

103^D CONGRESS
1ST SESSION

S. 1161

To establish a program to ensure nondiscriminatory compliance with environmental, health, and safety laws and to ensure equal protection of the public health.

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 22), 1993

Mr. BAUCUS (for himself, Ms. MOSELEY-BRAUN, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a program to ensure nondiscriminatory compliance with environmental, health, and safety laws and to ensure equal protection of the public health.

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 “Environmental Justice
5 Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) Toxic chemicals are being released in sig-
9 nificant amounts into the environment. Over three

1 billion five hundred million pounds of toxic releases
2 were reported by approximately nineteen thousand
3 six hundred industrial plants in 1990, under the
4 Emergency Planning and Community Right-to-Know
5 Act.

6 (2) Notwithstanding the benefits of the Emer-
7 gency Planning and Community Right-to-Know Act,
8 many toxic chemicals posing substantial health
9 threats as a result of releases, are not being re-
10 ported. The Emergency Planning and Community
11 Right-to-Know Act excludes hundreds of chemicals
12 listed as toxics under various environmental laws in-
13 cluding: sixteen hazardous air pollutants, and five
14 extremely hazardous substances listed in the 1990
15 Clean Air Act Amendments; one hundred and forty
16 chemicals regulated as hazardous waste under the
17 Resource Conservation and Recovery Act because of
18 acute or chronic toxicity; over two hundred chemi-
19 cals identified as known or probable human carcino-
20 gens by the EPA and the National Toxicology Pro-
21 gram; sixty-nine special review pesticides identified
22 under the Federal Insecticide, Fungicide and
23 Rodenticide Act and hundreds of restricted use pes-
24 ticides; and ninety reproductive toxins identified by
25 the California Department of Health.

1 (3) Although environmental and health data of
2 toxic chemical releases are not routinely collected
3 and analyzed by income and race, racial and ethnic
4 minorities and lower income Americans may be dis-
5 proportionately exposed to toxic chemicals in their
6 residential and workplace environments.

7 **SEC. 3. PURPOSES AND POLICIES.**

8 The purposes of this Act are—

9 (1) to establish and maintain information which
10 provides an objective basis for assessment of health
11 effects by income and race;

12 (2) to identify those areas with the largest re-
13 leases of toxic chemicals to the air, land, water, and
14 workplace;

15 (3) to assess the health effects that may be
16 caused by emissions in those areas of highest envi-
17 ronmental impact;

18 (4) to ensure that groups or individuals residing
19 within High Environmental Impact Areas have the
20 opportunity and the resources to participate in the
21 technical process which will determine the possible
22 existence of adverse health impacts;

23 (5) to identify those activities in high environ-
24 mental impact areas found to have significant ad-
25 verse impacts on human health; and

1 (6) to incorporate environmental equity consid-
2 erations into planning and implementation of all
3 Federal environmental programs and statutes.

4 **SEC. 4. DEFINITIONS.**

5 For the purposes of this Act:

6 (1) The term “Administrator” means the Ad-
7 ministrator of the United States Environmental Pro-
8 tection Agency.

9 (2) The term “environmental high impact area”
10 means any of the one hundred counties or appro-
11 priate geographic units with the highest total weight
12 of toxic chemicals released during the most recent
13 five-year period for which data is available, as cal-
14 culated pursuant to section 4 of this Act.

15 (3) The term “toxic chemicals” means—

16 (A) all hazardous substances as defined in
17 section 101(14) of the Comprehensive Environ-
18 mental Response, Compensation and Liability
19 Act of 1980 (42 U.S.C. 9601(14));

20 (B) all materials registered pursuant to the
21 Federal Insecticide, Fungicide and Rodenticide
22 Act (7 U.S.C. 136 et seq.);

23 (C) all chemicals subject to section 313 of
24 the Emergency Planning and Community
25 Right-to-Know Act of 1986;

1 (D) all contaminants identified in the Safe
2 Drinking Water Act (42 U.S.C. 300g-1);

3 (E) all chemicals listed by the National
4 Toxicology Program as known or probable
5 human carcinogens; and

6 (F) all materials subject to the require-
7 ments concerning material safety data sheets
8 for hazardous chemicals under the Occupational
9 and Safety and Health Act of 1970 (15 U.S.C.
10 615 et seq.).

11 (4) The term “release” shall have the same
12 meaning as used in section 101(22) of the Com-
13 prehensive Environmental Response, Compensation
14 and Liability Act of 1990 as amended by the
15 Superfund Amendments and Reauthorization Act of
16 1986, and shall also include any release which re-
17 sults in exposure to persons within a workplace.

