

DISCUSSION DRAFT

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Climate Equity Act of 2019”.

(b) Table of Contents.—The table of contents for 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.

TITLE III—RULES AND REGULATIONS

Sec.301.Climate and environmental justice accountability agenda.

Sec.302.Initial 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.Report of federal investments.

Sec.403.Availability.

SEC. 2. FINDINGS.

Congress finds that—

- (1) (A) the people of the United States have a right to live in a clean, healthful, and sustainable environment, with access to clean air and clean water;
(B) realizing this right will require addressing systemic environmental injustices and the growing inequities fueled by climate change;
(C) the Federal Government has the responsibility to ensure that the rights described in subparagraph (A) are realized; and
(D) the Federal Government shall be held accountable to protect those most impacted by environmental degradation, climate change, and the fight to address climate change;
- (2) addressing the climate crisis will require a comprehensive set of solutions that will include—
 - (A) federal investment;
 - (B) rules and regulations; and
 - (C) international and intergovernmental cooperation;
- (3) any policy to address climate and environmental justice must acknowledge that—
 - (A) climate change is an immediate crisis, the impacts of which the United States is already experiencing and is a systemic injustice multiplier;
 - (B) low-income communities, indigenous communities, and communities of color across the United States disproportionately experience the cumulative impacts of multiple pollution sources and the compounding impacts of a history of pollution exposure;
 - (C) the impacts of climate change will—
 - (i) disproportionately affect those communities already facing environmental injustice;
 - (ii) increase stressors on vulnerable communities, including the elderly, the unhoused, and people with disabilities;

SEC. 3. DEFINITIONS.

In this Act:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.
- (2) AGENCY; RULE.—The terms “agency” and “rule” have the meanings given those terms in section 551 of title 5, United States Code.
- (3) BOARD OF ADVISORS.—The term “Board of Advisors” means the Board of Advisors established within the Office under section 203(a).
- (4) ENVIRONMENTAL OR CLIMATE CHANGE NEXUS.—The term “environmental or climate

DISCUSSION DRAFT

change nexus” includes an action that—

(A) is intended to directly address the environment or climate change;

(B) has an indirect impact on the status or quality of the environment or climate, including the construction of infrastructure and the manufacturing of goods;

(C) has the potential to create or impact green jobs; and

(D) relates to public health and may be connected to pollution or climate change impacts.

(5) FRONTLINE COMMUNITY.—The term “frontline community” includes—

(A) Those communities and populations that have experienced systemic socioeconomic disparities, environmental injustice, and other forms of injustice, including:

(i) low-income communities;

(ii) indigenous communities; and

(iii) communities of color;

(B) Those communities and populations that are most vulnerable and will be most adversely impacted by environmental and climate injustice and inequitable climate actions, including:

(i) the communities described in subparagraph (A);

(ii) deindustrialized communities;

(iii) depopulated rural communities;

(iv) vulnerable elderly populations;

(v) unhoused populations;

(vi) people with disabilities;

(vii) communities economically dependent on fossil fuel industries; and

(C) The women, youth, and all descendants thereof that are part of the communities described in subparagraphs (A) and (B).

(6) GREEN JOBS.—The term “green jobs” means as defined by the Bureau of Labor Statistics.

(7) INVESTMENT.—The term “investment” includes a grant, loan, rebate, or other similar program that is carried out by an agency.

(8) OFFICE.—The term “Office” means the Office of Climate and Environmental Justice Accountability established by section 201.

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

TITLE I—CONGRESSIONAL EQUITY SCORE

SEC. 101. CLIMATE AND ENVIRONMENTAL EQUITY

OFFICE.

(a) Establishment of Climate and Environmental Equity Office.—Section 201 of the Congressional Budget Act of 1974 (2 U.S.C. 601) is amended by adding at the end the following:

“(h) Climate and Environmental Equity Office.—

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

“(2) DIRECTOR.—The Climate and Environmental Equity Office shall be headed by a Director appointed by the Director of the Office.”.

(b) Duties and Functions.—Section 202(c) of the Congressional Budget Act of 1974 (2 U.S.C. 602(c)) is amended by adding at the end the following:

“(4)(A) In this paragraph, the term ‘frontline communities’ has the meaning given the term in section 3 of the Climate and Environmental Justice Accountability Act of 2019.

“(B) At the request of any committee of the Senate or House of Representatives or at the request of any Member of the Senate or the House of Representatives, the Climate and Environmental Equity Office shall, to the extent practicable, consult with and assist such committee or Member in analyzing the quantitative impact to frontline communities of any proposed legislation related to the environment or climate change in conformance with the scorekeeping guidelines developed under subparagraph (C).

“(C)(i) Not later than 1 year after the date of enactment of this paragraph, the Director of the Climate and Environmental Equity Office, in coordination with an advisory board composed of relevant experts and representatives from frontline communities, shall develop and make publicly available guidelines for scoring legislation under this paragraph.

“(ii) The guidelines developed under clause (i) shall be reviewed once every 5 years by an advisory board described in that clause to incorporate best practices and new understanding relating to the economic and social impacts of environmental and public health and climate change.

