

109TH CONGRESS
1ST SESSION

H. R. 427

To require Federal agencies to develop and implement policies and practices that promote environmental justice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2005

Mr. UDALL of Colorado (for himself, Ms. SOLIS, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require Federal agencies to develop and implement policies and practices that promote environmental justice, and for other purposes.

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; PURPOSES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Environmental Justice Act of 2005”.

6 (b) **PURPOSES.**—The purposes of this Act are—

1 (1) to focus Federal agency attention on the en-
2 vironmental and human health conditions in minor-
3 ity, low-income, and Native American communities;

4 (2) to ensure that all Federal agencies develop
5 practices that promote environmental justice;

6 (3) to increase cooperation and coordination
7 among Federal agencies as they seek to achieve envi-
8 ronmental justice;

9 (4) to provide minority, low-income, and Native
10 American communities greater access to public in-
11 formation and opportunity for participation in deci-
12 sionmaking affecting human health and the environ-
13 ment;

14 (5) to mitigate the inequitable distribution of
15 the burdens and benefits of Federal programs hav-
16 ing significant impact on human health and the en-
17 vironment; and

18 (6) to hold Federal agencies accountable for the
19 effects of their projects and programs on all commu-
20 nities.

21 **SEC. 2. DEFINITIONS.**

22 For purposes of this Act:

23 (1) ENVIRONMENTAL JUSTICE.—(A) The term
24 “environmental justice” means the fair treatment of
25 people of all races, cultures, and socioeconomic

1 groups with respect to the development, adoption,
2 implementation, and enforcement of laws, regula-
3 tions, and policies affecting the environment.

4 (B) The term “fair treatment” means policies
5 and practices that will minimize the likelihood that
6 a minority, low-income, or Native American commu-
7 nity will bear a disproportionate share of the adverse
8 environmental consequences, or be denied reasonable
9 access to the environmental benefits, resulting from
10 implementation of a Federal program or policy.

11 (2) FEDERAL AGENCY.—The term “Federal
12 agency” means—

13 (A) each Federal entity represented on the
14 Working Group;

15 (B) any other entity that conducts any
16 Federal program or activity that substantially
17 affects human health or the environment; and

18 (C) each Federal agency that implements
19 any program, policy, or activity applicable to
20 Native Americans.

21 (3) WORKING GROUP.—The term “Working
22 Group” means the interagency working group estab-
23 lished by section 4.

1 (4) **ADVISORY COMMITTEE.**—The term “the Ad-
2 visory Committee” means the advisory committee es-
3 tablished by section 6.

4 **SEC. 3. ENVIRONMENTAL JUSTICE RESPONSIBILITIES OF**
5 **FEDERAL AGENCIES.**

6 (a) **ENVIRONMENTAL JUSTICE MISSION.**—To the
7 greatest extent practicable, the head of each Federal agen-
8 cy shall make achieving environmental justice part of its
9 mission by identifying and addressing, as appropriate, dis-
10 proportionately high and adverse human health or envi-
11 ronmental effects of its programs, policies, and activities
12 on minority, low-income, and Native American populations
13 in the United States and its territories and possessions,
14 including the District of Columbia, the Commonwealth of
15 Puerto Rico, and the Commonwealth of the Mariana Is-
16 lands.

17 (b) **NONDISCRIMINATION.**—Each Federal agency
18 shall conduct its programs, policies, and activities in a
19 manner that ensures that such programs, policies, and ac-
20 tivities do not have the effect of excluding any person or
21 group from participation in, denying any person or group
22 the benefits of, or subjecting any person or group to dis-
23 crimination under, such programs, policies, and activities,
24 because of race, color, national origin, or income.

1 (c) ENVIRONMENTAL ANALYSES.—(1) Each analysis
2 of environmental effects of Federal actions required by the
3 National Environmental Policy Act of 1969 (42 U.S.C.
4 321 et seq.) shall include analysis of the effects of such
5 action on human health and any economic and social ef-
6 fects on minority, low-income, and Native American com-
7 munities.

8 (2) So far as feasible, any environmental assessment,
9 environmental impact statement, or record of decision pre-
10 pared pursuant to the National Environmental Policy Act
11 of 1969 (42 U.S.C. 321 et seq.) shall include measures
12 to mitigate any significant and adverse environmental ef-
13 fects of proposed Federal actions on minority, low-income,
14 and Native American communities.