18 (5) The term “toxic chemical facility” means
19 any facility—

20 (A) subject to reporting requirements
21 under the Emergency Planning and Community
22 Right-to-Know Act of 1986;

23 (B) that generates, treats, stores or dis-
24 poses of a hazardous waste as defined in section
25 3001 of the Solid Waste Disposal Act;

1 (C) subject to section 112 or 129 of the
2 Clean Air Act;

3 (D) subject to sections 307 or 311 of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1251 et seq.);

6 (E) subject to the Federal Insecticide,
7 Fungicide and Rodenticide Act (7 U.S.C. 136
8 et seq.); or

9 (F) subject to the requirements concerning
10 material safety data sheets for hazardous
11 chemicals under the Occupational and Safety
12 and Health Act of 1970 (15 U.S.C. 615 et
13 seq.). For the purpose of this Act the term
14 “toxic chemical facility” shall include any Fed-
15 eral facility that releases a toxic chemical.

16 **SEC. 5. IDENTIFICATION OF ENVIRONMENTAL HIGH IM-**
17 **PACT AREAS.**

18 (a) DETERMINATION OF IMPACTED AREAS.—Within
19 six months after the date of enactment, the Administrator
20 in consultation with the Agency for Toxic Substances and
21 Disease Registry, the National Institute for Environ-
22 mental Health Sciences, the National Center for Health
23 Statistics and the Bureau of the Census, shall determine
24 the most appropriate designation of Environmental High

1 Impact Areas, either counties or other appropriate geo-
2 graphic unit.

3 (b) PUBLICATION OF LIST.—Within twelve months
4 after the date of enactment of this Act, the Administrator
5 shall publish a list, in rank order, of the total weight of
6 toxic chemicals released in each county or other appro-
7 priate geographic unit in the United States during the
8 most recent five-year period for which data are available.
9 If less than five years of data are available the Adminis-
10 trator shall use available data until further information
11 is reported.

12 (c) COMPILATION OF LIST.—(1) In compiling the list
13 under subsection (a), the Administrator shall consider and
14 utilize all appropriate and available data compiled pursu-
15 ant to any environmental regulatory authority and other
16 sources, including available data on the presence of lead-
17 based paint and toxic chemicals from mobile vehicles.

18 (2) For each county or appropriate geographic unit
19 the Administrator shall calculate and compile in a data
20 base—

21 (A) the total weight of toxic chemicals released
22 into the ambient environment;

23 (B) the total weight of toxic chemicals released
24 into each environmental media (air, water, land,
25 workplace); and

1 (C) the total weight of each toxic chemical re-
2 leased into the ambient environment, and into each
3 environmental media (air, water, land, workplace);
4 and whenever possible shall adjust the estimates of each
5 of the items in subparagraphs (A) through (C) to account
6 for the toxicity of the toxic chemicals.

7 (3) Within six months after the date of enactment
8 the Administrator shall review the methodology used to
9 compile and summarize information collected under sec-
10 tion 313 of the Emergency Planning and Community
11 Right-to-Know Act, and publish for public comment any
12 proposed changes to the methodology necessary to cal-
13 culate and compile the information required in paragraph
14 (1).

15 (4) The Administrator shall revise and republish the
16 list described in subsection (c) by the date that is five
17 years after the date of initial publication, and not less fre-
18 quently than every five years thereafter, using data com-
19 piled during the preceding five-year period.

20 (d) ENVIRONMENTAL HIGH IMPACT AREAS.—(1)
21 Within twelve months after the date of enactment, and
22 every five years thereafter, the Administrator shall publish
23 a list of the one hundred counties or other appropriate
24 geographic unit with the highest total toxic chemical re-
25 leases based on the list published in subsection (b). Such

1 counties or other appropriate geographic unit shall be des-
2 ignated as “Environmental High Impact Areas”.

3 (2)(A) To ensure that facilities with the highest po-
4 tential for release of toxic chemicals are operating in com-
5 pliance with all applicable environmental health and safety
6 standards, the Administrator, and the Secretary of Labor,
7 shall conduct compliance inspections of all toxic chemical
8 facilities subject to their jurisdiction in Environmental
9 High Impact Areas within two years after the date of en-
10 actment of this Act, and not less frequently than every
11 two years thereafter.

12 (B) Notwithstanding the requirements in subpara-
13 graph (A), the Administrator or the Secretary of Labor
14 may authorize any state or Indian tribe which has been
15 delegated authority to administer any Federal law regulat-
16 ing a toxic chemical which authorizes the inspection of
17 toxic chemical facilities for compliance with applicable
18 Federal environmental laws, to conduct such inspections
19 in lieu of the Administrator or the Secretary of Labor.

