

116TH CONGRESS
2D SESSION

S. 4513

To ensure climate and environmental justice accountability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Ms. HARRIS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To ensure climate and environmental justice accountability,
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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Climate Equity Act of 2020”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—CONGRESSIONAL EQUITY SCORE

- Sec. 101. Climate and Environmental Equity Office.

TITLE II—OFFICE OF CLIMATE AND ENVIRONMENTAL JUSTICE
ACCOUNTABILITY

- Sec. 201. Establishment; head of the Office.
 Sec. 202. Functions; personnel.
 Sec. 203. Board of Advisors.
 Sec. 204. Budgetary line item and authorization of appropriations.
 Sec. 205. Definition of frontline community.

TITLE III—RULES AND REGULATIONS

- Sec. 301. Climate and environmental justice accountability agenda.
 Sec. 302. Initial climate and environmental justice analysis.
 Sec. 303. Final climate and environmental justice analysis.
 Sec. 304. Avoidance of duplicative or unnecessary analyses.
 Sec. 305. Procedures for gathering comments.
 Sec. 306. Periodic review of rules.
 Sec. 307. Judicial review.
 Sec. 308. Availability.

TITLE IV—FEDERAL INVESTMENTS

- Sec. 401. Review of Federal investments.
 Sec. 402. Additional review.
 Sec. 403. Nonscheduled review.
 Sec. 404. Availability.

TITLE V—SUBNATIONAL GUIDANCE

- Sec. 501. Guidance for development of implementation plans.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1)(A) the people of the United States have a
 4 right to live in a clean, healthful, and sustainable en-
 5 vironment and climate, with access to clean air and
 6 clean water;

7 (B) realizing the right described in subpara-
 8 graph (A) will require addressing systemic environ-
 9 mental injustices and the growing inequities fueled
 10 by climate change;

1 (C) the Federal Government has the responsi-
2 bility to ensure that the right described in subpara-
3 graph (A) is realized; and

4 (D) the Federal Government should be held ac-
5 countable to protect the individuals most impacted
6 by environmental degradation, climate change, and
7 the fight to address climate change;

8 (2) addressing the climate crisis will require a
9 comprehensive set of solutions that includes—

10 (A) Federal investment;

11 (B) the promulgation and enforcement of
12 rules and regulations; and

13 (C) international and intergovernmental
14 cooperation; and

15 (3) any policy to address climate and environ-
16 mental justice must acknowledge that—

17 (A) climate change is—

18 (i) an immediate crisis, the impacts of
19 which the United States is already experi-
20 encing; and

21 (ii) a systemic injustice multiplier;

22 (B) low-income communities, indigenous
23 communities, and communities of color across
24 the United States disproportionately experience
25 the cumulative impacts of multiple pollution

1 sources and the compounding impacts of a his-
 2 tory of pollution exposure; and

3 (C) the impacts of climate change will—

4 (i) disproportionately affect the com-
 5 munities that are already facing environ-
 6 mental injustice; and

7 (ii) increase stressors on vulnerable
 8 communities, including the elderly, the
 9 unhoused, and individuals with disabilities.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) AGENCY.—The term “agency” has the
 13 meaning given the term in section 551 of title 5,
 14 United States Code.

15 (2) BOARD OF ADVISORS.—The term “Board of
 16 Advisors” means the Board of Advisors established
 17 within the Office under section 203(a).

18 (3) DIRECTOR.—The term “Director” means a
 19 Director of Climate and Environmental Justice for
 20 an agency, as established under section 202(c)(1).

21 (4) ENVIRONMENTAL OR CLIMATE CHANGE
 22 NEXUS.—The term “environmental or climate
 23 change nexus” includes an action that—

24 (A) is intended to directly address or re-
 25 spond to the environment or climate change;

1 (B) has an indirect impact on the status or
2 quality of the environment or climate, including
3 the construction of infrastructure and the man-
4 ufacturing of goods;

5 (C) has the potential to create or impact
6 jobs relating to the transition to a clean econ-
7 omy; and

8 (D) relates to public health that may be
9 connected to pollution or climate change im-
10 pacts.

11 (5) FRONTLINE COMMUNITY.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (B), the term “frontline commu-
14 nity” has the meaning given the term by the
15 Board of Advisors under section 205.

16 (B) INTERIM MEANING.—Until the date on
17 which the Board of Advisors establishes a defi-
18 nition of “frontline community” under section
19 205, the term “frontline community” means a
20 community or population described in section
21 205(b).

22 (6) INVESTMENT.—The term “investment” in-
23 cludes a grant, loan, rebate, or other similar pro-
24 gram that is carried out by an agency.

1 (7) OFFICE.—The term “Office” means the Of-
 2 fice of Climate and Environmental Justice Account-
 3 ability established by section 201.

4 (8) RULE.—The term “rule” has the meaning
 5 given the term in section 601 of title 5, United
 6 States Code.

7 **TITLE I—CONGRESSIONAL**
 8 **EQUITY SCORE**

9 **SEC. 101. CLIMATE AND ENVIRONMENTAL EQUITY OFFICE.**

10 (a) ESTABLISHMENT OF CLIMATE AND ENVIRON-
 11 MENTAL EQUITY OFFICE.—Section 201 of the Congres-
 12 sional Budget Act of 1974 (2 U.S.C. 601) is amended by
 13 adding at the end the following:

14 “(h) CLIMATE AND ENVIRONMENTAL EQUITY OF-
 15 FICE.—

16 “(1) IN GENERAL.—There is established in the
 17 Office a Climate and Environmental Equity Office.

18 “(2) DIRECTOR.—The Climate and Environ-
 19 mental Equity Office shall be headed by a Director
 20 appointed by the Director of the Office.”.

21 (b) DUTIES AND FUNCTIONS.—Section 202(c) of the
 22 Congressional Budget Act of 1974 (2 U.S.C. 602(c)) is
 23 amended by adding at the end the following:

24 “(4)(A) In this paragraph, the terms ‘environ-
 25 mental or climate change nexus’ and ‘frontline com-

1 community' have the meanings given those terms in sec-
2 tion 3 of the Climate Equity Act of 2020.

