

110TH CONGRESS
1ST SESSION

H. R. 1602

To ensure environmental justice in the areas affected by Hurricanes Katrina
and Rita.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2007

Mr. JEFFERSON introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Natural 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 ensure environmental justice in the areas affected by
Hurricanes Katrina and Rita.

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 “Hurricanes Katrina
5 and Rita Environmental Justice Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In June 2005, the Administration an-
9 nounced that it was removing race and class from

1 special consideration in its definition of environ-
2 mental justice, departing from President Clinton's
3 1994 Executive Order 12898 on Environmental Jus-
4 tice which mandated that all Federal agencies gen-
5 erate agency-specific strategies to address the dis-
6 proportionate pollution experienced by minority com-
7 munities.

8 (2) Years before Hurricane Katrina, environ-
9 mental justice activists were anticipating the racially
10 disproportionate effects of climate change, in terms
11 of coastal flooding and the health effects of heat
12 waves, through the Environmental Justice and Cli-
13 mate Change Initiative (EJCC). As their 2002 fact
14 sheet stated: "People of color are concentrated in
15 urban centers in the South, coastal regions, and
16 areas with substandard air quality. New Orleans,
17 which is 62 percent African-American and 2 feet
18 below sea level, exemplifies the severe and dispropor-
19 tionate impacts of climate change in the United
20 States.

21 (3) Numerous studies have concluded that
22 many diseases, including cancer, heart disease, asth-
23 ma, birth defects, behavioral disorders, infertility,
24 and obesity, are caused or exacerbated by environ-
25 mental hazards.

1 (4) Of the chemicals produced in the United
2 States annually in quantities greater than 10,000
3 pounds, only 43 percent of such chemicals have been
4 tested for their potential human toxicity and only 7
5 percent have been studied to assess effects on
6 human development.

7 (5) Approximately 126,000,000 people in the
8 United States live in areas of non-attainment for
9 pollutants that have health-based standards.

10 (6) In the United States, air pollution is esti-
11 mated to be associated with 50,000 premature
12 deaths and with \$50,000,000,000 in health-related
13 costs annually.

14 (7) In children, environmental toxins are esti-
15 mated to cause up to 35 percent of asthma cases,
16 up to 10 percent of cancer cases, and up to 20 per-
17 cent of neurobehavioral disorders.

18 (8) People of color are almost three times more
19 likely than Caucasians to be hospitalized or die from
20 asthma and other respiratory illnesses linked to air
21 pollution. Asthma accounts for 10 million lost school
22 days, 1.2 million emergency room visits, 15 million
23 outpatient visits, and over 500,000 hospitalizations
24 each year in the United States.

1 (9) Consequently, the people who live in these
2 communities are inundated with significant environ-
3 mental and health hazards related to toxic waste
4 sites, mining operations, incinerators, oil exploration,
5 and other harmful developments. In the United
6 States, approximately 60 percent of African Ameri-
7 cans live in communities with uncontrolled toxic
8 waste sites. Three out of five of the largest haz-
9 ardous waste landfills in the United States are lo-
10 cated in predominantly African American or Latino
11 communities.

12 (10) Hurricane Katrina struck a region that is
13 disproportionately African American and poor. Afri-
14 can Americans make up twelve percent of the United
15 States population. Nearly 68 percent of the popu-
16 lation of New Orleans is African American. The Af-
17 rican American population in the Coastal Mississippi
18 counties where Hurricane Katrina struck ranged
19 from 25 percent to 87 percent. Twenty-eight percent
20 of New Orleans residents live below the poverty level
21 and more than 80 percent of those are African
22 American. Fifty percent of all New Orleans children
23 live in poverty. The poverty rate was 17.7 percent in
24 Gulfport, Mississippi and 21.2 percent in Mobile,
25 Alabama in 2000. Nationally, in 2000, 11.3 percent

1 of people in the United States and 22.1 percent of
2 African Americans were living below the poverty
3 line.

4 (11) New Orleans is prototypical of environ-
5 mental justice issues in the Gulf Coast region. Be-
6 fore Hurricane Katrina, the City of New Orleans
7 was struggling with a wide range of environmental
8 justice issues and concerns. Its location along the
9 Mississippi River Chemical Corridor increased its
10 vulnerability to environmental threats. The City of
11 New Orleans had an extremely high childhood envi-
12 ronmental lead poisoning problem. There were ongo-
13 ing air quality impacts and resulting high asthma
14 and respiratory disease rates and frequent visits to
15 emergency rooms for treatment by both children and
16 adults. Environmental health problems and issues
17 related to environmental exposure was a grave issue
18 of concern for New Orleans residents.