15 (3) Each Federal agency shall provide opportunities
16 for community input in processes under the National En-
17 vironmental Policy Act of 1969 (42 U.S.C. 321 et seq.),
18 including identifying potential effects and mitigation
19 measures in consultation with affected communities and
20 improving the accessibility of meetings, crucial documents,
21 and notices.

22 **SEC. 4. INTERAGENCY ENVIRONMENTAL JUSTICE WORK-**
23 **ING GROUP.**

24 (a) CREATION AND COMPOSITION.—There is hereby
25 established the Interagency Working Group on Environ-

1 mental Justice, comprising the heads of the following execu-
2 tive agencies and offices, or their designees:

3 (1) The Department of Defense.

4 (2) The Department of Health and Human
5 Services.

6 (3) The Department of Housing and Urban De-
7 velopment.

8 (4) The Department of Labor.

9 (5) The Department of Agriculture.

10 (6) The Department of Transportation.

11 (7) The Department of Justice;

12 (8) The Department of the Interior.

13 (9) The Department of Commerce.

14 (10) The Department of Energy.

15 (11) The Environmental Protection Agency.

16 (12) The Office of Management and Budget.

17 (13) The Office of Science and Technology Pol-
18 icy.

19 (14) The Office of the Deputy Assistant to the
20 President for Environmental Policy.

21 (15) The Office of the Assistant to the Presi-
22 dent for Domestic Policy.

23 (16) The National Economic Council.

24 (17) The Council of Economic Advisers.

1 (18) Any other official of the United States
2 that the President may designate.

3 (b) FUNCTIONS.—The Working Group shall—

4 (1) provide guidance to Federal agencies on cri-
5 teria for identifying disproportionately high and ad-
6 verse human health or environmental effects on mi-
7 nority, low-income, and Native American popu-
8 lations;

9 (2) coordinate with, provide guidance to, and
10 serve as a clearinghouse for, each Federal agency as
11 it develops or revises an environmental justice strat-
12 egy as required by this Act, in order to ensure that
13 the administration, interpretation and enforcement
14 of programs, activities, and policies are undertaken
15 in a consistent manner;

16 (3) assist in coordinating research by, and stim-
17 ulating cooperation among, the Environmental Pro-
18 tection Agency, the Department of Health and
19 Human Services, the Department of Housing and
20 Urban Development, and other Federal agencies
21 conducting research or other activities in accordance
22 with section 7;

23 (4) assist in coordinating data collection, main-
24 tenance, and analysis required by this Act;

1 (5) examine existing data and studies on envi-
2 ronmental justice;

3 (6) hold public meetings and otherwise solicit
4 public participation and consider complaints as re-
5 quired under subsection (c);

6 (7) develop interagency model projects on envi-
7 ronmental justice that evidence cooperation among
8 Federal agencies; and

9 (8) in coordination with the Department of the
10 Interior and after consultation with tribal leaders,
11 coordinate steps to be taken pursuant to this Act
12 that affect or involve federally-recognized Indian
13 Tribes.

14 (c) PUBLIC PARTICIPATION.—The Working Group
15 shall—

16 (1) hold public meetings and otherwise solicit
17 public participation, as appropriate, for the purpose
18 of fact-finding with regard to implementation of this
19 Act, and prepare for public review a summary of the
20 comments and recommendations provided; and

21 (2) receive, consider, and in appropriate in-
22 stances conduct inquiries concerning complaints re-
23 garding environmental justice and the implementa-
24 tion of this Act by Federal agencies.

1 (d) ANNUAL REPORTS.—(1) Each fiscal year fol-
2 lowing enactment of this Act, the Working Group shall
3 submit to the President, through the Office of the Deputy
4 Assistant to the President for Environmental Policy and
5 the Office of the Assistant to the President for Domestic
6 Policy, a report that describes the implementation of this
7 Act, including, but not limited to, a report of the final
8 environmental justice strategies described in section 6 of
9 this Act and annual progress made in implementing those
10 strategies.

11 (2) The President shall transmit to the Speaker of
12 the House of Representatives and the President of the
13 Senate a copy of each report submitted to the President
14 pursuant to paragraph (1).