3 “(B)(i) In addition to any analysis under sec-
4 tion 402, the Climate and Environmental Equity Of-
5 fice shall, to the extent practicable, prepare for each
6 bill or resolution with an environmental or climate
7 change nexus that is reported by any committee of
8 the House of Representatives or the Senate and sub-
9 mit to such committee a statement by the Climate
10 and Environmental Equity Office analyzing the
11 quantitative and qualitative impacts to frontline
12 communities of the bill or resolution in conformance
13 with the criteria developed under subparagraph (C).

14 “(ii) A statement submitted under clause (i)
15 shall be included in the report accompanying a bill
16 or resolution if timely submitted to the applicable
17 committee before the report is filed.

18 “(C)(i) Not later than 1 year after the date of
19 enactment of this paragraph, the Director of the Cli-
20 mate and Environmental Equity Office, in coordina-
21 tion with an advisory board composed of relevant ex-
22 perts and representatives from frontline communities
23 identified in coordination with the Board of Advisors
24 established under section 203(a) of the Climate Eq-
25 uity Act of 2020, shall develop and make publicly

1 available criteria for analyzing the quantitative and
2 qualitative impacts of legislation under this para-
3 graph.

4 “(ii) The criteria developed under clause (i)
5 shall be reviewed once every 5 years by an advisory
6 board described in that clause to incorporate the
7 best available science, best practices, and new under-
8 standing relating to the impacts of policy on eco-
9 nomic, social, environmental, and public health mat-
10 ters.

11 “(D) The Climate and Environmental Equity
12 Office shall coordinate with the Director of the Of-
13 fice and other employees of the Office in carrying
14 out this paragraph.

15 “(E) It shall not be in order in the House of
16 Representatives or the Senate to consider any bill or
17 resolution with an environmental or climate change
18 nexus that is reported by any committee of the
19 House of Representatives or the Senate unless the
20 Director of the Climate and Environmental Equity
21 Office has published a statement on the quantitative
22 and qualitative impacts to frontline communities of
23 the legislation prepared under subparagraph (B).

1 “(F) Any action taken by the Director of the
2 Climate and Environmental Equity Office shall be
3 informed by the best available science.”.

4 **TITLE II—OFFICE OF CLIMATE**
5 **AND ENVIRONMENTAL JUS-**
6 **TICE ACCOUNTABILITY**

7 **SEC. 201. ESTABLISHMENT; HEAD OF THE OFFICE.**

8 (a) **IN GENERAL.**—There is established within the
9 Office of Management and Budget an office, to be known
10 as the “Office of Climate and Environmental Justice Ac-
11 countability”.

12 (b) **HEAD OF THE OFFICE.**—The head of the Office
13 shall be appointed from civilian life by the President, by
14 and with the advice and consent of the Senate.

15 **SEC. 202. FUNCTIONS; PERSONNEL.**

16 (a) **FUNCTIONS.**—The functions of the Office in-
17 clude—

18 (1) to represent the views of frontline commu-
19 nities in rulemaking;

20 (2) to conduct research, using the best available
21 science, on environmental and climate issues and
22 trends in frontline communities;

23 (3) to measure the direct and indirect costs of
24 environmental and climate regulations on frontline
25 communities;

1 (4) to develop and coordinate relevant environ-
2 mental justice definitions and nomenclature across
3 the Executive Branch;

4 (5) to monitor compliance with the require-
5 ments of this Act; and

6 (6) to coordinate with other Federal efforts to
7 address environmental justice, such as efforts
8 through the Council on Environmental Quality and
9 the National Environmental Justice Advisory Coun-
10 cil.

11 (b) PERSONNEL.—

12 (1) IN GENERAL.—On the recommendation of
13 the Board of Advisors, the head of the Office shall
14 appoint a secretary for the Board of Advisors, and
15 such other employees as the head of the Office de-
16 termines to be necessary to exercise and fulfill the
17 powers and responsibilities of the Office.

18 (2) COMPENSATION.—The compensation of all
19 employees appointed under paragraph (1) shall be
20 fixed in accordance with chapter 51 and subchapter
21 III of chapter 53 of title 5, United States Code.

22 (c) DIRECTORS OF CLIMATE AND ENVIRONMENTAL
23 JUSTICE.—

24 (1) IN GENERAL.—The head of the Office shall
25 work in coordination with the head of each agency

1 described in paragraph (2) to establish or designate
2 within each agency a position, to be known as the
3 “Director of Climate and Environmental Justice”.

4 (2) AGENCIES DESCRIBED.—The agencies re-
5 ferred to in paragraph (1) are—

6 (A) the Environmental Protection Agency;

7 (B) the Department of Agriculture;

8 (C) the Department of Commerce;

9 (D) the Department of Defense;

10 (E) the Department of Energy;

11 (F) the Department of Health and Human

12 Services;

13 (G) the Department of Homeland Security;

14 (H) the Department of Housing and

15 Urban Development;

16 (I) the Department of the Interior;

17 (J) the Department of Labor;

18 (K) the Department of Transportation;

19 (L) the Department of Education;

20 (M) the Department of Justice;

21 (N) the Department of the Treasury;

22 (O) the Department of Veterans Affairs;

23 (P) the Small Business Administration;

24 (Q) the Office of Science and Technology

25 Policy;

1 (R) the Council on Environmental Quality;
2 and

3 (S) any other Federal department, agency,
4 commission, or office that the head of the Of-
5 fice determines to be appropriate.

6 (3) FUNCTION.—The function of a Director is
7 to ensure the implementation of this Act within the
8 applicable agency.

9 **SEC. 203. BOARD OF ADVISORS.**

10 (a) ESTABLISHMENT.—The head of the Office shall
11 establish within the Office a Board of Advisors, which
12 shall provide such scientific advice as may be requested
13 by—

14 (1) the Director of the Office of Management
15 and Budget;

16 (2) the head of the Office;

17 (3) a Director; or

18 (4) a member or committee of Congress.

19 (b) MEMBERS.—

20 (1) APPOINTMENT.—

21 (A) IN GENERAL.—Members of the Board
22 of Advisors shall be appointed by the head of
23 the Office, on the recommendation of the Na-
24 tional Academy of Sciences.

