

105TH CONGRESS
1ST SESSION

H. R. 1199

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

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 ardous Waste Facilities Siting and Permitting Act of
6 1997”.

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
26 waste facility’ means a hazardous waste treatment,

1 storage, or disposal facility the construction or ex-
2 pansion of which commences after the enactment of
3 this section. For the purposes of this paragraph, the
4 term ‘commence’, when used with respect to a facil-
5 ity, refers to the issuance of all applicable permits
6 for such facility under other provisions of Federal,
7 State, and local law.

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

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

17 “(8) PRIME FARM LAND.—The term ‘prime
18 farm land’ means real property on which crop yields
19 exceed the State’s annual average (as determined by
20 the United States Department of Agriculture) of
21 units per acre by at least 15 percent for 5 consecu-
22 tive or nonconsecutive years of the past 10 years.

23 “(9) PERMITTING AUTHORITY.—The term ‘per-
24 mitting authority’ means the State or local authority
25 having jurisdiction under State or local law over the

1 siting and permitting of new or expanded hazardous
2 waste facilities.

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

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

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

16 “(1) DEMOGRAPHIC CRITERIA.—New or ex-
17 panded hazardous waste facilities shall not be lo-
18 cated within a 10-mile radius of densely populated
19 areas or within 2,600 feet of any school, church, day
20 care center, or other building or site at which per-
21 sons under the age of 18 are frequently present.

22 “(2) TOPOGRAPHIC-ATMOSPHERIC-GEOLOGIC
23 CRITERIA.—New or expanded hazardous waste facili-
24 ties shall not be located on or within any of the fol-
25 lowing areas:

1 “(A) On shallow aquifers or recharge areas
2 for shallow aquifers that are or may reasonably
3 be expected to be used for drinking water or
4 cropland irrigation.

5 “(B) Within at least 200 feet of streams,
6 rivers, ponds, lakes, reservoirs, or other bodies
7 of water that are in existence for at least 21
8 consecutive days.

9 “(C) On prime farm land.

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

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

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

21 “(A)(i) The person shall publish an an-
22 nouncement of the intent to file an application
23 to site a new or expanded hazardous waste fa-
24 cility, specifying the exact location of the pro-
25 posed site, in 2 newspapers of general circula-

1 tion 30 to 90 days before the filing of the appli-
2 cation.

3 “(ii) One of the 2 newspapers of general
4 circulation shall be the newspaper with the larg-
5 est circulation of the incorporated place or cen-
6 sus designated place wherein the new or ex-
7 panded hazardous waste facility is proposed to
8 be sited.

9 “(iii) The announcement of intent to file
10 an application to site a new or expanded haz-
11 ardous waste facility shall be published in a
12 type size not smaller than the majority of the
13 text type used on the front page of the news-
14 paper.

15 “(B) The person shall submit to the per-
16 mitting authority and to the official of the host
17 community, a prospectus that detailed the cri-
18 teria for the selection of the site and the nature
19 of the waste management activities conducted
20 at the planned facility. A copy of the prospectus
21 shall be made available at a public place in the
22 host community by the official of the host com-
23 munity.

24 “(C) The person shall submit to the per-
25 mitting authority and to the official of the host

1 community a detailed analysis and reporting of
2 each of the following:

3 “(i) The area in which the new or ex-
4 panded hazardous waste facility is to be lo-
5 cated.

6 “(ii) The process by which the area
7 was selected.

8 “(iii) A description of the technologies
9 to be used at the facility.

10 “(iv) A comprehensive treatment anal-
11 ysis of the hazardous waste to be managed
12 at the facility.

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

15 “(vi) The expected origin of the waste
16 accepted at the new or expanded hazardous
17 waste facility.

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

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

22 “(ix) Whether the person, its parent
23 company, officers, corporate principals, or
24 any entity owned, controlled, or operated

1 by the entity has any pending or unre-
2 solved environmental violations of this Act.

3 “(D) The official of the host community
4 shall establish a host community advisory com-
5 mittee of individuals with representation from
6 opponents and supporters of the location of the
7 new or expanded hazardous waste facility with-
8 in 60 days of the filing of the application.

9 “(E) The host community advisory com-
10 mittee shall conduct 1 public meeting on the
11 planned hazardous waste facility within 90 days
12 of the establishment of the host advisory com-
13 mittee.

14 “(F) Upon the completion of the proce-
15 dures described in subparagraphs (A) through
16 (E), the person filing the application has re-
17 quested the official of the host community for
18 consent to site the facility in the host commu-
19 nity.

20 “(2) RECOMMENDATION OF THE HOST COMMU-
21 NITY ADVISORY COMMITTEE.—The host community
22 advisory committee shall submit a nonbinding writ-
23 ten recommendation to the official of the host com-
24 munity within 30 days of the written request of the
25 person filing the application, which reflects the opin-

1 ion of the majority of the members of the host com-
2 munity advisory committee.

3 “(3) CONSENT OF THE OFFICIAL OF THE HOST
4 COMMUNITY.—(A) The official of the host commu-
5 nity shall file his consent or a statement withholding
6 consent with the permitting authority within 10 days
7 of the submission of the host community advisory
8 committee’s recommendations.

9 “(B) The official of the host community shall
10 include in his consent or statement withholding con-
11 sent, the criteria upon which his consent, or lack
12 thereof, is based.

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

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

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

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