

105TH CONGRESS  
2D SESSION

# H. R. 4584

To promote environmental justice, public health, and pollution reduction efforts.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1998

Mr. LEWIS of Georgia (for himself, Mr. MILLER of California, Mr. BRADY of Pennsylvania, Ms. NORTON, Mr. CLAY, Mr. BONIOR, Mr. FILNER, and Ms. PELOSI) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Agriculture, and 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

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## A BILL

To promote environmental justice, public health, and pollution reduction efforts.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 This Act may be cited as the “Environmental Justice  
4 Act of 1998”.

5 **SEC. 2. PURPOSES AND POLICIES.**

6 The purposes of this Act are—

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1           (1) to identify those areas which are subject to  
2 the highest levels of toxic chemicals, through all  
3 media;

4           (2) to require the collection of data on environ-  
5 mental health effects so that impacts on different in-  
6 dividuals or groups can be understood;

7           (3) to assess the health effects that may be  
8 caused by emissions in those areas of highest im-  
9 pact;

10           (4) to ensure that groups or individuals residing  
11 within those areas of highest impact have the oppor-  
12 tunity to participate in developing solutions to envi-  
13 ronmental and health problems confronting their  
14 community;

15           (5) to promote technologies and practices that  
16 reduce or eliminate pollution; and

17           (6) to promote the development and mainte-  
18 nance of parks and green open spaces in polluted  
19 communities.

20 **TITLE I—IDENTIFICATION OF**  
21 **ENVIRONMENTAL HIGH IM-**  
22 **PACT AREAS**

23 **SEC. 101. DEFINITIONS.**

24 For the purposes of this Act:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the United  
3           States Environmental Protection Agency.

4           (2) ENVIRONMENTAL HIGH IMPACT AREAS.—  
5           The terms “Environmental High Impact Areas” and  
6           “EHIA” mean the 20 counties or other geographic  
7           units that are designated pursuant to section 102.

8           (3) SECRETARY.—The term “Secretary” means  
9           the Secretary of the United States Department of  
10          Health and Human Services.

11          (4) TOXIC CHEMICALS.—The term “toxic  
12          chemicals” includes all substances as defined in sec-  
13          tion 101(14) of the Comprehensive Environmental  
14          Response, Compensation, and Liability Act of 1980;  
15          any hazardous waste listed or identified pursuant to  
16          the Solid Waste Disposal Act; any pollutant for  
17          which air quality standards have been issued pursu-  
18          ant to the Clean Air Act; any pollutant for which  
19          water quality standards have been issued pursuant  
20          to the Clean Water Act; any pollutant for which a  
21          national primary drinking water regulation has been  
22          issued pursuant to the Safe Drinking Water Act; all  
23          materials registered pursuant to the Federal Insecti-  
24          cide, Fungicide, and Rodenticide Act; and all sub-  
25          stances and chemicals subject to reporting obliga-

1 tions pursuant to the Emergency Planning and  
2 Community Right-to-Know Act. The Administrator  
3 may add other substances as deemed appropriate.

4 (5) TOXIC CHEMICAL FACILITIES.—The term  
5 “toxic chemical facilities” includes all facilities in-  
6 cluding Federal facilities subject to a permit, inspec-  
7 tion or review, or registration requirement pursuant  
8 to the authority of the Solid Waste Disposal Act; the  
9 Clean Air Act; the Clean Water Act; the Federal In-  
10 secticide, Fungicide and Rodenticide Act; and the  
11 OSHA Hazard Communication Standard; as well as  
12 any facility subject to reporting obligations pursuant  
13 to the Emergency Planning and Community Right-  
14 to-Know Act. The Administrator shall have the au-  
15 thority to examine the level of toxic chemicals re-  
16 leased into the environment by facilities not cur-  
17 rently subject to Federal review, inspection, or re-  
18 porting requirements if (A) a facility is believed to  
19 produce a high level of environmental pollution, and  
20 (B) the Administrator is petitioned by individuals or  
21 groups within such EHLA to conduct the review.

22 **SEC. 102. IDENTIFICATION OF ENVIRONMENTAL HIGH IM-**  
23 **PACT AREAS.**

24 (a) PUBLICATION OF METHOD.—Within 12 months  
25 after the enactment of this Act, the Administrator shall

1 publish for public comment the method for selecting the  
2 EHIAs.

