

117TH CONGRESS
2D SESSION

H. R. 9124

To establish an Office of Environmental Justice within the Department of Justice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2022

Ms. BARRAGÁN (for herself, Ms. NORTON, Mr. GRIJALVA, Mrs. CAROLYN B. MALONEY of New York, Mr. CARSON, Mr. ESPAILLAT, Mr. SCHIFF, Mr. CONNOLLY, Ms. LEE of California, Ms. BLUNT ROCHESTER, Mr. CASTRO of Texas, Ms. TITUS, Mr. CARTER of Louisiana, Ms. DEGETTE, Ms. NEWMAN, Mr. MCEACHIN, Ms. PORTER, Ms. MATSUI, Mr. TORRES of New York, Ms. BONAMICI, and Ms. JAYAPAL) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish an Office of Environmental Justice within the Department of Justice, and for other purposes.

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 “Empowering and En-
5 forcing Environmental Justice Act of 2022”.

1 **SEC. 2. OFFICE OF ENVIRONMENTAL JUSTICE.**

2 (a) IN GENERAL.—Chapter 31 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 530E. Environmental Justice**

6 “(a) OFFICE OF ENVIRONMENTAL JUSTICE.—

7 “(1) ESTABLISHMENT.—Not later than 90 days
8 after the date of enactment of the Empowering and
9 Enforcing Environmental Justice Act of 2022, the
10 Attorney General shall establish the Office of Envi-
11 ronmental Justice (hereinafter known as the ‘Of-
12 fice’) within the Environment and Natural Re-
13 sources Division of the Department of Justice.

14 “(2) PERSONNEL AND FUNDING.—The Attor-
15 ney General shall provide to the Office such per-
16 sonnel and funds as are necessary to establish the
17 Office under paragraph (1).

18 “(3) LEADERSHIP.—The Office shall be headed
19 by a Director, who shall be appointed by the Attor-
20 ney General.

21 “(4) DUTIES.—The Director shall:

22 “(A) Develop, and update every 5 years
23 thereafter, the environmental justice strategy
24 for the Department, in accordance with Execu-
25 tive Order 12898 (42 U.S.C. 4321 note; relat-
26 ing to Federal actions to address environmental

1 justice in minority populations and low-income
2 populations).

3 “(B) Coordinate environmental justice
4 matters that arise at the Department and
5 United States Attorneys’ offices.

6 “(C) Administer the grant program estab-
7 lished under section 3 of the Empowering and
8 Enforcing Environmental Justice Act of 2022.

9 “(D) Promote and protect the right of the
10 public to participate meaningfully in the deci-
11 sion-making process on environmental justice
12 matters and design communications efforts with
13 the goal of maximizing community under-
14 standing of how to participate in environmental
15 justice matters, including how to file adminis-
16 trative complaints with Federal agencies.

17 “(E) Counsel and assist State, local, and
18 Tribal governments on how to coordinate their
19 actions with the Federal government with re-
20 spect to environmental justice matters and
21 counsel and assist State, local, and Tribal gov-
22 ernments and Indigenous populations or com-
23 munities in providing equal environmental pro-
24 tection for all individuals.

1 “(F) Provide support for State and local
2 environmental enforcement training in environ-
3 mental justice communities.

4 “(G) Work with the Community Relations
5 Service to facilitate a working relationship be-
6 tween parties involved in environmental justice
7 matters, including regulated industry, State,
8 local, and Tribal decision-makers and minority
9 or low-income communities.

10 “(H) Coordinate with the Council on Envi-
11 ronmental Quality and the White House Envi-
12 ronmental Justice Advisory Council, established
13 under Executive Order 14008 (86 Fed. Reg.
14 7619), with respect to implementation of the
15 Justice40 Initiative.

16 “(I) Organize, at minimum, bimonthly
17 calls or meetings with environmental justice or-
18 ganizations and environmental justice commu-
19 nities.

20 “(J) Manage the Senior Advisory Council
21 established under paragraph (5).

