

116TH CONGRESS  
2D SESSION

# S. 4617

To provide supplemental appropriations for the cleanup of legacy pollution, including National Priority List sites, certain abandoned coal mining sites, and formerly used defense sites, to replace lead drinking water service lines, to provide grants under certain programs, and to amend the Clean Air Act to prohibit the issuance of new major source air pollution permits in overburdened communities, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2020

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Environmental Justice  
3 Legacy Pollution Cleanup Act of 2020”.

4 **SEC. 2. SUPPLEMENTAL APPROPRIATIONS FOR ENVIRON-  
5 MENTAL CLEANUP AND REMEDIATION OF  
6 THREATS TO PUBLIC HEALTH.**

7 (a) IN GENERAL.—The following amounts are appro-  
8 priated, out of amounts in the Treasury not otherwise ap-  
9 propriated, for fiscal year 2020, to remain available until  
10 expended:

11 (1) For the Department of the Interior,  
12 \$10,000,000,000 to provide grants to States and In-  
13 dian Tribes for abandoned mine land and water rec-  
14 lamation projects under the Surface Mining Control  
15 and Reclamation Act of 1977 (30 U.S.C. 1201 et  
16 seq.), which shall be distributed to States and Indian  
17 Tribes that have a State or Tribal program ap-  
18 proved under section 405 of that Act (30 U.S.C.  
19 1235) or are referred to in section 402(g)(8)(B) of  
20 that Act (30 U.S.C. 1232(g)(8)(B)), and have not  
21 made a certification under section 411(a) of that Act  
22 (30 U.S.C. 1240a(a)) in which the Secretary of the  
23 Interior has concurred: *Provided*, That such amount  
24 shall be allocated based on the proportion of the  
25 quantity of coal historically produced in each appli-  
26 cable State or from the land of each applicable In-

1       dian Tribe before August 3, 1977: *Provided further*,  
2       That the total amount of grants provided under this  
3       paragraph to each eligible State and Indian Tribe  
4       shall be not less than \$20,000,000, to the extent  
5       that the amount needed for reclamation projects de-  
6       scribed in this paragraph in the State or on the land  
7       of the Indian Tribe is not less than \$20,000,000.

8               (2) For the Environmental Protection Agency—

9                       (A) \$10,000,000,000 for remedial actions  
10                      at sites on the National Priorities List devel-  
11                      oped by the President in accordance with sec-  
12                      tion 105(a)(8)(B) of the Comprehensive Envi-  
13                      ronmental Response, Compensation, and Liabil-  
14                      ity Act of 1980 (42 U.S.C. 9605(a)(8)(B));

15                      (B) \$20,000,000,000 for capitalization  
16                      grants to State drinking water treatment re-  
17                      volving loan funds established under section  
18                      1452 of the Safe Drinking Water Act (42  
19                      U.S.C. 300j-12) for States to provide forgivable  
20                      loans to replace lead service lines and take  
21                      other actions necessary to address threats to  
22                      public health as a result of heightened exposure  
23                      to lead in drinking water without requiring a  
24                      contribution to the cost of the replacement of

1 those lead services lines by any individual home-  
2 owner;

3 (C) \$1,000,000,000 for the Diesel Emis-  
4 sions Reduction Program under sections 792  
5 and 793 of the Energy Policy Act of 2005 (42  
6 U.S.C. 16132, 16133);

7 (D) \$1,000,000,000 to carry out  
8 Brownfields projects authorized by section  
9 104(k) of the Comprehensive Environmental  
10 Response, Compensation, and Liability Act of  
11 1980 (42 U.S.C. 9604(k)); and

12 (E) \$1,000,000,000 for grants to States  
13 and Indian Tribes under section 128(a) of the  
14 Comprehensive Environmental Response, Com-  
15 pensation, and Liability Act of 1980 (42 U.S.C.  
16 9628(a)).

17 (3) For the Department of Housing and Urban  
18 Development—

19 (A) \$30,000,000,000 for grants to States  
20 and units of local government under section  
21 1011 of the Residential Lead-Based Paint Haz-  
22 ard Reduction Act (42 U.S.C. 4852) to evaluate  
23 and reduce lead-based paint hazards and other  
24 housing-related health and safety hazards in  
25 low-income housing; and

1 (B) \$1,000,000,000 for grants under the  
2 Healthy Homes Production Grant Program for  
3 Tribal Housing, as authorized under sections  
4 501 and 502 of the Housing and Urban Devel-  
5 opment Act of 1970 (12 U.S.C. 1701z-1,  
6 1701z-2), to identify and address housing-re-  
7 lated health and safety hazards in Tribal com-  
8 munities.

9 (4) For the Corps of Engineers—

10 (A) \$10,000,000,000 for environmental  
11 restoration of formerly used defense sites under  
12 section 2701 of title 10, United States Code;  
13 and

14 (B) \$3,000,000,000 for the Formerly Uti-  
15 lized Sites Remedial Action Program of the  
16 Corps of Engineers.

17 (5) For the Department of Agriculture,  
18 \$10,000,000,000 to provide grants to private non-  
19 profit organizations under section 306E of the Con-  
20 solidated Farm and Rural Development Act (7  
21 U.S.C. 1926e) for the purpose of providing sub-  
22 grants to eligible individuals (as defined in sub-  
23 section (a) of that section) in accordance with that  
24 section: *Provided*, That a private nonprofit organiza-  
25 tion that receives such a grant shall give priority to

1 the provision of subgrants to eligible individuals (as  
2 so defined) who do not have access to a functioning  
3 sanitary sewage disposal system.

