

104TH CONGRESS
2D SESSION

H.R. 3780

To protect residents and localities from irresponsibly sited hazardous waste facilities.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1996

Mr. SOUDER introduced the following bill; which was referred to the Committee on Commerce

A BILL

To protect residents and localities from irresponsibly sited hazardous waste facilities.

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 “Common Sense Haz-
5 arduous Waste Facilities Siting and Permitting Act of
6 1996”.

7 **SEC. 2. AMENDMENT OF SOLID WASTE DISPOSAL ACT.**

8 (a) IN GENERAL.—Subtitle C of the Solid Waste Dis-
9 posal Act (42 U.S.C. 6921 and following) is amended by
10 adding the following new section at the end thereof:

1 **“SEC. 3024. SITING OF NEW OR EXPANDED HAZARDOUS**
2 **WASTE FACILITIES.**

3 “(a) DEFINITIONS.—For purposes of this section:

4 “(1) APPLICATION.—The term ‘application’
5 means an application filed with a State or local per-
6 mitting authority for approval to site a new or ex-
7 panded hazardous waste facility.

8 “(2) DENSELY POPULATED AREA.—The term
9 ‘densely populated area’ means an incorporated
10 place or census designated place “(defined by the
11 Census Bureau) with a population density of at least
12 1,500 people per square mile as determined by the
13 decennial census.

14 “(3) ENVIRONMENTAL REDLINING.—The term
15 ‘environmental redlining’ means the selection of sites
16 for new or expanded hazardous waste facilities based
17 predominantly on the income of the majority of resi-
18 dents of real property surrounding the new or ex-
19 panded hazardous waste facility site.

20 “(4) HOST COMMUNITY.—The term ‘host com-
21 munity’ means the incorporated place or census des-
22 ignated place of a State in which a new or expanded
23 hazardous waste facility is proposed to be located.

24 “(5) NEW OR EXPANDED HAZARDOUS WASTE
25 FACILITY.—The term ‘new or expanded hazardous

1 waste facility’ means a hazardous waste treatment,
2 storage, or disposal facility—

3 “(A) the construction of which commences
4 after the enactment of this section, or

5 “(B) the expansion of the physical capacity
6 of which commences after January 1, 2000.

7 For the purposes of this paragraph, the term ‘com-
8 mence’, when used with respect to a facility, refers
9 to the issuance of all applicable permits for such fa-
10 cility under other provisions of Federal, State, and
11 local law.

12 “(6) OFFICIAL.—The term ‘official’ means the
13 elected executive official(s) of the host community if
14 it is incorporated, or the county executive official or
15 officials if it is a census designated place.

16 “(7) PERSON.—The term ‘person’ means an in-
17 dividual, corporation, partnership, limited partner-
18 ship, limited liability company, or any other lawful
19 business entity that plans to operate a new or ex-
20 panded hazardous waste facility.

21 “(8) PRIME FARM LAND.—The term ‘prime
22 farm land’ means real property on which crop yields
23 exceed the State’s annual average (as determined by
24 the United States Department of Agriculture) of

1 units per acre by at least 15 percent for 5 consecu-
2 tive or nonconsecutive years of the past 10 years.

3 “(9) PERMITTING AUTHORITY.—The term ‘per-
4 mitting authority’ means the State or local authority
5 having jurisdiction under State or local law over the
6 siting and permitting of new or expanded hazardous
7 waste facilities.

8 “(10) PUBLIC PLACE.—The term ‘public place’
9 means any structure the general public may access
10 at least 40 hours per week.

11 “(11) UNITS.—The term ‘units’ means the per-
12 tinent crop measure used by the United States De-
13 partment of Agriculture for reporting services for
14 historical data.

15 “(b) SITING CRITERIA.—In addition to the standards
16 applicable under section 3004, and under State and local
17 law, each State or local permitting authority shall develop,
18 not longer than 1 year after enactment of this Act, haz-
19 ardous waste facility siting criteria, which, at a minimum,
20 are consistent with each of the following:

21 “(1) DEMOGRAPHIC CRITERIA.—New or ex-
22 panded hazardous waste facilities shall not be lo-
23 cated within a 10-mile radius of densely populated
24 areas or within 2,600 feet of any school, church, day

1 care center, or other building or site at which per-
2 sons under the age of 18 are frequently present.

3 “(2) TOPOGRAPHIC-ATMOSPHERIC-GEOLOGIC
4 CRITERIA.—New or expanded hazardous waste facili-
5 ties shall not be located on or within any of the fol-
6 lowing areas:

7 “(A) On shallow aquifers or recharge areas
8 for shallow aquifers that are or may reasonably
9 be expected to be used for drinking water or
10 cropland irrigation.