22 “(K) Make recommendations to Federal
23 agencies on community participation in the de-
24 velopment of administrative settlement agree-
25 ments relating to environmental justice matters.

1 “(5) SENIOR ADVISORY COUNCIL.—

2 “(A) ESTABLISHMENT.—There is estab-
3 lished a Senior Advisory Council (hereinafter
4 referred to as the ‘Council’) to advise the As-
5 sistant Attorney General of the Environment
6 and Natural Resources Division on matters of
7 environmental justice and recommend policy
8 and initiatives with respect to environmental
9 justice matters.

10 “(B) CO-CHAIR.—The Co-chairs of the
11 Council shall be the Assistant Attorney General
12 of the Environment and Natural Resources Di-
13 vision and the Director of the Office.

14 “(C) MEMBERS.—The Council shall be
15 composed of:

16 “(i) The Assistant Attorney General
17 of the Environment and Natural Resources
18 Division.

19 “(ii) The Director of the Office.

20 “(iii) One representative of the Office
21 of the Deputy Attorney General.

22 “(iv) One representative of the Office
23 of the Associate Attorney General.

24 “(v) One representative from the En-
25 vironmental Enforcement Section of the

1 Environmental and Natural Resources Di-
2 vision.

3 “(vi) One representative from the En-
4 vironmental Defense Section of the Envi-
5 ronment and Natural Resources Division.

6 “(vii) One representative of the Civil
7 Rights Division.

8 “(viii) One representative of the Civil
9 Division.

10 “(ix) One representative of the Fed-
11 eral Bureau of Investigation.

12 “(x) One representative of the Bureau
13 of Prisons.

14 “(xi) One representative of the Com-
15 munity Relations Service.

16 “(xii) One representative of the Office
17 for Access to Justice.

18 “(xiii) One representative of the Of-
19 fice of Legal Policy.

20 “(xiv) One representative of the Office
21 of Legislative Affairs.

22 “(xv) One representative of the Office
23 of Tribal Justice.

1 “(xvi) Two representatives from the
2 Executive Office for United States Attor-
3 neys.

4 “(xvii) The Section Chief of the Envi-
5 ronmental Justice Section.

6 “(D) REPORTING REQUIREMENT.—Not
7 later than 180 days after the date of enactment
8 of the Empowering and Enforcing Environ-
9 mental Justice Act of 2022, and annually there-
10 after, each member of the Council shall submit
11 to the Director a report on the implementation
12 of the progress of the component of which the
13 member is a representative in implementing the
14 environmental justice strategy of the Depart-
15 ment and any proposed revisions to the environ-
16 mental justice strategy of that component. The
17 Director may also request a report or briefing
18 from the head of any component not a member
19 of the Council explaining how the component
20 may facilitate the efforts of the Department in
21 meeting the obligations of the Department
22 under the environmental justice strategy.

23 “(E) ADMINISTRATION.—The Director
24 shall coordinate and support the work of the
25 Council. The Director shall convene the Council

1 not later than 90 days after the date of enact-
2 ment of the Empowering and Enforcing Envi-
3 ronmental Justice Act of 2022 and shall con-
4 vene the Council not less than 4 times annually
5 thereafter.

6 “(F) GUIDANCE FOR DEPARTMENT.—

7 “(i) IN GENERAL.—Not later than
8 180 day as after the date of enactment of
9 the Empowering and Enforcing Environ-
10 mental Justice Act of 2022, the Council
11 shall develop guidance with respect to envi-
12 ronmental justice and provide such guid-
13 ance to Department personnel, including
14 provisions for identifying, tracking, and
15 addressing environmental justice matters.

16 “(ii) REVIEW AND UPDATE.—Not
17 later than 3 years after the development of
18 the guidance under clause (i), and every 3
19 years thereafter, the Department shall re-
20 view and update such guidance.

