

104TH CONGRESS  
2D SESSION

# H. R. 4009

To amend the Solid Waste Disposal Act to improve public accountability and public safety in the management of hazardous waste facilities.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

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

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## A BILL

To amend the Solid Waste Disposal Act to improve public accountability and public safety in the management of 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 “Hazardous Waste Fa-  
5 cilities Public Accountability Act of 1996”.

6 **SEC. 2. FACILITY SITING STANDARDS.**

7 Section 3004(o)(7) of the Solid Waste Disposal Act  
8 (42 U.S.C. 6924(o)(7)) is amended to read as follows:

9 “(7)(A) The Administrator shall not authorize a  
10 State program unless, within 12 months after the date of

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1 the enactment of the Hazardous Waste Facilities Public  
2 Accountability Act of 1996, the State promulgates stand-  
3 ards for the acceptable location of new treatment, storage,  
4 and disposal facilities, and the expansion of treatment,  
5 storage, and disposal facilities, as may be necessary to  
6 protect human health and the environment. The standards  
7 shall include requirements related to adverse geologic set-  
8 tings such as flood plains and seismic impact zones; unsta-  
9 ble terrain such as karst terrain; ecological resources such  
10 as wetlands and wildlife habitat; proximity to residences,  
11 schools, hospitals, churches and synagogues; complex  
12 hydrogeology; and vulnerable significant ground water re-  
13 sources. If a State does not promulgate such siting stand-  
14 ards sufficient to protect human health and the environ-  
15 ment, the Administrator shall promulgate such standards  
16 with respect to the State.

17 “(B) For purposes of this paragraph, the term ‘com-  
18 plex hydrogeology’ means an area where 1 or more of the  
19 following activities cannot be performed fully and ade-  
20 quately:

21 “(i) Sufficient ground water characterization to  
22 determine ground water and surface water flow and  
23 ascertain upgradient and downgradient directions.

24 “(ii) The installation of a ground water mon-  
25 itoring network which will detect releases into

1 ground water from a monitored unit at the earliest  
2 opportunity.

3 “(iii) Characterization of the nature and extent  
4 of potential releases from a monitored unit.

5 “(iv) Determination of what corrective actions  
6 are appropriate in response to a release, and con-  
7 ducting the corrective actions that may be re-  
8 quired.”.

9 **SEC. 3. PERMIT FEES.**

10 Section 3006 of the Solid Waste Disposal Act (42  
11 U.S.C. 6926) is amended by adding at the end the follow-  
12 ing:

13 “(i) STATE PROGRAM SUPPORT.—(1) Within 12  
14 months after the date of the enactment of this subsection,  
15 the Administrator shall promulgate regulations requiring  
16 that the owner or operator of any facility required to ob-  
17 tain an operating or post-closure permit under this sub-  
18 title pay an annual fee, or the equivalent over some other  
19 period, sufficient to cover all reasonable (direct and indi-  
20 rect) costs required to develop and administer the permit  
21 program requirements of this title, including the reason-  
22 able costs of each of the following:

23 “(A) Reviewing and acting upon any application  
24 for such a permit.

1           “(B) Implementing and enforcing the terms  
2           and conditions of any such permit, including correc-  
3           tive action terms and conditions (but not including  
4           any court costs associated with any enforcement ac-  
5           tion).

6           “(C) Waste sampling, analyses, demonstrations,  
7           and environmental monitoring.

8           “(D) Preparing generally applicable regulations  
9           or guidance.

10          “(E) Implementing and enforcing interim sta-  
11          tus requirements, including corrective action orders  
12          (but not including any court costs associated with  
13          any enforcement action).

14          “(2) The Administrator shall not authorize a State  
15          program under this section, or allow a State program to  
16          retain authorization under this section, unless the State  
17          demonstrates that it will collect, in the aggregate, a dollar  
18          amount that the Administrator determines, after notice  
19          and opportunity for public comment, adequately reflects  
20          the reasonable costs of the permit program.