11 “(B) Within at least 200 feet of streams,
12 rivers, ponds, lakes, reservoirs, or other bodies
13 of water that are in existence for at least 21
14 consecutive days.

15 “(C) On prime farm land.

16 “(3) REDLINING.—The siting of new or ex-
17 panded hazardous waste facilities shall not be based
18 on environmental redlining.

19 “(c) SITING PROCEDURES.—In addition to any pro-
20 cedures otherwise applicable under this Act or other appli-
21 cable law, each State or local permitting authority shall
22 develop hazardous waste facility siting procedures, which,
23 at a minimum, are consistent with the following:

1 “(1) APPLICATION PROCESS.—Each application
2 shall contain written assurances that the following
3 procedures have been, or will be, carried out:

4 “(A)(i) The person shall publish an an-
5 nouncement of the intent to file an application
6 to site a new or expanded hazardous waste fa-
7 cility, specifying the exact location of the pro-
8 posed site, in 2 newspapers of general circula-
9 tion 30 to 90 days before the filing of the appli-
10 cation.

11 “(ii) One of the 2 newspapers of general
12 circulation shall be the newspaper with the larg-
13 est circulation of the incorporated place or cen-
14 sus designated place wherein the new or ex-
15 panded hazardous waste facility is proposed to
16 be sited.

17 “(iii) The announcement of intent to file
18 an application to site a new or expanded haz-
19 ardous waste facility shall be published in a
20 type size not smaller than the majority of the
21 text type used on the front page of the news-
22 paper.

23 “(B) The person shall submit to the per-
24 mitting authority and to the official of the host
25 community, a prospectus that detailed the cri-

1 teria for the selection of the site and the nature
2 of the waste management activities conducted
3 at the planned facility. A copy of the prospectus
4 shall be made available at a public place in the
5 host community by the official of the host com-
6 munity.

7 “(C) The person shall submit to the per-
8 mitting authority and to the official of the host
9 community a detailed analysis and reporting of
10 each of the following:

11 “(i) The area in which the new or ex-
12 panded hazardous waste facility is to be lo-
13 cated.

14 “(ii) The process by which the area
15 was selected.

16 “(iii) A description of the technologies
17 to be used at the facility.

18 “(iv) A comprehensive treatment anal-
19 ysis of the hazardous waste to be managed
20 at the facility.

21 “(v) The annual capacity of the new
22 or expanded hazardous waste facility.

23 “(vi) The expected origin of the waste
24 accepted at the new or expanded hazardous
25 waste facility.

1 “(vii) The quantity of waste the per-
2 son intends to receive.

3 “(viii) The prospects for future expan-
4 sion of the hazardous waste facility.

5 “(ix) Whether the person, its parent
6 company, officers, corporate principals, or
7 any entity owned, controlled, or operated
8 by the entity has any pending or unre-
9 solved environmental violations of this Act.

10 “(D) The official of the host community
11 shall establish a host community advisory com-
12 mittee of individuals with representation from
13 opponents and supporters of the location of the
14 new or expanded hazardous waste facility with-
15 in 60 days of the filing of the application.

16 “(E) The host community advisory com-
17 mittee shall conduct 1 public meeting on the
18 planned hazardous waste facility within 90 days
19 of the establishment of the host advisory com-
20 mittee.

21 “(F) Upon the completion of the proce-
22 dures described in subparagraphs (A) through
23 (E), the person filing the application has re-
24 quested the official of the host community for

1 consent to site the facility in the host commu-
2 nity.

3 “(2) RECOMMENDATION OF THE HOST COMMU-
4 NITY ADVISORY COMMITTEE.—The host community
5 advisory committee shall submit a nonbinding writ-
6 ten recommendation to the official of the host com-
7 munity within 30 days of the written request of the
8 person filing the application, which reflects the opin-
9 ion of the majority of the members of the host com-
10 munity advisory committee.

11 “(3) CONSENT OF THE OFFICIAL OF THE HOST
12 COMMUNITY.—(A) The official of the host commu-
13 nity shall file his consent or a statement withholding
14 consent with the permitting authority within 10 days
15 of the submission of the host community advisory
16 committee’s recommendations.

17 “(B) The official of the host community shall
18 include in his consent or statement withholding con-
19 sent, the criteria upon which his consent, or lack
20 thereof, is based.

21 “(4) APPEALS PROCESS.—The number of ap-
22 peals of the permitting authority’s final ruling on
23 the application to site new or expanded hazardous
24 waste facilities shall not exceed one (1).”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 subtitle C of the Solid Waste Disposal Act is amended by
3 adding the following new item after the item relating to
4 section 3023:

“Sec. 3024. Siting of new or expanded hazardous waste facilities.”.