25 (B) FUNDING.—

1 (i) IN GENERAL.—There are author-
2 ized to be appropriated to the Office such
3 sums as are necessary for the National
4 Academy of Sciences to make recommenda-
5 tions under subparagraph (A).

6 (ii) TRANSFER.—The head of the Of-
7 fice shall transfer to the National Academy
8 of Sciences any amounts appropriated
9 under clause (i).

10 (2) SIZE OF BOARD.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), the Board of Advisors shall be com-
13 posed of not less than 10 members that provide
14 diverse and fair representation of frontline com-
15 munities and allies of frontline communities, 1
16 of whom shall be designated chairperson.

17 (B) ADDITIONAL MEMBERS.—At the dis-
18 cretion of the head of the Office, on the rec-
19 ommendation of the National Academy of
20 Sciences, additional members representing
21 frontline communities or allies of frontline com-
22 munities may be added to the Board of Advi-
23 sors on an interim or permanent basis.

24 (3) QUALIFICATIONS.—Each member of the
25 Board of Advisors shall be—

1 (A)(i) a representative of a frontline com-
2 munity; or

3 (ii) an ally of a frontline community; and

4 (B) qualified by education, training, and
5 experience to evaluate information on matters
6 referred to the Board of Advisors under this
7 Act.

8 (4) TERM.—A member of the Board of Advi-
9 sors shall serve for a term of 3 years, which may be
10 renewed for 1 additional term of 3 years on the rec-
11 ommendation of the National Academy of Sciences.

12 (c) COMPENSATION.—Members of the Board of Advi-
13 sors may be compensated at a rate to be fixed by the
14 President but not to exceed the maximum amount of com-
15 pensation payable to a member of the Senior Executive
16 Service under subsection (b) of section 5382 of title 5,
17 United States Code.

18 (d) PUBLIC PARTICIPATION AND TRANSPARENCY.—
19 The Board of Advisors shall make every effort, consistent
20 with applicable law, including section 552 of title 5,
21 United States Code (commonly known as the “Freedom
22 of Information Act”), and section 552a of title 5, United
23 States Code (commonly known as the “Privacy Act of
24 1974”), to maximize public participation and trans-
25 parency, including making the advice of the Board of Ad-

1 visors publicly available in electronic form, including video
2 streaming, on the website of the Office.

3 **SEC. 204. BUDGETARY LINE ITEM AND AUTHORIZATION OF**
4 **APPROPRIATIONS.**

5 (a) APPROPRIATION REQUESTS.—Each budget of the
6 United States Government submitted by the President
7 under section 1105 of title 31, United States Code, shall
8 include a separate statement of the amount of appropria-
9 tions requested for the Office, which shall be designated
10 in a separate account in the general fund of the Treasury.

11 (b) ADMINISTRATIVE OPERATIONS.—The Director of
12 the Office of Management and Budget shall provide the
13 Office with appropriate and adequate office space at cen-
14 tral and field office locations, together with such equip-
15 ment, operating budget, and communications facilities and
16 services as may be necessary, and shall provide necessary
17 maintenance services for those offices and the equipment
18 and facilities located in those offices.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as are nec-
21 essary to carry out this title, to remain available until ex-
22 pended.

1 **SEC. 205. DEFINITION OF FRONTLINE COMMUNITY.**

2 (a) IN GENERAL.—The Board of Advisors shall es-
3 tablish a definition of “frontline community” for purposes
4 of this Act.

5 (b) INCLUSIONS.—The definition under subsection
6 (a) shall include, at a minimum—

7 (1) a community or population that has experi-
8 enced systemic socioeconomic disparities, environ-
9 mental injustice, or another form of injustice, includ-
10 ing—

11 (A) a low-income community;

12 (B) an indigenous community; and

13 (C) a community of color;

14 (2) a community or population that is the most
15 vulnerable and will be the most adversely impacted
16 by environmental and climate injustice and inequi-
17 table climate actions, including—

18 (A) a community or population described
19 in paragraph (1);

20 (B) a deindustrialized community;

21 (C) a depopulated rural community;

22 (D) a vulnerable elderly population;

23 (E) an unhoused population;

24 (F) individuals with disabilities; and

25 (G) a community that is economically de-
26 pendent on fossil fuel industries; and

1 (3) the women, the youth, and all of the de-
 2 scendants of women or youth that are part of a com-
 3 munity or population described in paragraph (1) or
 4 (2).

5 (c) REQUIREMENTS.—The Board of Advisors shall—

6 (1) develop the definition under subsection (a)
 7 in coordination with relevant experts; and

8 (2) incorporate in the definition under sub-
 9 section (a) the best available science and under-
 10 standing of the impacts of environmental, climate,
 11 and public health hazards on the communities and
 12 populations described in subsection (b).

13 (d) UPDATES.—The Board of Advisors shall
 14 iteratively reexamine the definition of “frontline commu-
 15 nity” established under subsection (a) and update that
 16 definition, as the Board of Advisors determines to be ap-
 17 propriate.

18 **TITLE III—RULES AND**
 19 **REGULATIONS**

20 **SEC. 301. CLIMATE AND ENVIRONMENTAL JUSTICE AC-**
 21 **COUNTABILITY AGENDA.**

22 (a) IN GENERAL.—During the months of October
 23 and April of each year, each agency shall publish in the
 24 Federal Register a climate and environmental justice ac-

1 countability agenda (referred to in this section as the
2 “agenda”) which shall contain—

3 (1) a brief description of the subject area of
4 any rule which the agency expects to propose or pro-
5 mulgate which is likely to have a significant positive
6 or negative economic, public health, or environ-
7 mental impact on a substantial number of residents
8 within 1 or more frontline communities;

9 (2) a summary of—

10 (A) the nature of each rule under consider-
11 ation for each subject area listed in the agenda
12 pursuant to paragraph (1);

13 (B) the objectives and legal basis for the
14 issuance of each rule listed in the agenda pur-
15 suant to paragraph (1); and

16 (C) an approximate schedule for com-
17 pleting action on any rule for which the agency
18 has issued a general notice of proposed rule-
19 making; and

20 (3) the name and telephone number of an agen-
21 cy official knowledgeable concerning the items listed
22 in paragraph (1).