19 (12) New Orleans and outlying areas suffered
20 severe environmental damage during Hurricane
21 Katrina, the extent to which has yet to be deter-
22 mined. The post-Hurricane Katrina New Orleans
23 has been described as a “cesspool” of toxic chemi-
24 cals, human waste, decomposing flesh, and surprises
25 that remain to be uncovered in the sediments. Mas-

1 sive amounts of toxic chemicals were used and
2 stored along the Gulf Coast before the storm. Lit-
3 erally thousands of sites in the storm’s path used or
4 stored hazardous chemicals, from the local dry clean-
5 er and auto repair shops to Superfund sites and oil
6 refineries in Chalmette and Meraux, Louisiana,
7 where there are enormous stores of ultra-hazardous
8 hydrofluoric acid. In the aftermath of the storm
9 some sites were damaged and leaked. Residents
10 across the Gulf Coast and the media reported oil
11 spills, obvious leaks from plants, storage tankards
12 turned on end, and massive fumes.

13 (13) Short-term rebuilding objectives must not
14 outweigh long-term public health protection for all
15 people in the United States and the environment on
16 which such people depend.

17 **SEC. 3. DEFINITIONS.**

18 For purposes of this Act:

19 (1) **ADVISORY COMMITTEE.**—The term “Advi-
20 sory Committee” means the advisory committee es-
21 tablished by section 6.

22 (2) **ENVIRONMENTAL JUSTICE.**—

23 (A) **IN GENERAL.**—The term “environ-
24 mental justice” means the fair treatment of
25 people of all races, cultures, and socioeconomic

1 groups with respect to the development, adop-
2 tion, implementation, and enforcement of laws,
3 regulations, and policies affecting the environ-
4 ment.

5 (B) FAIR TREATMENT.—The term “fair
6 treatment” means policies and practices that
7 will minimize the likelihood that a minority,
8 low-income community that is rural or urban
9 will bear a disproportionate share of the adverse
10 environmental consequences, or be denied rea-
11 sonable access to the environmental benefits, re-
12 sulting from implementation of a Federal pro-
13 gram or policy in the Hurricanes Katrina and
14 Rita affected area.

15 (3) FEDERAL AGENCY.—The term “Federal
16 agency” means—

17 (A) each Federal entity represented on the
18 Working Group;

19 (B) any other entity that conducts any
20 Federal program or activity that substantially
21 affects human health or the environment; and

22 (C) each Federal agency that implements
23 any program, policy, or activity applicable to
24 Native Americans.

1 (4) HURRICANES KATRINA AND RITA AFFECTED
 2 AREA.—The term “Hurricanes Katrina and Rita af-
 3 fected area” means the area for which the President
 4 has declared the existence of a major disaster, in ac-
 5 cordance with section 401 of the Robert T. Stafford
 6 Disaster Relief and Emergency Assistance Act (42
 7 U.S.C. 5170), as a consequence of Hurricanes
 8 Katrina and Rita.

9 (5) WORKING GROUP.—The term “Working
 10 Group” means the interagency working group estab-
 11 lished by section 4.

12 **SEC. 4. HURRICANES KATRINA AND RITA ENVIRONMENTAL**
 13 **JUSTICE RESPONSIBILITIES OF FEDERAL**
 14 **AGENCIES.**

15 (a) HURRICANES KATRINA AND RITA ENVIRON-
 16 MENTAL JUSTICE MISSION.—To the greatest extent prac-
 17 ticable, the head of each Federal agency shall make
 18 achieving environmental justice part of its mission by iden-
 19 tifying and addressing, as appropriate, disproportionately
 20 high and adverse human health or environmental effects
 21 of its programs, policies, and activities on minority, low-
 22 income populations that are rural or urban in the Hurri-
 23 canes Katrina and Rita affected area.

24 (b) NONDISCRIMINATION.—Each Federal agency
 25 shall conduct its programs, policies, and activities in a

1 manner that ensures that such programs, policies, and ac-
2 tivities do not have the effect of excluding any person or
3 group from participation in, denying any person or group
4 the benefits of, or subjecting any person or group to dis-
5 crimination under, such programs, policies, and activities,
6 because of race, color, national origin, or income.

7 **SEC. 5. HURRICANES KATRINA AND RITA INTERAGENCY**
8 **ENVIRONMENTAL JUSTICE WORKING GROUP.**

9 (a) CREATION AND COMPOSITION.—There is hereby
10 established the Hurricanes Katrina and Rita Interagency
11 Working Group on Environmental Justice, to be com-
12 prised of the following:

13 (1) The heads of the following executive agen-
14 cies and offices (or their designees):

15 (A) The Department of Defense.

16 (B) The Department of Health and
17 Human Services.

18 (C) The Department of Housing and
19 Urban Development.

20 (D) The Department of Homeland Secu-
21 rity.

22 (E) The Department of Labor.

