

104TH CONGRESS
2D SESSION

H. R. 2845

To amend the Solid Waste Disposal Act to allow petitions to be submitted to prevent certain waste facilities from being constructed in environmentally disadvantaged communities.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1996

Mrs. COLLINS of Illinois introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Solid Waste Disposal Act to allow petitions to be submitted to prevent certain waste facilities from being constructed in environmentally disadvantaged communities.

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 “Environmental Equal
5 Rights Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) A 1987 study by the United Church of
2 Christ found that the proportion of minorities in
3 communities with large commercial landfills or a
4 high number of commercial waste facilities was three
5 times greater than in communities without such fa-
6 cilities.

7 (2) The same United Church of Christ study
8 found that approximately 60 percent of African- and
9 Hispanic-Americans live in a community that has an
10 uncontrolled hazardous waste site.

11 (3) An Environmental Protection Agency report
12 released in 1992 found that racial minority and low-
13 income populations experience higher than average
14 exposures to selected air pollutants and hazardous
15 waste facilities.

16 (4) A 1983 analysis by the General Accounting
17 Office found that, in the southeastern United States,
18 three of the four commercial hazardous waste land-
19 fills were located in communities with more blacks
20 than whites, and the percentage of residents near
21 the sites with incomes below the poverty line ranged
22 from 26 percent to 42 percent.

23 (5) A University of Michigan study released in
24 1990 found that minorities were four times more
25 likely than whites to live within one mile of a com-

1 mercial hazardous waste facility in the three-county
2 Detroit metropolitan area.

3 (6) A National Law Journal study found that
4 penalties imposed for pollution law violations in
5 areas predominantly populated by minorities were
6 dramatically lower than those imposed for violations
7 in largely white areas.

8 **SEC. 3. PETITION RELATING TO ENVIRONMENTALLY DIS-**
9 **ADVANTAGED COMMUNITIES.**

10 (a) AMENDMENT TO SUBTITLE G.—Subtitle G of the
11 Solid Waste Disposal Act (42 U.S.C. 6971 et seq.) is
12 amended by adding at the end the following new section:

13 **“SEC. 7011. PETITION RELATING TO ENVIRONMENTALLY**
14 **DISADVANTAGED COMMUNITIES.**

15 “(a) RIGHT TO PETITION.—(1) Any individual resid-
16 ing in an environmentally disadvantaged community in
17 which a new facility for the management of solid waste
18 (including a new facility for the management of hazardous
19 waste) is proposed to be constructed may submit a petition
20 to the appropriate entity (described in paragraph (2)) to
21 prevent the proposed facility from being issued a permit
22 to be constructed or to operate in that community.

23 “(2) A petition under paragraph (1) shall be submit-
24 ted in accordance with the following subparagraphs:

1 “(A) In the case of a facility for the manage-
2 ment of hazardous waste, the petition shall be sub-
3 mitted to the Administrator or, in the case of a
4 State with an authorized program under section
5 3006, to the State.

6 “(B) In the case of a facility for the manage-
7 ment of municipal solid waste, the petition shall be
8 submitted to the Administrator or, in appropriate
9 cases, as determined under regulations implementing
10 this section, to the State.

11 “(b) AGENCY HEARING.—(1) Within a reasonable pe-
12 riod of time after receipt of a petition under subsection
13 (a), the Administrator or the State shall hold a public
14 hearing on the petition. An administrative law judge of
15 the Environmental Protection Agency or an equivalent em-
16 ployee of the State, in the case of a petition submitted
17 to the State, shall preside at the hearing.

18 “(2) Subject to paragraph (3), the administrative law
19 judge or State employee shall approve the petition if, at
20 the hearing, the petitioner establishes that—

21 “(A) the proposed facility will be located in an
22 environmentally disadvantaged community; and

23 “(B) the proposed facility may adversely af-
24 fect—

1 “(i) the human health of such community
2 or a portion of such community;

3 “(ii) the air, soil, water, or other elements
4 of the environment of such community or a por-
5 tion of such community; or

6 “(iii) the social and economic characteris-
7 tics of such community or a portion of such
8 community.