23 (b) SUBMISSION.—Each agenda shall be transmitted
24 to the head of the Office for comment, if any.

1 (c) FRONTLINE COMMUNITIES.—Each agency
2 shall—

3 (1) provide notice of each agenda to frontline
4 communities or representatives of the frontline com-
5 munities through—

6 (A) direct notification of frontline commu-
7 nities; or

8 (B) publication of the agenda in publica-
9 tions likely to be obtained by frontline commu-
10 nities; and

11 (2) invite comments on each subject area on the
12 agenda.

13 (d) SAVINGS PROVISION.—Nothing in this section—

14 (1) precludes an agency from considering or
15 acting on any matter not included in an agenda of
16 the agency; or

17 (2) requires an agency to consider or act on any
18 matter listed in the agenda.

19 **SEC. 302. INITIAL CLIMATE AND ENVIRONMENTAL JUSTICE**
20 **ANALYSIS.**

21 (a) DETERMINATION OF POTENTIAL SIGNIFICANT
22 IMPACT.—

23 (1) IN GENERAL.—Whenever an agency is re-
24 quired by section 553 of title 5, United States Code,
25 or any other law, to publish a general notice of pro-

1 posed rulemaking for a proposed rule, or publishes
2 a notice of proposed rulemaking for an interpretative
3 rule involving the internal revenue laws of the
4 United States, the Board of Advisors, in coordina-
5 tion with the Director of the agency, shall determine
6 whether the proposed rule may have a significant
7 impact on 1 or more frontline communities.

8 (2) DETERMINATION OF NO POTENTIAL SIG-
9 NIFICANT IMPACT.—If the Board of Advisors deter-
10 mines under paragraph (1) that a proposed rule will
11 not have a significant impact on 1 or more frontline
12 communities, the Board of Advisors shall make pub-
13 licly available on the website of the Office and pub-
14 lish in the Federal Register a statement of the ra-
15 tionale for that determination.

16 (b) INITIAL REGULATORY ANALYSIS.—

17 (1) IN GENERAL.—Subject to section 305(b), in
18 the case of a proposed rule that the Board of Advi-
19 sors determines may have a significant impact on 1
20 or more frontline communities under subsection
21 (a)(1), the applicable agency shall—

22 (A) in coordination with the Director of
23 the agency, prepare an initial climate and envi-
24 ronmental justice analysis; and

1 (B) make available for public comment the
2 initial climate and environmental justice anal-
3 ysis under subparagraph (A).

4 (2) REQUIREMENTS.—

5 (A) IMPACT ON FRONTLINE COMMU-
6 NITIES.—An initial climate and environmental
7 justice analysis under paragraph (1)(A) shall
8 describe the quantitative and qualitative im-
9 pacts of the proposed rule on frontline commu-
10 nities, including cultural impacts.

11 (B) PUBLICATION.—The initial climate
12 and environmental justice analysis under para-
13 graph (1)(A), or a summary of that analysis,
14 shall be published in the Federal Register at
15 the time of the publication of the general notice
16 of proposed rulemaking for the rule.

17 (3) TRANSMISSION.—The agency shall transmit
18 a copy of the initial climate and environmental jus-
19 tice analysis under paragraph (1)(A) to the head of
20 the Office.

21 (c) REQUIREMENTS.—Each initial climate and envi-
22 ronmental justice analysis under subsection (b)(1)(A)
23 shall contain—

24 (1) a description of the reasons why action by
25 the agency is being considered;

1 (2) a succinct statement of the objectives of,
2 and legal basis for, the proposed rule;

3 (3) a description of and, where feasible, an esti-
4 mate of the number of residents of frontline commu-
5 nities on which the proposed rule will have a signifi-
6 cant impact;

7 (4) a description of the impact to individual
8 frontline communities;

9 (5) a description of input and comments from
10 coordination with frontline communities under sec-
11 tion 305;

12 (6) a justification for the incorporation or rejec-
13 tion of any comments from coordination with front-
14 line communities under section 305;

15 (7) a description of the individuals and groups
16 from the coordination with frontline communities
17 under section 305; and

18 (8) an identification, to the extent practicable,
19 of all relevant Federal rules which may duplicate,
20 overlap, or conflict with the proposed rule.

21 (d) SIGNIFICANT ALTERNATIVES.—An initial climate
22 and environmental justice analysis under subsection
23 (b)(1)(A) shall contain a description of any significant al-
24 ternatives to the proposed rule that—

1 (1) accomplish the stated objectives of applica-
2 ble statutes; and

3 (2)(A) minimize any significant negative eco-
4 nomic, environmental, or public health impact of the
5 proposed rule on frontline communities; or

6 (B) maximize any significant positive economic,
7 environmental, or public health impact of the pro-
8 posed rule on frontline communities.

9 (e) PROJECTED IMPACTS.—An initial climate and en-
10 vironmental justice analysis under subsection (b)(1)(A)
11 shall include a description of—

12 (1) any projected economic, environmental, or
13 public health impacts, positive or negative, on front-
14 line communities as a result of the proposed rule;

15 (2) any potential cumulative impact on frontline
16 communities that results from the proposed rule, in
17 combination with previously promulgated rules;

18 (3) any significant alternatives to the proposed
19 rule that—

20 (A) accomplish the stated objectives of ap-
21 plicable statutes; and

22 (B)(i) minimize any significant negative
23 economic, environmental, or public health im-
24 pact of the proposed rule on frontline commu-
25 nities; or

1 (ii) maximize any significant positive eco-
2 nomic, environmental, or public health impact
3 of the proposed rule on frontline communities;
4 and

5 (4) the advice and recommendations of rep-
6 resentatives of frontline communities under section
7 305(c)(1) relating to issues described in paragraphs
8 (1), (2), and (3).