3 (b) COMPILATION OF LIST.—In selecting a methodol-  
4 ogy and compiling the list of EHIAs, the Administrator  
5 shall—

6 (1) use the most recent data available;

7 (2) take into account the relative toxicity of the  
8 toxic chemicals;

9 (3) determine, with the best available data, the  
10 actual and potential exposures, and toxicity of the  
11 toxic chemicals present in each impacted area;

12 (4) consider and utilize all appropriate data  
13 compiled pursuant to any environmental regulatory  
14 authority and other sources, including but not lim-  
15 ited to available data on lead-based paint and the ex-  
16 istence of pollutants from mobile sources;

17 (5) distinguish between toxic chemicals which  
18 are (A) in a contained, controlled environment such  
19 as barrels, factories, warehouses, or lined landfills;  
20 and (B) released into the air, water, soil or ground-  
21 water of the area; and

22 (6) take into account the impact of pollution in  
23 high population density areas.

24 (c) DETERMINATION OF IMPACTED AREAS.—Within  
25 18 months after the date of enactment of this Act, the

1 Administrator shall publish a list of 20 Environmental  
2 High Impact Areas that are either counties or other ap-  
3 propriate geographic units in which high levels of chemi-  
4 cals are present and in which the population is exposed  
5 to such chemicals. The Administrator shall also take into  
6 consideration any geographical areas suggested for review  
7 by the Agency for Toxic Substances and Disease Registry,  
8 the National Center for Environmental Health, the Na-  
9 tional Center for Health Statistics, other appropriate Fed-  
10 eral agencies, and State and local health authorities.

11 (d) REVISION AND REPUBLICATION.—The Adminis-  
12 trator shall revise and republish the list described in sub-  
13 section (a) of this section not less than every 5 years,  
14 using data compiled for that 5-year period.

## 15 **TITLE II—ENFORCEMENT** 16 **INITIATIVES**

### 17 **SEC. 201. MANDATORY INSPECTION.**

18 To assure that facilities with the highest potential for  
19 release of toxic chemicals into the environment are operat-  
20 ing in compliance with all applicable environmental, health  
21 and safety standards, the Administrator, and the Assist-  
22 ant Secretary of the Occupational Safety and Health Ad-  
23 ministration shall conduct compliance inspections or re-  
24 views of all toxic chemical facilities in Environmental High  
25 Impact Areas subject to their respective jurisdictions with-

1 in 1 year after the publication of each list of EHLAs under  
2 title I.

3 **TITLE III—COMMUNITY**  
4 **PARTICIPATION**

5 **SEC. 301. TECHNICAL ASSISTANCE GRANTS.**

6 The Administrator shall make a technical assistance  
7 grant available to any individual or group of individuals  
8 in an EHLA. Such grants shall be used to seek guidance  
9 from independent experts for the purpose of improving un-  
10 derstanding of environmental and health concerns related  
11 to designation as an EHLA. Not more than one grant may  
12 be made with respect to each EHLA, but the grant may  
13 be renewed to facilitate public participation where nec-  
14 essary.

15 **TITLE IV—IDENTIFICATION AND**  
16 **PREVENTION OF HEALTH IM-**  
17 **PACTS**

18 **SEC. 401. SECRETARIAL STUDY.**

19 Within 2 years after the publication of each list of  
20 EHLAs, under title I, the Secretary shall issue for public  
21 comment a report identifying the methodology used and  
22 nature and extent, if any, of acute and chronic impacts  
23 on human health in EHLAs as compared to non-EHLAs,  
24 including impacts on subgroups within EHLAs. Such im-  
25 pacts shall include but not be limited to cancer, birth de-

1 formities, infant mortality rates, and respiratory diseases.  
2 The report shall be coordinated by the Administrator of  
3 the Agency for Toxic Substances and Disease Registry  
4 and shall involve the community being assessed. The  
5 ATSDR shall work closely with the Directors of the Na-  
6 tional Institute for Environmental Health Sciences, the  
7 National Center for Health Statistics, and other appro-  
8 priate Federal agencies to coordinate the report, relying  
9 on the expertise of leading health and environmental sci-  
10 entists. The health assessment shall seek to—

11           (1) isolate the impacts of environmental pollu-  
12           tion;

13           (2) segregate the effects of other factors such  
14           as health care availability or substance abuse or diet;

15           (3) evaluate the levels below which release of  
16           toxic chemicals, either individually or cumulatively,  
17           must be reduced to avoid adverse impacts on human  
18           health; and

19           (4) determine the impacts of uncontrolled re-  
20           leases.