15 (e) CONFORMING CHANGE.—The Interagency Work-
16 ing Group on Environmental Justice established under
17 Executive Order No. 12898, dated February 11, 1994, is
18 abolished.

19 **SEC. 5. FEDERAL AGENCY STRATEGIES.**

20 (a) AGENCY-WIDE STRATEGIES.—Each Federal
21 agency shall develop an agency-wide environmental justice
22 strategy that identifies and addresses disproportionately
23 high and adverse human health or environmental effects
24 or disproportionately low benefits of its programs, policies,

1 and activities with respect to minority, low-income, and
2 Native American populations.

3 (b) REVISIONS.—Each strategy developed pursuant
4 to subsection (a) shall identify programs, policies, plan-
5 ning, and public participation processes, rulemaking, and
6 enforcement activities related to human health or the envi-
7 ronment that should be revised to—

8 (1) promote enforcement of all health and envi-
9 ronmental statutes in areas with minority, low-in-
10 come, or Native American populations;

11 (2) ensure greater public participation;

12 (3) improve research and data collection relat-
13 ing to the health of and environment of minority,
14 low-income, and Native American populations; and

15 (4) identify differential patterns of use of nat-
16 ural resources among minority, low-income, and Na-
17 tive American populations.

18 (c) TIMETABLES.—Each strategy developed pursuant
19 to subsection (a) shall include, where appropriate, a time-
20 table for undertaking revisions identified pursuant to sub-
21 section (b).

1 **SEC. 6. FEDERAL ENVIRONMENTAL JUSTICE ADVISORY**
2 **COMMITTEE.**

3 (a) **ESTABLISHMENT.**—There is established a com-
4 mittee to be known as the “Federal Environmental Justice
5 Advisory Committee”.

6 (b) **DUTIES.**—The Advisory Committee shall provide
7 independent advice and recommendations to the Environ-
8 mental Protection Agency and the Working Group on
9 areas relating to environmental justice, which may include
10 any of the following:

11 (1) Advice on Federal agencies’ framework de-
12 velopment for integrating socioeconomic programs
13 into strategic planning, annual planning, and man-
14 agement accountability for achieving environmental
15 justice results agency-wide.

16 (2) Advice on measuring and evaluating agen-
17 cies’ progress, quality, and adequacy in planning, de-
18 veloping, and implementing environmental justice
19 strategies, projects, and programs.

20 (3) Advice on agencies’ existing and future in-
21 formation management systems, technologies, and
22 data collection, and the conduct of analyses that
23 support and strengthen environmental justice pro-
24 grams in administrative and scientific areas.

25 (4) Advice to help develop, facilitate, and con-
26 duct reviews of the direction, criteria, scope, and

1 adequacy of the Federal agencies' scientific research
2 and demonstration projects relating to environ-
3 mental justice.

4 (5) Advice for improving how the environmental
5 protection agency and others participate, cooperate,
6 and communicate within that agency and between
7 other Federal agencies, State or local governments,
8 federally recognized Tribes, environmental justice
9 leaders, interest groups, and the public.

10 (6) Advice regarding the Environmental Protec-
11 tion Agency's administration of grant programs re-
12 lating to environmental justice assistance (not to in-
13 clude the review or recommendations of individual
14 grant proposals or awards).

15 (7) Advice regarding agencies' awareness, edu-
16 cation, training, and other outreach activities involv-
17 ing environmental justice.

18 (c) ADVISORY COMMITTEE.—The Advisory Com-
19 mittee shall be considered an advisory committee within
20 the meaning of the Federal Advisory Committee Act (5
21 U.S.C. App.).

22 (d) MEMBERSHIP.—The Advisory Committee shall be
23 composed of at least 25 members appointed by the Presi-
24 dent. Members shall include representatives of—

25 (1) community-based groups;

1 (2) industry and business;

2 (3) academic and educational institutions;

3 (4) State and local governments, federally rec-
4 ognized tribes, and indigenous groups; and

5 (5) nongovernmental and environmental groups.