21 “(b) ENVIRONMENTAL JUSTICE SECTION.—

22 “(1) ESTABLISHMENT.—Not later than 180
23 days after the date of enactment of the Empowering
24 and Enforcing Environmental Justice Act of 2022,
25 the Attorney General shall establish a section within

1 the Environment and Natural Resources Division of
2 the Department that shall be known as the ‘Envi-
3 ronmental Justice Section’ (hereinafter known as the
4 ‘Section’) with the responsibility to litigate environ-
5 mental justice matters.

6 “(2) GENERAL OBJECTIVES.—The Section
7 shall:

8 “(A) Initiate legal action to enforce envi-
9 ronmental justice, civil rights, and criminal and
10 civil laws with respect to environmental justice
11 matters to achieve fair environmental and
12 human health protection in all communities.

13 “(B) Collaborate with State, local, and
14 Tribal governments to pursue litigation with re-
15 spect to environmental justice to hold persons
16 accountable for actions and inactions that have
17 or will contribute to the climate crisis.

18 “(C) Ensure the enforcement of title VI of
19 the Civil Rights Act of 1964 (42 U.S.C. 2000d
20 et seq.) by coordinating with Federal agencies
21 to effectively investigate civil rights complaints.

22 “(D) Facilitate the collection and analysis
23 of data that will assist the Department in law
24 enforcement, mediation, and counseling efforts
25 involving environmental justice matters.

1 “(E) Provide technical assistance to other
2 Federal agencies on creating permits and per-
3 mitting processes that are enforceable by the
4 agencies and the Department.

5 “(3) CONSULTATION AND INVESTIGATION.—

6 “(A) CONSULTATION ON PRIORITIES.—Not
7 later than 180 days after the date of enactment
8 of the Empowering and Enforcing Environ-
9 mental Justice Act of 2022, the Section shall
10 consult with United States Attorneys’ Offices,
11 the Environmental Protection Agency, and
12 other Federal agencies, as appropriate, to de-
13 velop a list of environmental justice enforce-
14 ment priorities and a strategy for addressing
15 these priorities.

16 “(B) REFERRAL GUIDANCE.—The Section
17 shall provide guidance to other Federal agencies
18 on appropriate actions with respect to environ-
19 mental justice matters and whether such mat-
20 ters should be transferred to the Department
21 for further investigation or action.

22 “(4) LITIGATION ACTIVITIES.—The Section
23 shall coordinate with other litigating components of
24 the Department, with the United States Attorneys’
25 Offices to conduct investigations, and with other

1 Federal agencies with respect to court cases raising
2 environmental justice matters, including by—

3 “(A) initiating legal action to enforce envi-
4 ronmental justice matters, civil rights, and
5 criminal and civil laws with respect to environ-
6 mental and criminal justice to achieve fair envi-
7 ronmental and human health protection in all
8 communities;

9 “(B) intervening in pending litigation or
10 filing amicus curiae briefs to serve the interests
11 of Federal agencies that address environmental
12 justice matters;

13 “(C) coordinating with other Department
14 components, and other Federal agencies, on ap-
15 propriate action with respect to environmental
16 justice matters; and

17 “(D) providing technical assistance to
18 other Federal agencies to address environ-
19 mental justice matters.

20 “(5) EDUCATION.—

21 “(A) IN GENERAL.—The Section shall pro-
22 vide training and education with respect to—

23 “(i) how to identify environmental jus-
24 tice matters;

1 “(ii) the contexts in which environ-
2 mental justice matters may arise;

3 “(iii) the ways in which recognition of
4 potential environmental justice matters
5 may affect the work of the Department,
6 Department personnel, and other Federal
7 agencies; and

8 “(iv) the implementation of Executive
9 Order 12898 (42 U.S.C. 4321 note; relat-
10 ing to Federal actions to address environ-
11 mental justice in minority populations and
12 low-income populations), including the en-
13 vironmental justice strategy developed by
14 The Office and guidance developed by the
15 Council pursuant to subsection (a)(5)(F).