21          “(3) At least every 2 years the Administrator shall  
22          review each authorized State program to determine wheth-  
23          er the program is in compliance with this subsection. The  
24          Administrator shall publish such determination in the

1 Federal Register, after notice and opportunity for public  
2 comment.

3       “(4) If the Administrator determines, pursuant to  
4 paragraph (2), that the fee provisions of a State program  
5 do not meet the requirements of this subsection, or if the  
6 Administrator determines that the State is not adequately  
7 administering or enforcing an approved program, the Ad-  
8 ministrator may, in addition to taking any other action  
9 authorized under this subtitle, collect reasonable fees from  
10 the owner or operator of the facilities identified in para-  
11 graph (1). The fees shall be designed solely to cover the  
12 Administrator’s costs of administering the provisions of  
13 the permit program promulgated by the Administrator.

14       “(5) In addition to any penalties that may be imposed  
15 under other law, any owner or operator that fails to pay  
16 fees imposed by the Administrator under paragraph (4),  
17 within a reasonable time to be determined by the Adminis-  
18 trator, shall pay a penalty of 50 percent of the fee amount  
19 to the Administrator, plus interest on the fee amount com-  
20 puted in accordance with section 6621(a)(2) of the Inter-  
21 nal Revenue Code of 1986 (relating to computation of in-  
22 terest on underpayment of Federal taxes).

23       “(6) To carry out activities of the Administrator for  
24 which fees are collected under this subsection, an amount  
25 equal to the total amount of any fees, penalties, and inter-

1 est collected by the Administrator during any fiscal year  
2 under this subsection is authorized to be appropriated to  
3 the Administrator. Any amounts appropriated pursuant to  
4 this paragraph are authorized to remain available until ex-  
5 pended.

6 “(7) In imposing fees on facilities under this sub-  
7 section, the Administrator may take into account the size  
8 and complexity of the facilities, and other relevant fac-  
9 tors.”.

10 **SEC. 4. QUALIFICATIONS OF PERMITTEES.**

11 Section 3005 of the Solid Waste Disposal Act (42  
12 U.S.C. 6925) is amended by adding at the end the follow-  
13 ing:

14 “(k) **QUALIFICATIONS OF PERMITTEES.**—A person  
15 may not obtain a permit for any facility under this title  
16 or renew any such permit, obtain authorization to expand  
17 the facility, or transfer ownership of the facility to any  
18 other person, unless the person demonstrates the following  
19 with respect to the person, any firm engaged to operate  
20 the facility, the parent firm of the person and any firm  
21 engaged to operate the facility, and any firms controlled  
22 by the parent firm or the operating firm of the person:

23 “(1) Each such entity is in compliance with  
24 Federal and State environmental and public health  
25 statutes and regulations.

1           “(2) Each such entity has paid all outstanding  
2 fines or penalties imposed on the entity for violations  
3 of such statutes and regulations.

4           “(3) Each such entity has made available a dis-  
5 closure statement to the public at the site, and at  
6 local public libraries in the jurisdiction where the fa-  
7 cility would be sited if a permit were obtained. The  
8 disclosure statement shall include the following items  
9 of formation with respect to the entity:

10           “(A) A list of each conviction for fraud or  
11 any criminal offense during the immediately  
12 preceding 10 years in connection with obtaining  
13 or attempting to obtain a contract.

14           “(B) A list of each conviction for a viola-  
15 tion of a State or Federal antitrust law during  
16 the immediately preceding 10 years, including  
17 convictions relating to unlawful price-fixing, al-  
18 location of customers among competitors, and  
19 bid-rigging.

20           “(C) A list of each citation during the im-  
21 mediately preceding 5 years for a permit viola-  
22 tion under a Federal, State, or local environ-  
23 mental statute.

24           “(D) A list of each citation during the im-  
25 mediately preceding 5 years for failure to con-

1           duct proper cleanup, reclamation, or closure of  
2           a site or forfeiture of a bond for such a fail-  
3           ure.”.

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