4 (6) For the Indian Health Service,  
5 \$3,000,000,000 for the sanitation facilities program  
6 established under section 7 of the Act of August 5,  
7 1954 (68 Stat. 674, chapter 658; 42 U.S.C. 2004a),  
8 to provide safe drinking water and adequate sewer  
9 systems in the homes of Indians and Alaska Natives.

10 (b) WAIVER OF MATCHING FUNDS REQUIRE-  
11 MENTS.—Notwithstanding any other provision of law, in-  
12 cluding section 104(k)(10)(B)(iii) of the Comprehensive  
13 Environmental Response, Compensation, and Liability Act  
14 of 1980 (42 U.S.C. 9604(k)(10)(B)(iii)) and section  
15 793(c)(3) of the Energy Policy Act of 2005 (42 U.S.C.  
16 16133(c)(3)), no matching funds requirement or matching  
17 funds incentive shall apply to amounts made available  
18 under subsection (a).

19 (c) EMERGENCY DESIGNATION.—

20 (1) IN GENERAL.—The amounts provided by  
21 this section are designated as an emergency require-  
22 ment pursuant to section 4(g) of the Statutory Pay-  
23 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

24 (2) DESIGNATION IN SENATE.—In the Senate,  
25 this section is designated as an emergency require-

1       ment pursuant to section 4112(a) of H. Con. Res.  
2       71 (115th Congress), the concurrent resolution on  
3       the budget for fiscal year 2018.

4   **SEC. 3. AVOIDING CUMULATIVE IMPACTS ON OVERBUR-**  
5                   **DENED COMMUNITIES.**

6       (a) DEFINITIONS.—Section 501 of the Clean Air Act  
7       (42 U.S.C. 7661) is amended—

8               (1) in the matter preceding paragraph (1), by  
9       striking “As used in this title—” and inserting “In  
10      this title:”;

11              (2) by redesignating paragraphs (3) and (4) as  
12      paragraphs (4) and (5), respectively; and

13              (3) by inserting after paragraph (2) the fol-  
14      lowing:

15              “(3) OVERBURDENED CENSUS TRACT.—The  
16      term ‘overburdened census tract’ means a census  
17      tract that—

18                      “(A) has been identified within the Na-  
19                      tional Air Toxics Assessment published by the  
20                      Administrator as having a greater than 100 in  
21                      1,000,000 total cancer risk; or

22                      “(B) has been determined to have an an-  
23                      nual mean concentration of PM<sub>2.5</sub> of greater  
24                      than 8 micrograms per cubic meter, as deter-

1           mined over the most recent 3-year period for  
2           which data are available.”.

3           (b) PERMIT PROGRAMS.—Section 502 of the Clean  
4 Air Act (42 U.S.C. 7661a) is amended—

5           (1) in subsection (a), in the first sentence, by  
6 striking “parts (C) or (D)” and inserting “part (C)  
7 or (D)”; and

8           (2) in subsection (b)—

9           (A) in the matter preceding paragraph  
10 (1)—

11           (i) in the first sentence, by striking  
12 “The Administrator” and inserting “Ex-  
13 cept for the requirements described in  
14 paragraphs (11) and (12), the Adminis-  
15 trator”; and

16           (ii) in the second sentence, by striking  
17 “These” and inserting “For the require-  
18 ments described in paragraphs (11) and  
19 (12), the Administrator shall promulgate  
20 the regulations required by those para-  
21 graphs as soon as practicable after the  
22 date of enactment of the Environmental  
23 Justice Legacy Pollution Cleanup Act of  
24 2020. Those”;



1 (B) in paragraph (3)(B)(i), by striking  
 2 “subparagraphs (ii) through (v) of this sub-  
 3 paragraph” and inserting “clauses (ii) through  
 4 (v)”;

5 (C) in paragraph (10), in the matter be-  
 6 fore the proviso, by striking “total emissions:”  
 7 and inserting “total emissions:”; and

8 (D) by adding at the end the following:

9 “(11) After the date of enactment of the Envi-  
 10 ronmental Justice Legacy Pollution Cleanup Act of  
 11 2020, no permit shall be granted by a permitting au-  
 12 thority for a proposed major source that would be  
 13 located in an overburdened census tract.

14 “(12) After January 1, 2025, no permit for a  
 15 major source in an overburdened census tract shall  
 16 be renewed.”.

17 (c) LIST OF OVERBURDENED CENSUS TRACTS.—

18 (1) IN GENERAL.—Title V of the Clean Air Act  
 19 (42 U.S.C. 7661 et seq.) is amended by adding at  
 20 the end the following:

21 **“SEC. 508. LIST OF OVERBURDENED CENSUS TRACTS.**

22 “(a) IN GENERAL.—Not later than 30 days after the  
 23 date of enactment of this Act, the Administrator shall  
 24 publish in the Federal Register a list of overburdened cen-  
 25 sus tracts.

1       “(b) UPDATE.—On an annual basis, the Adminis-  
2       trator shall update the list under subsection (a) based on  
3       the most recently available modeling and monitoring  
4       data.”.

5               (2) CLERICAL AMENDMENT.—The table of con-  
6       tents for title V of the Clean Air Act (69 Stat. 322,  
7       chapter 360; 104 Stat. 2635) is amended by adding  
8       after the item relating to section 507 the following:

“Sec. 508. List of overburdened census tracts.”.

