

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 environmental
2 justice, departing from President Clinton's
3 1994 Executive Order 12898 on Environmental Justice
4 which mandated that all Federal agencies generate
5 agency-specific strategies to address the disproportionate
6 pollution experienced by minority communities.
7

8 (2) Years before Hurricane Katrina, environmental
9 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 Climate
13 Change Initiative (EJCC). As their 2002 fact sheet stated: "People of color are concentrated in urban centers in the South, coastal regions, and areas with substandard air quality. New Orleans, which is 62 percent African-American and 2 feet below sea level, exemplifies the severe and disproportionate impacts of climate change in the United States.
14
15
16
17
18
19
20

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

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.

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.

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.

(10) Hurricane Katrina struck a region that is disproportionately African American and poor. African Americans make up twelve percent of the United States population. Nearly 68 percent of the population of New Orleans is African American. The African American population in the Coastal Mississippi counties where Hurricane Katrina struck ranged from 25 percent to 87 percent. Twenty-eight percent of New Orleans residents live below the poverty level and more than 80 percent of those are African American. Fifty percent of all New Orleans children live in poverty. The poverty rate was 17.7 percent in Gulfport, Mississippi and 21.2 percent in Mobile, 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 environmental
5 justice issues in the Gulf Coast region. Before
6 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 environmental
12 lead poisoning problem. There were ongoing
13 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 determined.
22 The post-Hurricane Katrina New Orleans
23 has been described as a “cesspool” of toxic chemicals,
24 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.

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.

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—

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—

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.

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:

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;

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.—

○