9 **SEC. 303. FINAL CLIMATE AND ENVIRONMENTAL JUSTICE**
10 **ANALYSIS.**

11 (a) FINAL ANALYSIS.—

12 (1) IN GENERAL.—When an agency promul-
13 gates a final rule under section 553 of title 5,
14 United States Code, after being required by that
15 section or any other law to publish a general notice
16 of proposed rulemaking, or promulgates a final in-
17 terpretative rule involving the internal revenue laws
18 of the United States as described in section 302(a),
19 and the agency was required to prepare an initial
20 climate and environmental justice analysis for the
21 applicable proposed rule under section 302(b)(1)(A),
22 the agency shall prepare a final climate and environ-
23 mental justice analysis.

1 (2) REQUIREMENTS.—Each final climate and
2 environmental justice analysis under paragraph (1)
3 shall contain—

4 (A) a statement of the need for, and objec-
5 tives of, the rule;

6 (B) a statement of—

7 (i) the issues raised by frontline com-
8 munities through consultation under sec-
9 tion 305 in preparing the initial climate
10 and environmental justice analysis under
11 section 302(b)(1)(A);

12 (ii) an assessment of the issues de-
13 scribed in clause (i); and

14 (iii) any modification to the proposed
15 rule as a result of the assessment de-
16 scribed in clause (ii);

17 (C)(i) the response of the agency to any
18 comments filed by the head of the Office or the
19 Board of Advisors in response to the proposed
20 rule; and

21 (ii) a detailed statement of any change
22 made to the proposed rule in the final rule as
23 a result of the comments described in clause (i);

24 (D) a description of and an estimate of the
25 number of residents of frontline communities to

1 which the rule will apply or an explanation of
2 why no such estimate is available; and

3 (E) a description of the steps the agency
4 has taken to minimize the negative, or maxi-
5 mize the positive, significant economic, environ-
6 mental, and public health impact on frontline
7 communities that are consistent with the stated
8 objectives of applicable statutes, including—

9 (i) a statement of the factual, policy,
10 and legal reasons for selecting the alter-
11 native adopted in the final rule; and

12 (ii) a description of why each 1 of the
13 other significant alternatives to the rule
14 considered by the agency which affect the
15 impact on frontline communities was re-
16 jected.

17 (3) CONSIDERATION.—In developing the final
18 climate and environmental justice analysis under
19 paragraph (1), the agency shall give strong consider-
20 ation to the comments, recommendations, and find-
21 ings within a report of a review panel under section
22 305(c)(6), if any, to ensure that benefits are maxi-
23 mized to impacted frontline communities.

24 (b) PUBLICATION.—The head of the agency shall
25 publish in the Federal Register the final climate and envi-

1 ronmental justice analysis under subsection (a)(1) or a
2 summary of that analysis.

3 **SEC. 304. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY**
4 **ANALYSES.**

5 (a) **SIMULTANEOUS ANALYSES.**—An agency may per-
6 form the analyses required by sections 301, 302, and 303
7 in conjunction with or as a part of any other agenda or
8 analysis required by any other law if the other analysis
9 satisfies the provisions of those sections, including the
10 analyses required under chapter 6 of title 5, United States
11 Code.

12 (b) **EXCEPTIONS.**—

13 (1) **SMALL NUMBERS AFFECTED.**—Sections 302
14 and 303 shall not apply to any proposed or final rule
15 if—

16 (A) the head of the agency certifies that
17 the rule will not, if promulgated, have a signifi-
18 cant economic, environmental, or public health
19 impact on a substantial number of members of
20 1 or more frontline communities; and

21 (B) the head of the Office, in consultation
22 with the Board of Advisors, approves of the cer-
23 tification under subparagraph (A).

1 (2) CERTIFICATION.—If the head of the agency
2 makes a certification under paragraph (1)(A), the
3 agency shall—

4 (A) publish the certification in the Federal
5 Register at the time of publication of general
6 notice of proposed rulemaking for the rule or at
7 the time of publication of the final rule, along
8 with a statement providing the factual basis for
9 such certification; and

10 (B) provide the certification and statement
11 described in subparagraph (A) to the head of
12 the Office.

13 (c) SIMILAR RULES.—In order to avoid duplicative
14 action, at the discretion of the Board of Advisors and in
15 consultation with the applicable Director, an agency may
16 consider a series of closely related rules as 1 rule for the
17 purposes of sections 301, 302, 303, and 306.

18 **SEC. 305. PROCEDURES FOR GATHERING COMMENTS.**

19 (a) IN GENERAL.—When a rule is promulgated that
20 will have a significant economic, environmental, or public
21 health impact on a substantial number of members of 1
22 or more frontline communities, the head of the agency pro-
23 mulgating the rule shall ensure that frontline communities
24 have been given an opportunity to participate in the rule-
25 making for the rule through, at a minimum—

1 (1) the inclusion in an advanced notice of pro-
2 posed rulemaking, if issued, of a statement that the
3 proposed rule may have a significant economic, envi-
4 ronmental, or public health effect on a substantial
5 number of members of 1 or more frontline commu-
6 nities;

7 (2) the publication of general notice of proposed
8 rulemaking in publications likely to be obtained by
9 frontline communities;

10 (3) the direct notification of interested frontline
11 communities, including through community centers
12 and schools;

13 (4) the conduct of open conferences or public
14 hearings concerning the rule for frontline commu-
15 nities, including soliciting and receiving comments
16 over computer networks; and

17 (5) the adoption or modification of agency pro-
18 cedural rules to reduce the cost or complexity of par-
19 ticipation in the rulemaking by frontline commu-
20 nities.

21 (b) REQUIREMENTS.—Prior to publication of an ini-
22 tial climate and environmental justice analysis under sec-
23 tion 302(b)(1)(A) for a proposed rule—

24 (1) an agency shall notify the head of the Office
25 of the initial climate and environmental justice anal-

1 ysis and provide the head of the Office with informa-
 2 tion on—

3 (A) the potential impacts of the proposed
 4 rule on frontline communities; and

5 (B) the type of frontline communities that
 6 might be affected;

7 (2) the agency shall ensure that frontline com-
 8 munities have been given an opportunity to partici-
 9 pate through public comment in accordance with
 10 subsection (a);

11 (3) the agency shall carry out the review panel
 12 process described in subsection (c) for the proposed
 13 rule; and

14 (4) the agency shall—

15 (A) incorporate comments, advice, and rec-
 16 ommendations from frontline communities; and

17 (B) where appropriate, modify—

18 (i) the proposed rule; or

19 (ii) the initial climate and environ-
 20 mental justice analysis.