16 “(B) DEVELOPMENT.—The Section shall
17 develop—

18 “(i) instructional videos and other ma-
19 terials for Department personnel to provide
20 an overview of the scope of environmental
21 justice matters and procedures for identi-
22 fying and reporting such matters;

23 “(ii) education programs for environ-
24 mental attorneys about criminal, civil, and
25 civil rights laws;

1 “(iii) education programs for civil,
2 criminal, and civil rights attorneys about
3 environmental laws for the purpose of
4 identifying and effectively addressing envi-
5 ronmental justice matters;

6 “(iv) an email address that Depart-
7 ment attorneys and other Department per-
8 sonnel may contact that enables Depart-
9 ment attorneys and other Department per-
10 sonnel to seek information and guidance
11 on environmental justice matters;

12 “(v) joint education and training ac-
13 tivities, where appropriate, with Federal
14 agencies and State, local, and Tribal legal
15 offices;

16 “(vi) a continuing legal education
17 course on environmental justice matters,
18 developed in coordination with the Office
19 of Legal Education and the Environmental
20 Protection Agency; and

21 “(vii) training programs with respect
22 to environmental justice for individuals
23 participating in the Attorney General’s
24 Honors Program.

1 “(6) DATA ASSESSMENT.—The Section shall co-
2 ordinate with all relevant components within the De-
3 partment to develop and maintain an appropriate
4 system for tracking and assessing cases that raise
5 environmental justice matters.

6 “(c) DEFINITIONS.—In this section:

7 “(1) DEPARTMENT.—The term ‘Department’
8 means the Department of Justice.

9 “(2) ENVIRONMENTAL JUSTICE COMMUNITY.—
10 The term ‘environmental justice community’ means
11 a community with significant representation of com-
12 munities of color, low-income communities, or Tribal
13 and Indigenous communities, that experiences, or is
14 at risk of experiencing higher or more adverse
15 human health or environmental effects.

16 “(3) ENVIRONMENTAL JUSTICE MATTER.—The
17 term ‘environmental justice matter’ includes any
18 civil or criminal matter where the conduct or action
19 at issue may involve a disproportionate and adverse
20 environmental or human health effect on an identifi-
21 able low-income, minority, Tribal, or Indigenous
22 population or community in the United States.

23 “(4) INDIGENOUS POPULATION OR COMMU-
24 NITY.—The term ‘Indigenous population or commu-

1 nity’ includes populations or communities of Amer-
 2 ican Indians, Alaska Natives, and Native Hawaiians.

3 “(5) LOW-INCOME COMMUNITY.—The term
 4 ‘low-income community’ means any census block
 5 group in which 30 percent or more of the population
 6 are individuals with an annual household income
 7 equal to, or less than, the greater of—

8 “(A) an amount equal to 80 percent of the
 9 median income of the area in which the house-
 10 hold is located, as reported by the Department
 11 of Housing and Urban Development; and

12 “(B) 200 percent of the Federal poverty
 13 line.

14 “(6) STATE.—The term ‘State’ means any
 15 State of the United States, the District of Columbia,
 16 the Commonwealth of Puerto Rico, the Virgin Is-
 17 lands, Guam, American Samoa, and the Common-
 18 wealth of the Northern Mariana Islands.”.

19 (b) TECHNICAL AMENDMENT.—The table of sections
 20 for chapter 31 of title 28, United States Code, is amended
 21 by adding at the end the following:

“530E. Environmental justice.”.

22 **SEC. 3. ENVIRONMENTAL JUSTICE MATTERS ENFORCE-**
 23 **MENT GRANTS.**

24 (a) DEFINITIONS.—In this section:

1 (1) CERTAIN CONGRESSIONAL COMMITTEES.—

2 The term “certain congressional committees”
3 means—

4 (A) the Committee on Energy and Com-
5 merce of the House of Representatives;

6 (B) the Committee on Environment and
7 Public Works of the Senate; and

8 (C) the Committees on the Judiciary of the
9 House of Representatives and the Senate.