6 (e) MEETINGS.—The Advisory Committee shall meet
7 at least twice annually. Meetings shall occur as needed and
8 approved by the Director of the Office of Environmental
9 Justice of the Environmental Protection Agency, who shall
10 serve as the officer required to be appointed under section
11 10(e) of the Federal Advisory Committee Act (5 U.S.C.
12 App.) with respect to the Committee (in this subsection
13 referred to as the “Designated Federal Officer”). The Ad-
14 ministrator of the Environmental Protection Agency may
15 pay travel and per diem expenses of members of the Advi-
16 sory Committee when determined necessary and appro-
17 priate. The Designated Federal Officer or a designee of
18 such Officer shall be present at all meetings, and each
19 meeting will be conducted in accordance with an agenda
20 approved in advance by such Officer. The Designated Fed-
21 eral Officer may adjourn any meeting when the Des-
22 ignated Federal Officer determines it is in the public inter-
23 est to do so. As required by the Federal Advisory Com-
24 mittee Act, meetings of the Advisory Committee shall be
25 open to the public unless the President determines that

1 a meeting or a portion of a meeting may be closed to the
2 public in accordance with subsection (c) of section 552b
3 of title 5, United States Code. Unless a meeting or portion
4 thereof is closed to the public, the Designated Federal Of-
5 ficer shall provide an opportunity for interested persons
6 to file comments before or after such meeting or to make
7 statements to the extent that time permits.

8 (f) DURATION.—The Advisory Committee shall re-
9 main in existence until otherwise provided by law.

10 **SEC. 7. HUMAN HEALTH AND ENVIRONMENTAL RESEARCH,**
11 **DATA COLLECTION AND ANALYSIS.**

12 (a) DISPROPORTIONATE IMPACT.—To the extent per-
13 mitted by other applicable law, including section 552a of
14 title 5, United States Code, popularly known as the Pri-
15 vacy Act of 1974, the Administrator of the Environmental
16 Protection Agency, or the head of such other Federal
17 agency as the President may direct, shall collect, maintain,
18 and analyze information assessing and comparing environ-
19 mental and human health risks borne by populations iden-
20 tified by race, national origin, or income. To the extent
21 practical and appropriate, Federal agencies shall use this
22 information to determine whether their programs, policies,
23 and activities have disproportionately high and adverse
24 human health or environmental effects on, or

1 disproportionately low benefits for, minority, low-income,
2 and Native American populations.

3 (b) INFORMATION RELATED TO NON-FEDERAL FA-
4 CILITIES.—In connection with the development and imple-
5 mentation of agency strategies in section 4, the Adminis-
6 trator of the Environmental Protection Agency, or the
7 head of such other Federal agency as the President may
8 direct, shall collect, maintain, and analyze information on
9 the race, national origin, and income level, and other read-
10 ily accessible and appropriate information, for areas sur-
11 rounding facilities or sites expected to have a substantial
12 environmental, human health, or economic effect on the
13 surrounding populations, if such facilities or sites become
14 the subject of a substantial Federal environmental admin-
15 istrative or judicial action.

16 (c) IMPACT FROM FEDERAL FACILITIES.—The Ad-
17 ministrator of the Environmental Protection Agency, or
18 the head of such other Federal agency as the President
19 may direct, shall collect, maintain, and analyze informa-
20 tion on the race, national origin, and income level, and
21 other readily accessible and appropriate information, for
22 areas surrounding Federal facilities that are—

23 (1) subject to the reporting requirements under
24 the Emergency Planning and Community Right-to-

1 Know Act (42 U.S.C. 11001 et seq.) as mandated
2 in Executive Order No. 12856; and

3 (2) expected to have a substantial environ-
4 mental, human health, or economic effect on sur-
5 rounding populations.

6 (d) INFORMATION SHARING.—(1) In carrying out the
7 responsibilities in this section, each Federal agency, to the
8 extent practicable and appropriate, shall share informa-
9 tion and eliminate unnecessary duplication of efforts
10 through the use of existing data systems and cooperative
11 agreements among Federal agencies and with State, local,
12 and tribal governments.

13 (2) Except as prohibited by other applicable law, in-
14 formation collected or maintained pursuant to this section
15 shall be made available to the public.

16 (e) PUBLIC COMMENT.—Federal agencies shall pro-
17 vide minority, low-income, and Native American popu-
18 lations the opportunity to participate in the development,
19 design, and conduct of activities undertaken pursuant to
20 this section.

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