21 (c) REVIEW PANELS.—

22 (1) FRONTLINE COMMUNITY REPRESENTATIVE
 23 ADVISORY COMMITTEES.—

24 (A) IDENTIFICATION OF REPRESENTA-
 25 TIVES.—Not later than 30 days after the date

1 on which the head of the Office receives the ma-
2 terials described in subsection (b)(1) for a pro-
3 posed rule, the head of the Office, in coordina-
4 tion with the Board of Advisors, shall—

5 (i) identify individuals representative
6 of affected frontline communities; and

7 (ii) appoint those individuals to an ad-
8 visory committee established for the pur-
9 pose of obtaining advice and recommenda-
10 tions from those individuals about the po-
11 tential impacts of the proposed rule.

12 (B) NUMBER OF REPRESENTATIVES.—

13 (i) IN GENERAL.—Subject to clause
14 (ii), the number of individuals appointed to
15 an advisory committee under subparagraph
16 (A)(ii) shall be determined by the head of
17 the Office, in coordination with the Board
18 of Advisors, based on the scope of the pro-
19 posed rule described in that paragraph.

20 (ii) MINIMUM.—Not fewer than 2 in-
21 dividuals shall be appointed under sub-
22 paragraph (A)(ii) with respect to each pro-
23 posed rule described in that subparagraph.

24 (C) COMPENSATION.—A representative on
25 an advisory committee who is not an officer or

1 employee of the Federal Government shall be
2 compensated at a rate equal to the daily equiva-
3 lent of the annual rate of basic pay prescribed
4 under chapter 51 and subchapter III of chapter
5 53 of title 5, United States Code, for each day
6 (including travel time) during which the rep-
7 resentative is engaged in the performance of the
8 duties of the advisory committee.

9 (D) TRAVEL EXPENSES.—A representative
10 on an advisory committee shall be allowed trav-
11 el expenses, including per diem in lieu of sub-
12 sistence, at rates authorized for employees of
13 agencies under subchapter I of chapter 57 of
14 title 5, United States Code, while away from
15 their homes or regular places of business in the
16 performance of services for the advisory com-
17 mittee.

18 (E) INAPPLICABILITY OF FACA.—The Fed-
19 eral Advisory Committee Act (5 U.S.C. App.)
20 shall not apply to an advisory committee estab-
21 lished under subparagraph (A)(ii).

22 (2) CONVENTION OF REVIEW PANELS.—

23 (A) IN GENERAL.—An agency carrying out
24 an initial climate and environmental justice
25 analysis for a proposed rule under section

1 302(b)(1)(A) shall convene a review panel for
2 the rule, consisting of—

3 (i) full-time Federal employees of the
4 office within the agency responsible for
5 carrying out the proposed rule;

6 (ii) the Director of the agency;

7 (iii) full-time Federal employees of the
8 Office of Information and Regulatory Af-
9 fairs within the Office of Management and
10 Budget;

11 (iv)(I) the head of the Office; or

12 (II) 1 or more employees of the Of-
13 fice; and

14 (v) 1 or more members of the Board
15 of Advisors.

16 (B) FUNCTIONS.—A review panel convened
17 under subparagraph (A) shall—

18 (i) review any material the agency has
19 prepared in connection with this title, in-
20 cluding any draft proposed rule; and

21 (ii) collect advice and recommenda-
22 tions of the advisory committee of frontline
23 community representatives established
24 under paragraph (1)(A)(ii) on—

1 (I) issues relating to the frontline
2 community that are described in sub-
3 sections (b), (c), (d), and (e) of sec-
4 tion 302; and

5 (II) any other relevant informa-
6 tion relating to the potential impact of
7 the proposed rule on the frontline
8 community.

9 (C) REPORT.—Not later than 60 days
10 after the date on which an agency convenes a
11 review panel under subparagraph (A), the re-
12 view panel shall submit a report to the head of
13 the agency on—

14 (i) the comments and recommenda-
15 tions of the advisory committee of frontline
16 community representatives established
17 under paragraph (1)(A)(ii); and

18 (ii) the findings of the review panel as
19 to the issues described in subparagraph
20 (B)(ii).

21 (d) AGENCY DISCRETION.—The head of an agency
22 may apply subsection (b) to rules that the head of the
23 agency intends to certify under section 304(b), but that
24 the head of the agency believes may have a greater than

1 de minimis impact on a substantial number of members
2 of 1 or more frontline communities.

3 **SEC. 306. PERIODIC REVIEW OF RULES.**

4 (a) PERIODIC REVIEW.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, each agency
7 shall publish in the Federal Register a plan for the
8 periodic review of the rules issued by the agency that
9 have or will have a significant economic, environ-
10 mental, or public health impact on a substantial
11 number of members of 1 or more frontline commu-
12 nities.

13 (2) AMENDMENTS.—The plan under paragraph
14 (1) may be amended by an agency at any time by
15 publishing the revision in the Federal Register.

16 (3) PURPOSE.—The purpose of the periodic re-
17 view under paragraph (1) shall be to determine
18 whether the rules subject to the review should be—

19 (A) continued without change; or

20 (B) amended, consistent with the statutes
21 under which the rules were issued, to minimize
22 any significant economic, environmental, or
23 public health impact of the rules on a substan-
24 tial number of members of 1 or more frontline
25 communities.

1 (4) REVIEW OF EXISTING RULES.—The plan
2 under paragraph (1) shall provide for the review of
3 rules of the agency under that paragraph to be com-
4 pleted—

5 (A) for rules of the agency existing on the
6 date of enactment of this Act, not later than
7 the date that is 10 years after the date of en-
8 actment of this Act; and

9 (B) for rules of the agency adopted after
10 the date of enactment of this Act, not later
11 than the date that is 10 years after the date on
12 which the final rule is issued.