10 (2) ENVIRONMENTAL JUSTICE COMMUNITY.—

11 The term “environmental justice community” means
12 a community with significant representation of com-
13 munities of color, low-income communities, or Tribal
14 and Indigenous communities, that experiences, or is
15 at risk of experiencing higher or more adverse
16 human health or environmental effects.

17 (3) ENVIRONMENTAL JUSTICE MATTER.—The

18 term “environmental justice matter” includes any
19 civil or criminal matter where the conduct or action
20 at issue may involve a disproportionate and adverse
21 environmental or human health effect on an identifi-
22 able low-income, minority, Tribal, or Indigenous
23 population or community in the United States.

24 (4) INDIGENOUS POPULATION OR COMMU-
25 NITY.—The term “Indigenous population or commu-

1 nity” includes populations or communities of Amer-
2 ican Indians, Alaska Natives, and Native Hawaiians.

3 (5) LOW-INCOME COMMUNITY.—The term “low-
4 income community” means any census block group
5 in which 30 percent or more of the population are
6 individuals with an annual household income equal
7 to, or less than, the greater of—

8 (A) an amount equal to 80 percent of the
9 median income of the area in which the house-
10 hold is located, as reported by the Department
11 of Housing and Urban Development; and

12 (B) 200 percent of the Federal poverty
13 line.

14 (6) STATE.—The term “State” means any
15 State of the United States, the District of Columbia,
16 the Commonwealth of Puerto Rico, the Virgin Is-
17 lands, Guam, American Samoa, and the Common-
18 wealth of the Northern Mariana Islands.

19 (b) IN GENERAL.—Not later than 180 days after the
20 date of enactment of this Act, the Attorney General shall
21 establish a grant program (in this section referred to as
22 the “Program”) within the Office of Environmental Jus-
23 tice to improve the capacity of State, local, and Tribal gov-
24 ernments to enforce environmental laws involving environ-
25 mental justice matters.

1 (c) GRANT AUTHORITY.—In carrying out the Pro-
2 gram, the Assistant Attorney General may award a grant
3 on competitive basis to an eligible recipient.

4 (d) ELIGIBLE RECIPIENTS.—The Assistant Attorney
5 General may award a grant under the Program to a State,
6 local, or Tribal government determined by the Assistant
7 Attorney General to be capable of carrying out a project
8 pursuant to subsection (e).

9 (e) GRANT FUNDS.—Grant funds awarded under the
10 Program, shall only be used to—

11 (1) train State, local, and Tribal agencies re-
12 sponsible for prosecuting and enforcing laws involv-
13 ing environmental justice matters;

14 (2) hire staff to assist in the investigation,
15 prosecution, and enforcement of laws involving envi-
16 ronmental justice matters; or

17 (3) establish collaborative programs to provide
18 technical and legal assistance to help environmental
19 justice communities participate in decisions impact-
20 ing the environment, health, and safety of those en-
21 vironmental justice communities.

22 (f) APPLICATIONS.—To be eligible for a grant under
23 the Program, an eligible recipient shall submit to the As-
24 sistant Attorney General an application in such form, at

1 such time, and containing such information as the Assist-
2 ant Attorney General determines to be appropriate.

3 (g) LIMITATIONS ON GRANT AMOUNTS.—Subject to
4 the availability of appropriations under subsection (j),
5 each grant made under this section shall be for an amount
6 not less than \$50,000 and not greater than \$1,000,000.

7 (h) FEDERAL SHARE.—The Federal share of a
8 project under the Program shall not exceed 80 percent,
9 unless the Attorney General waives, wholly or in part, this
10 requirement.

11 (i) REPORT.—Not later than 18 months after the
12 date of enactment of this Act, and every 2 years there-
13 after, the Attorney General shall submit a report to cer-
14 tain congressional committees on the grant program es-
15 tablished under this section, including a description of the
16 grantees and activities for which grantees used grants
17 awarded under this section.

18 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$50,000,000 for each of the fiscal years 2023 through
21 2032.

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