23 (F) The Department of Agriculture.

24 (G) The Department of Transportation.

25 (H) The Department of Justice.

1 (I) The Department of the Interior.

2 (J) The Department of Commerce.

3 (K) The Department of Energy.

4 (L) The Environmental Protection Agency.

5 (M) The Office of Management and Budget.

6 et.

7 (2) Not more than 4 representatives of commu-
8 nity-based and local nonprofit organizations, des-
9 ignated by the Governors of the States in the Hurri-
10 canes Katrina and Rita affected area acting jointly.

11 (3) Not more than 4 State and local civic lead-
12 ers, designated by the Governors of the States in the
13 Hurricanes Katrina and Rita affected area acting
14 jointly.

15 (4) Not more than 4 elected officials, des-
16 ignated by the Governors of the States in the Hurri-
17 canes Katrina and Rita affected area acting jointly.

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

19 (1) provide guidance to Federal and State agen-
20 cies on criteria for identifying disproportionately
21 high and adverse human health or environmental ef-
22 fects on minority, low-income populations that are
23 rural or urban;

24 (2) coordinate with, provide guidance to, and
25 serve as a clearinghouse for, Federal and State

1 agencies as Federal agencies develop or revise an en-
2 vironmental justice strategy under section 5, in
3 order to ensure that the administration, interpreta-
4 tion, and enforcement of programs, policies, and ac-
5 tivities are undertaken in a consistent manner;

6 (3) assist in coordinating research by, and stim-
7 ulating cooperation among, the Environmental Pro-
8 tection Agency, the Department of Health and
9 Human Services, the Department of Housing and
10 Urban Development, and other Federal agencies
11 conducting research or other activities in accordance
12 with strategies under section 5;

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

15 (5) examine existing data and studies on envi-
16 ronmental justice within the Hurricanes Katrina and
17 Rita affected area;

18 (6) hold public meetings and otherwise solicit
19 public participation and consider complaints as re-
20 quired under subsection (c); and

21 (7) develop interagency model projects on envi-
22 ronmental justice that evidence cooperation among
23 Federal and State agencies.

24 (c) PUBLIC PARTICIPATION.—The Working Group
25 shall—

1 (1) hold public meetings and otherwise solicit
2 public participation, as appropriate, for the purpose
3 of fact-finding with regard to implementation of this
4 Act, and prepare for public review a summary of the
5 comments and recommendations provided; and

6 (2) receive, consider, and in appropriate in-
7 stances conduct inquiries concerning complaints re-
8 garding environmental justice and the implementa-
9 tion of this Act by Federal and State agencies.

10 (d) ANNUAL REPORTS.—

11 (1) IN GENERAL.—Each fiscal year following
12 enactment of this Act, the Working Group shall sub-
13 mit to the President, through the Office of the Dep-
14 uty Assistant to the President for Environmental
15 Policy and the Office of the Assistant to the Presi-
16 dent for Domestic Policy, a report that describes the
17 implementation of this Act, including a report on the
18 final environmental justice strategies described in
19 section 5 and annual progress made in implementing
20 those strategies.

21 (2) COPY OF REPORT.—The President shall
22 transmit a copy of each report submitted to the
23 President under paragraph (1) to the Speaker of the
24 House of Representatives, the President of the Sen-

1 ate, and the Governor of each State in the Hurri-
2 canes Katrina and Rita affected area.

3 **SEC. 6. FEDERAL AGENCY STRATEGIES.**

4 (a) AGENCY-WIDE STRATEGIES.—Each Federal
5 agency shall develop an agency-wide environmental justice
6 strategy that identifies and addresses disproportionately
7 high and adverse human health or environmental effects
8 or disproportionately low benefits of its programs, policies,
9 and activities with respect to minority, low-income popu-
10 lations that are rural or urban.

11 (b) REVISIONS.—Each strategy developed pursuant
12 to subsection (a) shall identify programs, policies, plan-
13 ning, and public participation processes, rulemaking, and
14 enforcement activities related to human health or the envi-
15 ronment that should be revised to—

16 (1) promote enforcement of all health and envi-
17 ronmental statutes in areas with minority, low-in-
18 come populations that are rural or urban;

19 (2) ensure greater public participation;

20 (3) improve research and data collection relat-
21 ing to the health and environment of minority, low-
22 income populations that are rural or urban; and

23 (4) identify differential patterns of use of nat-
24 ural resources among minority, low-income popu-
25 lations that are rural or urban.

1 (c) TIMETABLES.—Each strategy developed pursuant
2 to subsection (a) shall include a timetable for undertaking
3 revisions identified pursuant to subsection (b).