13 (b) CONSIDERATIONS.—In reviewing rules under the
14 plan under subsection (a)(1) to minimize negative or maxi-
15 mize positive significant economic, environmental, or pub-
16 lic health impact of the rule on a substantial number of
17 members of 1 or more frontline communities in a manner
18 consistent with the stated objectives of applicable statutes,
19 the agency shall consider—

20 (1) the impact of the rule on the relevant front-
21 line communities; and

22 (2) the length of time since the rule has been
23 evaluated or the degree to which technology, eco-
24 nomic conditions, or other factors have changed that
25 are relevant to the rule.

1 (c) ANNUAL LIST.—

2 (1) IN GENERAL.—Each year, the head of each
3 agency shall publish in the Federal Register a list of
4 the rules which have a significant economic, environ-
5 mental, or public health impact on a substantial
6 number of members of 1 or more frontline commu-
7 nities, which are to be reviewed pursuant to this sec-
8 tion during the 12-month period starting on the date
9 of the publication of the list.

10 (2) REQUIREMENT.—The list under paragraph
11 (1) shall—

12 (A) include—

13 (i) a brief description of each rule;

14 and

15 (ii) the need for and legal basis of
16 each rule; and

17 (B) invite public comment on each rule.

18 (d) EXCEPTIONS.—

19 (1) SMALL NUMBERS AFFECTED.—This section
20 shall not apply to a rule if—

21 (A) the head of the agency certifies that
22 the rule does not or will not have a significant
23 economic, environmental, or public health im-
24 pact on a substantial number of members of 1
25 or more frontline communities; and

1 (B) the head of the Office, in consultation
 2 with the Board of Advisors, approves of the cer-
 3 tification under subparagraph (A).

4 (2) CERTIFICATION.—If the head of the agency
 5 makes a certification under paragraph (1)(A), the
 6 agency shall—

7 (A) publish the certification in the Federal
 8 Register, along with a statement providing the
 9 factual basis for such certification; and

10 (B) provide the certification and statement
 11 described in subparagraph (A) to the head of
 12 the Office.

13 **SEC. 307. JUDICIAL REVIEW.**

14 (a) JUDICIAL REVIEW.—

15 (1) FINAL AGENCY ACTION.—

16 (A) IN GENERAL.—For any rule subject to
 17 this title, a frontline community that is relevant
 18 with regard to a final agency action is entitled
 19 to judicial review of agency compliance with the
 20 requirements of sections 303, 304(b), and 306
 21 in accordance with chapter 7 of title 5, United
 22 States Code.

23 (B) COMPLIANCE.—Agency compliance
 24 with section 305(a) shall be judicially review-

1 able in connection with judicial review of section
2 303.

3 (2) JURISDICTION.—

4 (A) IN GENERAL.—Each court having ju-
5 risdiction to review a rule for compliance with
6 section 553 of title 5, United States Code, or
7 under any other provision of law, shall have ju-
8 risdiction to review any claims of noncompliance
9 with sections 303, 304(b), and 306 in accord-
10 ance with chapter 7 of title 5, United States
11 Code.

12 (B) COMPLIANCE.—Agency compliance
13 with section 305(a) shall be judicially review-
14 able in connection with judicial review of section
15 303.

16 (3) LIMITATION.—A frontline community may
17 seek a review described in paragraph (1) during the
18 period—

19 (A) beginning on the date of final agency
20 action; and

21 (B) ending on the later of—

22 (i) the date required by the statute
23 under which the applicable rule was issued;
24 and

1 (ii) 1 year after the date described in
2 subparagraph (A).

3 (4) RELIEF.—In granting any relief in an ac-
4 tion under this section, the court shall order the
5 agency to take corrective action consistent with this
6 title and chapter 7 of title 5, United States Code,
7 including—

8 (A) remanding the rule to the agency for
9 correction; and

10 (B) deferring the enforcement of the rule
11 against frontline communities unless the court
12 finds that continued enforcement of the rule is
13 in the public interest.

14 (5) NO LIMITATION OF AUTHORITY.—Nothing
15 in this subsection limits the authority of a court to
16 stay the effective date of a rule, or provision of a
17 rule, under any other provision of law or to grant
18 any other relief in addition to the requirements of
19 this section.

20 (b) RECORD.—In an action for the judicial review of
21 a rule, the climate and environmental justice analysis for
22 that rule, including an initial climate and environmental
23 justice analysis prepared or corrected pursuant to sub-
24 section (a)(4)(A), shall constitute part of the entire record
25 of agency action in connection with such review.

1 (c) COMPLIANCE.—Compliance or noncompliance by
2 an agency with the provisions of this title shall be subject
3 to judicial review only in accordance with this section.

4 (d) SAVINGS.—Nothing in this section bars judicial
5 review of any other impact statement or similar analysis
6 required by any other law if judicial review of such state-
7 ment or analysis is otherwise permitted by law.

8 **SEC. 308. AVAILABILITY.**

9 Any analysis conducted, or other document prepared,
10 under this title shall be made available to the public
11 through the Office.

12 **TITLE IV—FEDERAL**
13 **INVESTMENTS**

14 **SEC. 401. REVIEW OF FEDERAL INVESTMENTS.**

15 (a) IDENTIFICATION.—Not later than 2 years after
16 the date of enactment of this Act, and every 5 years there-
17 after, the head of the Office shall work with the head of
18 each agency to determine which investments of the agency
19 have an environmental or climate change nexus.

20 (b) REVIEW.—

21 (1) IN GENERAL.—Not later than 5 years after
22 the date of enactment of this Act, for each invest-
23 ment of an agency identified under subsection (a),
24 the Director of the agency and the head of the agen-
25 cy shall carry out a review of the investment to en-

1 sure that, to the extent allowable by law, frontline
2 communities benefit from the investment.

3 (2) REQUIREMENTS.—The review under para-
4 graph (1) shall include—

5 (A) an examination of the eligibility re-
6 quirements for the investment to ensure that
7 frontline communities can compete to receive
8 the investment;

9 (B) an examination of the assistance or
10 options for required non-Federal cost shares for
11 applicants that are, or serve, frontline commu-
12 nities;

13 (C) an examination of whether priority for
14 the investment may be given if the applicant is
15 or primarily serves a frontline community; and

16 (D) an examination of the diversity of the
17 historical recipients of the investment.