9 “(3) After the petitioner has satisfied the require-
10 ment of paragraph (2), the administrative law judge or
11 State employee shall deny the petition only if, at the hear-
12 ing, the proponent of the proposed facility establishes
13 that—

14 “(A) there is no alternative location within the
15 State for the proposed facility that poses fewer risks
16 to human health and the environment than the pro-
17 posed facility (according to standards for comparing
18 the degree of risk to human health and the environ-
19 ment promulgated in regulations by the Adminis-
20 trator for purposes of this section); and

21 “(B) the proposed facility—

22 “(i) will not release contaminants; or

23 “(ii) will not engage in any activity that is
24 likely to increase the cumulative impact of con-

1 taminants on any residents of the environ-
2 mentally disadvantaged community.

3 “(c) ADMINISTRATIVE PROVISIONS.—(1) The sub-
4 mission of a petition under subsection (a) stays the issu-
5 ance of a permit for the facility concerned until a decision
6 on the petition has been rendered under subsection (b).

7 “(2) If more than one petition relating to the same
8 facility is submitted, the petitions may be consolidated by
9 the appropriate official to promote the efficient resolution
10 and disposition of the petitions.

11 “(d) NOTICE TO PUBLIC.—Within 30 days after re-
12 ceipt of a proposal for the construction of a new facility
13 for the management of solid waste (including a new facil-
14 ity for the management of hazardous waste) in an environ-
15 mentally disadvantaged community, and before issuance
16 of a permit for such facility, the Administrator or the
17 State in which the environmentally disadvantaged commu-
18 nity is located shall notify persons residing in the environ-
19 mentally disadvantaged community of their right to sub-
20 mit a petition under subsection (a). Such notice shall ap-
21 pear for a period of not less than five consecutive days
22 in a newspaper of general circulation that serves the envi-
23 ronmental disadvantaged community. The Administrator
24 or the State shall provide such notice in writing by first
25 class mail to any person who requests such information.

1 “(e) DEFINITIONS.—As used in this section:

2 “(1) The term ‘environmentally disadvantaged
3 community’ means an area within 2 miles of the bor-
4 ders of a site on which a facility for the management
5 of solid waste (including a facility for the manage-
6 ment of hazardous waste) is proposed to be con-
7 structed, within the same State as the proposed fa-
8 cility, and in which both of the following conditions
9 are met, determined using the most recent data
10 from the Bureau of the Census:

11 “(A)(i) The percentage of the population
12 consisting of all individuals who are of African,
13 Hispanic, Asian, Native American Indian, Pa-
14 cific Island, or Native Alaskan ancestry is
15 greater than either—

16 “(I) the percentage of the population
17 in the State of all such individuals, or

18 “(II) the percentage of the population
19 in the United States of all such individ-
20 uals; or

21 “(ii)(I) twenty percent or more of the pop-
22 ulation consists of individuals who are living at
23 or below the poverty line, or

24 “(II) the area has a per capita income of
25 80 percent or less of the national average,

1 for the most recent 12-month period for which
2 statistics are available.

3 “(B) The area contains one or more of the
4 following:

5 “(i) A facility for the management of
6 hazardous waste that is in operation.

7 “(ii) A facility for the management of
8 hazardous waste that is no longer in oper-
9 ation but that formerly accepted hazardous
10 waste.

11 “(iii) A site at which a release or
12 threatened release of hazardous substances
13 (within the meaning of the Comprehensive
14 Environmental Response, Compensation,
15 and Liability Act of 1980) has occurred.

16 “(iv) A facility for the management of
17 municipal solid waste.

18 “(v) A facility whose owner or opera-
19 tor is required to submit a toxic chemical
20 release form under section 313 of the
21 Emergency Planning and Community
22 Right-To-Know Act of 1986 (42 U.S.C.
23 11023), if the releases reported on such
24 form are likely to adversely affect the
25 human health of the community or portion

1 of the community, as determined by the
2 entity that would be appropriate under
3 subsection (a)(2) if a petition were filed
4 with respect to the facility.

5 “(2) The term ‘management’, when used in
6 connection with solid waste (including hazardous
7 waste), means treatment, storage, disposal, combus-
8 tion, recycling, or other handling of solid waste, but
9 does not include any activities that take place in a
10 materials recovery facility or any other facility that
11 prepares, transfers, or utilizes nonhazardous recycla-
12 ble materials for purposes other than energy recov-
13 ery.

14 “(3) The terms ‘release’ and ‘contaminant’ have
15 the meanings prescribed by the Administrator for
16 purposes of this section.”.

17 (b) TABLE OF CONTENTS AMENDMENT.—The table
18 of contents for subtitle G of such Act is further amended
19 by adding at the end the following new item:

“Sec. 7011. Petition relating to environmentally disadvantaged communities.”

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