4 **SEC. 7. FEDERAL HURRICANES KATRINA AND RITA ENVI-**
5 **RONMENTAL JUSTICE ADVISORY COM-**
6 **MITTEE.**

7 (a) ESTABLISHMENT.—There is established a com-
8 mittee to be known as the Federal Hurricanes Katrina
9 and Rita Environmental Justice Advisory Committee.

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

15 (1) Advice on Federal and State agencies'
16 framework development for integrating socio-
17 economic programs into strategic planning, annual
18 planning, and management accountability for achiev-
19 ing environmental justice results agency-wide.

20 (2) Advice on measuring and evaluating agen-
21 cies' progress, quality, and adequacy in planning, de-
22 veloping, and implementing environmental justice
23 strategies, projects, and programs.

24 (3) Advice on agencies' existing and future in-
25 formation management systems, technologies, and

1 data collection, and the conduct of analyses that
2 support and strengthen environmental justice pro-
3 grams in administrative and scientific areas.

4 (4) Advice to help develop, facilitate, and con-
5 duct reviews of the direction, criteria, scope, and
6 adequacy of the Federal agencies' scientific research
7 and demonstration projects relating to environ-
8 mental justice.

9 (5) Advice for improving how the Environ-
10 mental Protection Agency and others participate, co-
11 operate, and communicate within that agency and
12 between other Federal agencies, State and local gov-
13 ernments, environmental justice leaders, interest
14 groups, and the public.

15 (6) Advice regarding the Environmental Protec-
16 tion Agency's administration of grant programs re-
17 lating to environmental justice assistance (not to in-
18 clude the review or recommendations of individual
19 grant proposals or awards).

20 (7) Advice regarding agencies' awareness, edu-
21 cation, training, and other outreach activities involv-
22 ing environmental justice.

23 (c) ADVISORY COMMITTEE.—The Advisory Com-
24 mittee shall be considered an advisory committee within

1 the meaning of the Federal Advisory Committee Act (5
2 U.S.C. App.).

3 (d) MEMBERSHIP.—

4 (1) IN GENERAL.—The Advisory Committee
5 shall be composed of 21 members to be appointed in
6 accordance with paragraph (2). Members shall in-
7 clude representatives of—

8 (A) community-based groups;

9 (B) industry and business;

10 (C) academic and educational institutions;

11 (D) minority health organizations;

12 (E) State and local governments, federally
13 recognized tribes, and indigenous groups; and

14 (F) nongovernmental and environmental
15 groups.

16 (2) APPOINTMENTS.—Of the members of the
17 Advisory Committee—

18 (A) three members shall be appointed by
19 the majority leader of the Senate;

20 (B) three members shall be appointed by
21 the minority leader of the Senate;

22 (C) three members shall be appointed by
23 the Speaker of the House of Representatives;

1 (D) three members shall be appointed by
2 the minority leader of the House of Representa-
3 tives;

4 (E) two members shall be appointed by the
5 President; and

6 (F) for each State in the Hurricanes
7 Katrina and Rita affected area, one member
8 shall be appointed by the Governor of such
9 State.

10 (e) MEETINGS.—

11 (1) IN GENERAL.—The Advisory Committee
12 shall meet at least twice annually. Meetings shall
13 occur as needed and approved by the Director of the
14 Office of Environmental Justice of the Environ-
15 mental Protection Agency, who shall serve as the of-
16 ficer required to be appointed under section 10(e) of
17 the Federal Advisory Committee Act (5 U.S.C.
18 App.) with respect to the Committee (in this sub-
19 section referred to as the “Designated Federal Offi-
20 cer”).

21 (2) TRAVEL AND PER DIEM EXPENSES.—The
22 Administrator of the Environmental Protection
23 Agency may pay travel and per diem expenses of
24 members of the Advisory Committee when deter-
25 mined necessary and appropriate.

1 (3) AGENDA.—The Designated Federal Officer
2 or a designee of such Officer shall be present at all
3 meetings, and each meeting shall be conducted in ac-
4 cordance with an agenda approved in advance by
5 such Officer.

6 (4) ADJOURNMENT.—The Designated Federal
7 Officer may adjourn any meeting when the Des-
8 ignated Federal Officer determines it is in the public
9 interest to do so.

10 (5) OPEN TO PUBLIC.—As required by the Fed-
11 eral Advisory Committee Act, meetings of the Advi-
12 sory Committee shall be open to the public unless
13 the President determines that a meeting or a portion
14 of a meeting may be closed to the public in accord-
15 ance with subsection (c) of section 552b of title 5,
16 United States Code.

17 (6) COMMENTS.—Unless a meeting or portion
18 thereof is closed to the public (in accordance with
19 paragraph (5)), the Designated Federal Officer shall
20 provide an opportunity for interested persons to file
21 comments before or after such meeting or to make
22 statements to the extent that time permits.

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