18 (c) NEW INVESTMENTS.—Notwithstanding any other
19 provision of law, a new investment with an environmental
20 or climate change nexus shall undergo an assessment to
21 ensure that—

22 (1) to the extent allowed by the laws governing
23 the investment, frontline communities benefit from
24 the investment;

1 (2) an examination of the eligibility require-
2 ments for the investment to ensure that frontline
3 communities can compete to receive the investment;

4 (3) an examination of the assistance or options
5 for required non-Federal cost shares for applicants
6 that are, or serve, frontline communities;

7 (4) an examination of whether priority for the
8 investment may be given if the applicant is or pri-
9 marily serves a frontline community; and

10 (5) an examination of how to increase the diver-
11 sity of recipients of the investment.

12 (d) RETROSPECTIVE REVIEW.—Not less frequently
13 than once every 10 years, the head of the Office shall work
14 with the head of each agency and the Director of that
15 agency to review the application and administration of any
16 investment of the agency with an environmental or climate
17 change nexus to ensure that the investment is serving
18 frontline communities.

19 (e) FINAL REPORT.—

20 (1) IN GENERAL.—After an agency carries out
21 a review under subsection (b), (c), or (d), the head
22 of the agency shall, in coordination with a review
23 panel under section 402(b), if any, prepare a final
24 report describing the results of the review.

1 (2) REQUIREMENTS.—A final report under
2 paragraph (1) shall contain—

3 (A) a statement of the need for, and the
4 objectives of, the investment;

5 (B) a statement of—

6 (i) the recommendations of the review
7 panel under section 402(d)(2), if any; and

8 (ii) any changes made in the imple-
9 mentation of the investment as a result of
10 the recommendations described in clause
11 (i), if any; and

12 (C) a description of the steps the agency
13 has taken to ensure that frontline communities
14 benefit from the investment, including a de-
15 scription of the factual, policy, and legal rea-
16 sons why each of the recommendations de-
17 scribed in subparagraph (B)(i), if any, was re-
18 jected or adopted.

19 (3) CONSIDERATION.—In preparing a final re-
20 port under paragraph (1), the head of the agency
21 with jurisdiction over an investment subject to addi-
22 tional review under section 402, in coordination with
23 the head of the Office, shall give strong consider-
24 ation to the findings and recommendations described
25 in the report under section 402(d).

1 (4) PUBLICATION.—The head of the agency
2 preparing the final report under paragraph (1) shall
3 publish in the Federal Register—

4 (A) the final report; or

5 (B) a summary of the final report.

6 **SEC. 402. ADDITIONAL REVIEW.**

7 (a) IDENTIFICATION.—If the head of the Office, in
8 coordination with the Board of Advisors and the applicable
9 Director, determines that an investment subject to a re-
10 view under subsection (b), (c), or (d) of section 401 re-
11 quires additional review, or the head of the Office directs
12 the review of an investment in accordance with section
13 403, the head of the Office, in coordination with the Board
14 of Advisors and the applicable Director, shall identify indi-
15 viduals representative of affected frontline communities
16 and allies of frontline communities for the purpose of ob-
17 taining advice and recommendations from those individ-
18 uals for changes to the administrative or substantive as-
19 pects of the investment that are not properly serving
20 frontline communities.

21 (b) REVIEW PANELS.—If the head of the Office, in
22 coordination with the Board of Advisors and the applicable
23 Director, determines convening a review panel for an in-
24 vestment subject to a review under subsection (b), (c), or
25 (d) of section 401 to be necessary, or the head of the Of-

1 fice directs the review of an investment in accordance with
2 section 403, the head of the Office shall convene such a
3 review panel, consisting of—

4 (1)(A) the head of the Office; or

5 (B) 1 or more employees of the Office;

6 (2) 1 or more members of the Board of Advi-
7 sors;

8 (3) the Director of the agency; and

9 (4) full-time Federal employees of the office
10 within the agency responsible for carrying out the
11 proposed rule.

12 (c) FUNCTION.—A review panel convened under sub-
13 section (b) shall collect advice and recommendations of
14 each individual frontline community representative and
15 ally identified under subsection (a), after consultation with
16 the head of the Office, on issues relating to the adminis-
17 trative or substantive aspects of the investment that are
18 not properly serving frontline communities.

19 (d) REPORT.—Not later than 60 days after the head
20 of the Office convenes a review panel under subsection (b),
21 the review panel shall submit to the head of the Office
22 and the agency with jurisdiction over the investment a re-
23 port describing—

1 (1) the comments of the review panel on the ad-
2 vice and recommendations of frontline communities
3 and allies collected under subsection (c); and

4 (2) the findings and recommendations of the re-
5 view panel.

6 (e) PUBLICATION.—The head of the agency with ju-
7 risdiction over an investment subject to additional review
8 under this section shall publish in the Federal Register—

9 (1) the report of the review panel under sub-
10 section (d); or

11 (2) a summary of the report of the review panel
12 under subsection (d).

13 **SEC. 403. NONSCHEDULED REVIEW.**

14 The head of the Office may direct a review under sec-
15 tion 402 of an investment with respect to which sufficient
16 complaints have been brought from 1 or more frontline
17 communities or allies.

18 **SEC. 404. AVAILABILITY.**

19 Any review or analysis conducted, or other document
20 prepared, under this title shall be made available to the
21 public through the Office.

1 **TITLE V—SUBNATIONAL**
2 **GUIDANCE**

3 **SEC. 501. GUIDANCE FOR DEVELOPMENT OF IMPLEMENTA-**
4 **TION PLANS.**

5 (a) **DEFINITION OF STATE IMPLEMENTATION**
6 **PLAN.**—In this section, the term “State implementation
7 plan” means a plan or a component of a plan established
8 by a State to implement a Federal law or regulation with
9 an environmental or climate change nexus.

10 (b) **GUIDANCE.**—Not later than 180 days after the
11 date of enactment of this Act, the head of the Office shall
12 issue guidance for States for the consideration of, and con-
13 sultation with, frontline communities in the process of de-
14 veloping a State implementation plan.

○