20 (3) Within twenty-four months after the date of en-
21 actment of this Act, the Secretary of Health and Human
22 Services, in consultation with the Administrator, the Sec-
23 retary of Labor, the Bureau of Indian Affairs, and the
24 Commissioners of the United States Commission on Civil
25 Rights, shall issue for public comment a report identifying

1 the nature and extent, if any, of acute and chronic impacts
2 on human health in Environmental High Impact Areas
3 from exposure to toxic chemicals. Such impacts shall in-
4 clude incidence of cancer, birth deformities, infant mortal-
5 ity rates, and respiratory diseases. Such report shall in-
6 clude a comparison of the health impact from exposure
7 to toxic chemicals in Environmental High Impact Areas
8 with other counties in the United States. The report shall
9 be coordinated by the Administrator of the Agency for
10 Toxic Substances Disease Registry of the Department of
11 Health and Human Services, and in coordinating the re-
12 port, the Administrator of the Agency for Toxic Sub-
13 stances and Disease Registry shall seek to—

14 (A) isolate the impacts of environmental pollu-
15 tion;

16 (B) segregate the effects of other factors such
17 as health care availability or substance abuse;

18 (C) rank the relative risks posed by the toxic
19 chemicals present in Environmental High Impact
20 Areas and by the varied sources of toxic chemicals
21 both individually and cumulatively;

22 (D) take into account the need to remedy the
23 impacts of such toxic chemicals in high population
24 density areas;

1 (E) evaluate the levels below which release of
2 toxic chemicals, either individually or cumulatively,
3 must be reduced to avoid adverse impacts on human
4 health; and

5 (F) determine the impacts of maintaining toxic
6 chemical releases at the current levels.

7 (4) If the report under paragraph (3) identifies sig-
8 nificant adverse impacts from exposure to toxic chemicals
9 on human health in Environmental High Impact Areas as
10 a group, the President shall submit to Congress within
11 one year after publication of the report, proposed adminis-
12 trative and legislative changes to remedy and prevent such
13 impacts, including—

14 (A) the addition of facilities or chemicals to be
15 subject to reporting requirements of the Emergency
16 Planning and Community Right-to-Know Act of
17 1986, or a reduction in threshold quantities of
18 chemicals that trigger reporting requirements under
19 such Act;

20 (B) the regulation of toxic chemicals not subject
21 to Federal law based on a statutory or administra-
22 tive exemption; and

23 (C) the imposition of additional regulatory
24 measures for toxic chemical facilities in an Environ-
25 mental High Impact Area, such as emissions fees,

1 source reduction requirements, or restrictions on
2 toxic chemical releases.

3 **SEC. 6. REDUCTION OF TOXIC CHEMICALS**

4 If the report under section 4(d)(3) identifies signifi-
5 cant adverse impacts on human health from exposure to
6 toxic chemicals in an Environmental High Impact Area,
7 the Administrator shall promulgate regulations applicable
8 to any Federal permit for construction or modification of
9 a toxic chemical facility in that area. Such regulations
10 shall require a net reduction in the release of any toxic
11 chemical determined to cause such significant adverse im-
12 pacts on human health in that area.

13 **SEC. 7. TECHNICAL ASSISTANCE GRANTS.**

14 (a) IN GENERAL.—Subject to appropriations, and in
15 accordance with rules promulgated by the Secretary of
16 Health and Human Services in consultation with the Ad-
17 ministrator, the Secretary may award a grant to any indi-
18 vidual or group of individuals who may be affected by a
19 release or threatened release of a toxic chemical from any
20 toxic chemical facility in an environmental high impact
21 area.

22 (b) GRANT REQUIREMENTS.—(1) A grant awarded
23 under this section shall—

24 (A) be designed to facilitate access by rep-
25 resentatives of environmental high impact areas to

1 the activities that involve public participation under
2 this Act and any other related law.

3 (B) be used to obtain technical assistance relat-
4 ing to the inspection and review authorities de-
5 scribed in section 4(d)(2) and the study described in
6 section 4(d)(3); and

7 (C) be in an amount not to exceed \$50,000.

8 (2) Each grant recipient shall be required, as a condi-
9 tion of the grant, to pay a non-Federal share equal to 20
10 percent of the grant amount. The Administrator may
11 waive the 20 percent contribution requirement if the grant
12 recipient demonstrates financial need to the satisfaction
13 of the Administrator. Not more than one grant may be
14 made with respect to each environmental high impact area
15 for the period of a grant (as determined by the Adminis-
16 trator). At the end of the period, a grant may be renewed
17 if the Administrator determines that the renewal is nec-
18 essary to facilitate public participation.

19 (3) Grants under this subsection shall be considered
20 to be grants under section 117(e) of the Comprehensive
21 Environmental Response, Compensation, and Liability Act
22 of 1980 as amended by the Superfund Amendments and
23 Reauthorization Act of 1986, and shall be funded in the
24 same manner.

○