21 In conducting health assessments, the Administrator of  
22 the Agency for Toxic Substances and Disease Registry  
23 and other Federal agencies shall consider: the differential  
24 sensitivities to exposures for vulnerable groups; the effects  
25 of low levels of a toxin over a period of time; cumulative

1 and synergistic effects of multiple toxins; and methodologi-  
2 cal issues for studying exposures and diseases among  
3 small numbers of people, including units of measurement  
4 and analyses sensitive to disease clusters; and demo-  
5 graphic information relevant for a determination of envi-  
6 ronmental justice concerns. As a result of the report in  
7 communities where the Administrator of the Agency for  
8 Toxic Substances Disease Registry has determined that  
9 adverse health impacts exist, the agency shall also make  
10 this information readily available to members of the com-  
11 munity by providing information directly to the affected  
12 communities and tribal governments in the Environmental  
13 High Impact Areas.

14 **SEC. 402. MORATORIUM.**

15 If the report under section 401 finds significant ad-  
16 verse impacts of environmental pollution on human health  
17 in EHIAs, there shall be a moratorium on the siting or  
18 permitting of any new toxic chemical facility in any EHIA  
19 shown to emit toxic chemicals in quantities found to cause  
20 significant adverse impacts on human health. A new toxic  
21 chemical facility may be cited or permitted in such an  
22 EHIA during this period only if the Secretary and Admin-  
23 istrator agree that—

24 (1) there will be no significant adverse impacts  
25 to human health;

1           (2) the owner or operator of the facility dem-  
2           onstrates that the facility has developed a plan to  
3           maintain a comprehensive pollution prevention pro-  
4           gram; and

5           (3) the facility demonstrates that it will mini-  
6           mize uncontrolled releases into the environment.

7 The moratorium shall continue in effect in such an EHLA  
8 until the Administrator determines, upon petition of any  
9 interested party, that the health-based levels identified  
10 pursuant to section 401(5) have been attained at the  
11 EHLA.

## 12       **TITLE V—HEALTH REMEDIES**

### 13       **SEC. 501. HEALTH SCREENING AND TREATMENT GRANTS.**

14       Within 1 year after the Secretary's biennial health  
15 assessment is released, in EHLAs shown to have adverse  
16 health outcomes related to environmental exposures, the  
17 Secretary shall establish a grant program to make avail-  
18 able to public and nonprofit private entities awards for  
19 the purposes of providing community-wide medical screen-  
20 ing and diagnostic services for environmentally related ill-  
21 nesses. Treatment services shall be provided for commu-  
22 nity residents with environmentally related illnesses if they  
23 lack private or public health insurance, and shall continue  
24 as long as medically necessary. Following community  
25 screening, the Secretary shall initiate a review of medical

1 services within EHIAs to determine if the area or popu-  
2 lation would qualify as “medically underserved” or a  
3 “health professional shortage area”.

## 4 **TITLE VI—POLLUTION** 5 **REDUCTION**

### 6 **SEC. 601. POLLUTION REDUCTION/PREVENTION GRANTS.**

7 In EHIAs where the Secretary has determined that  
8 adverse health outcomes are related to environmental ex-  
9 posures, the Administrator shall immediately take efforts  
10 to reduce pollution in the area. The Administrator shall  
11 first make available to States with EHIAs pollution reduc-  
12 tion/prevention grants which will involve community rep-  
13 resentatives, public health experts, local business, and gov-  
14 ernment officials located within the EHLA in developing  
15 effective pollution reduction strategies. If within 1 year,  
16 the Administrator determines that significant steps have  
17 not been made to reduce pollution and risk to human  
18 health, the Administrator may take regulatory steps to re-  
19 duce pollution in the area.

## 20 **TITLE VII—PROMOTION OF** 21 **GREEN SPACE**

### 22 **SEC. 701. DEVELOPMENT OF PARKS OR RECREATIONAL** 23 **AREAS.**

24 Within 1 year after the Secretary’s biennial health  
25 assessment is released, the Secretary of the Interior shall

1 establish a grant program to make available to local public  
2 or nonprofit private entities within EHLAs awards for the  
3 development of parks and recreational spaces, and provide  
4 guidance for promoting environmentally sound use of the  
5 land.

6 **TITLE VIII—FUNDING**

7 **SEC. 801. FUNDING.**

8 There are authorized to be appropriated to carry out  
9 this Act such sums as may be necessary.

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