any business con-
5 cern disclosed in the statement and the names and
6 addresses of all individuals or business concerns
7 holding any equity in or debt liability of any busi-
8 ness concern so disclosed, or, if the business concern
9 is a publicly traded corporation, all individuals or
10 business concerns holding more than 5 percent of
11 the equity in or debt liability of that business con-
12 cern.

13 (3) The full name and business address of any
14 business concern which collects, transports, treats,
15 stores, or disposes of solid waste or hazardous waste
16 in which the individual or business concern submit-
17 ting the disclosure statement holds an equity inter-
18 est.

19 (4) A description of the experience and creden-
20 tials in, including any past or present licenses for,
21 the collection, transportation, treatment, storage, or
22 disposal of solid waste or hazardous waste possessed
23 by the individual or business concern, or by any key
24 employee, officer, director, or partner of the business
25 concern.

1 (5) A listing and explanation of any notices of
2 violation or prosecution, administrative orders, or li-
3 cense or permit revocations issued by any State or
4 Federal authority, in the 10 years immediately pre-
5 ceding the submission of the disclosure statement,
6 which are pending or have resulted in a finding or
7 a settlement of a violation of any law, rule, or regu-
8 lation relating to the collection, transportation,
9 treatment, storage, or disposal of solid waste or haz-
10 ardous waste by the individual or business concern,
11 or by any key employee, officer, director, or partner
12 of the business concern.

13 (6) A listing and explanation of any judgment
14 of liability or conviction which was rendered, pursu-
15 ant to any State or Federal statute or local ordi-
16 nance, against the individual or business concern, or
17 against any key employee, officer, director, or part-
18 ner of the business concern.

19 (7) A listing of any State or local agencies
20 which had regulatory responsibility over the individ-
21 ual or business concern in connection with the indi-
22 vidual's or business concern's collection, transpor-
23 tation, treatment, storage, or disposal of solid waste
24 or hazardous waste.

1 (8) Any other information the Administrator
2 may require that relates to the competency, reliabil-
3 ity, or good character of the individual or business
4 concern.

5 (c) REVISIONS.—Each person that submits a disclo-
6 sure statement under this section shall, if any information
7 required to be included in the disclosure statement
8 changes, or if any additional information should be added
9 after the submission of the statement, provide that infor-
10 mation to the Administrator in writing not later than 30
11 days after the change or addition.

12 **SEC. 3. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.**

13 (a) IN GENERAL.—The Administrator shall enforce
14 section 1 by examination of the disclosure statement re-
15 quired under section 2 and by such other means, including
16 record and field investigations, as the Administrator con-
17 siders necessary.

18 (b) ACCESS ENTRY.—For purposes of enforcing this
19 Act—

20 (1) any officer, employee, or representative of
21 the Environmental Protection Agency may enter at
22 reasonable times any establishment or other place
23 where a person who applies for an Environmental
24 Protection Agency benefit carries out business; and

1 (2) any person who applies for an Environ-
2 mental Protection Agency benefit shall, upon request
3 of any such officer, employee, or representative, fur-
4 nish information relating to the benefit application
5 and disclosure statement and permit any such offi-
6 cer, employee, or representative at all reasonable
7 times to have access to, and to copy all records re-
8 lating to, such application and statement.

9 (c) HEARING.—Any person who is determined by the
10 Administrator to be ineligible for an Environmental Pro-
11 tection Agency benefit under this Act shall, upon written
12 request to the Administrator not later than 30 days after
13 the determination is made, be afforded the opportunity for
14 a hearing on the record in accordance with section 554
15 of title 5, United States Code.

16 (d) CONFIDENTIALITY.—(1) Except as provided in
17 paragraph (2), disclosure statements, records, and other
18 information obtained from individuals or business con-
19 cerns under this Act shall be available to the public.

20 (2) Upon a showing satisfactory to the Administrator
21 by an individual or business concern that the public disclo-
22 sure of a disclosure statement, record, or other informa-
23 tion obtained under this Act would divulge information en-
24 titled to protection under section 1905 of title 18, United

1 States Code, such information shall be considered con-
2 fidential in accordance with the purposes of that section.

3 (e) REGULATIONS.—Not later than six months after
4 the date of the enactment of this Act, the Administrator
5 shall prescribe regulations to administer and enforce this
6 Act.

7 **SEC. 4. DEFINITIONS.**

8 For purposes of this Act:

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

12 (2) BENEFICIAL BUSINESS INTEREST.—The
13 term “beneficial business interest” means any form
14 of monetary interest in a business concern, including
15 an equity interest, debt liability, or other interest, by
16 means of which the holder of the interest may influ-
17 ence, decide, or manage the activities of the business
18 concern.

19 (3) BUSINESS CONCERN.—The term “business
20 concern” means any corporation, firm, joint stock
21 company, association, partnership, trust, or other
22 form of commercial organization.

23 (4) ENVIRONMENTAL PROTECTION AGENCY
24 BENEFIT.—The term “Environmental Protection
25 Agency benefit” means any of the following:

1 (A) A permit under a Federal environ-
2 mental law.

3 (B) Any type of grant or loan awarded by
4 the Administrator pursuant to a Federal envi-
5 ronmental law.

6 (C) Any other benefit awarded by the Ad-
7 ministrator pursuant to a Federal environ-
8 mental law that is determined by the Adminis-
9 trator of the Environmental Protection Agency
10 to be appropriate for inclusion under this Act.

11 (5) FEDERAL ENVIRONMENTAL LAW.—The
12 term “Federal environmental law” includes the fol-
13 lowing:

14 (A) The Clean Air Act (42 U.S.C. 7401 et
15 seq.).

16 (B) The Comprehensive Environmental
17 Response, Compensation, and Liability Act of
18 1980 (42 U.S.C. 9601 et seq.).

19 (C) The Safe Drinking Water Act (42
20 U.S.C. 300f et seq.).

21 (D) The Solid Waste Disposal Act (42
22 U.S.C. 6901 et seq.).

23 (E) The Toxic Substances Control Act (15
24 U.S.C. 2601 et seq.).

1 (6) KEY EMPLOYEE.—The term “key em-
2 ployee” means a person employed by an individual
3 or business concern to carry out supervisory, mana-
4 gerial, or decisionmaking duties.

5 (7) PERSON.—The term “person” means an in-
6 dividual or a business concern.

7 (8) SOLID AND HAZARDOUS WASTE.—The
8 terms “solid waste” and “hazardous waste” have the
9 meaning given such terms by section 1004 of the
10 Solid Waste Disposal Act.

11 **SEC. 5. EFFECTIVE DATE.**

12 This Act shall apply to any person who applies for
13 an Environmental Protection Agency benefit after the ex-
14 piration of the six-month period beginning on the date of
15 the enactment of this Act.

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