“(D) The Climate and Environmental Equity Office shall coordinate with the Director of the Office and other personnel of the Office in carrying out this paragraph.

“(E) It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report unless the Director of the Climate and Environmental Equity Office has published a statement on the quantitative impact to frontline communities of the legislation related to the environment or climate change under subparagraph (B).”.

TITLE II—OFFICE OF CLIMATE AND ENVIRONMENTAL JUSTICE ACCOUNTABILITY

SEC. 201. ESTABLISHMENT; HEAD OF THE OFFICE.

(a) In General.—There is established within the Environmental Protection Agency an office,

to be known as the “Office of Climate and Environmental Justice Accountability”.

(b) Head of the Office.—The head of the Office shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

SEC. 202. FUNCTIONS; PERSONNEL.

(a) Functions.—The functions of the Office include—

- (1) to represent the views of frontline communities in rulemaking;
- (2) to conduct research on environmental and climate issues and trends in frontline communities;
- (3) to measure the direct and indirect costs and benefits of environmental and climate regulations on frontline communities; and
- (4) to monitor compliance with the requirements of this Act.

(b) Personnel.—

(1) IN GENERAL.—On the recommendation of the Board of Advisors, the head of the Office shall appoint a secretary for the Board of Advisors, and such other employees as the head of the Office determines to be necessary to exercise and fulfill the powers and responsibilities of the Office.

(2) COMPENSATION.—The compensation of all employees appointed under subparagraph (A) shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(c) Senior Advisors for Climate and Environmental Justice in other Agencies.—

(1) IN GENERAL.—The head of the Office shall work in coordination with the head of each agency described in paragraph (2) to establish within each agency a position, to be known as the “Senior Advisor for Climate and Environmental Justice”.

(2) AGENCIES DESCRIBED.—The agencies referred to in paragraph (1) are—

- (A) the Environmental Protection Agency;
- (B) the Department of Agriculture;
- (C) the Department of Commerce;
- (D) the Department of Defense;
- (E) the Department of Energy;
- (F) the Department of Health and Human Services;
- (G) the Department of Homeland Security;
- (H) the Department of Housing and Urban Development;
- (I) the Department of the Interior;
- (J) the Department of Labor;
- (K) the Department of Transportation;

DISCUSSION DRAFT

(L) the Department of Education;

(M) the Department of Justice

(N) the Office of Management and Budget;

(O) the Office of Science and Technology Policy;

(P) the Council on Environmental Quality; and

(Q) any other department, agency, or office at the recommendation of the Head of the Office.

(3) FUNCTION.—The function of a Senior Advisor is to ensure the implementation of this Act within the applicable agency in coordination with the Office.

SEC. 203. BOARD OF ADVISORS.

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

(1) the Administrator;

(2) the head of the Office; or

(3) a committee of Congress.

(b) Members.—

(1) APPOINTMENT.—Members of the Board of Advisors shall be appointed by the head of the Office, on the recommendation of the National Academy of Sciences.

(2) SIZE OF BOARD.—

(A) IN GENERAL.—Subject to subparagraph (B), the Board of Advisors shall be composed of not less than 10 members that provide diverse representation of frontline communities and allies, 1 of whom shall be designated chairperson.

(B) ADDITIONAL MEMBERS.—At the discretion of the Head of the Office and at the recommendation of the National Academy of Sciences, additional members representing frontline communities and allies may be added to the Board of Advisors.

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

(A)(i) a representative of a frontline community; or

(ii) ally of a frontline community; and

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

(4) TERM.—A member of the Board of Advisors shall serve for a term of 3 years, which may be renewed for 1 additional term of 3 years

(c) Committees.—

(1) IN GENERAL.—The Board of Advisors may establish such member committees and investigative panels as the head of the Office and the Board of Advisors determine to be necessary to carry out this Act.

DISCUSSION DRAFT

(2) CHAIRPERSON.—Each member committee or investigative panel established under this subsection shall be chaired by a member of the Board of Advisors.

(d) Compensation.—Members of the Board of Advisors may be compensated at a rate to be fixed by the President but not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code.

(e) Public Participation and Transparency.—The Board of Advisors shall make every effort, consistent with applicable law, including section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”), and section 552a of title 5, United States Code (commonly known as the “Privacy Act”), to maximize public participation and transparency, including making the advice of the Board of Advisors and any committees or investigative panels of the Board of Advisors under subsection (c) publicly available in electronic form on the website of the Environmental Protection Agency.

SEC. 204. BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.

(a) Appropriation Requests.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office, which shall be designated in a separate account in the general fund of the Treasury.

(b) Administrative Operations.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations, together with such equipment, operating budget, and communications facilities and services as may be necessary, and shall provide necessary maintenance services for those offices and the equipment and facilities located in those offices.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

TITLE III—RULES AND REGULATIONS

SEC. 301. CLIMATE AND ENVIRONMENTAL JUSTICE ACCOUNTABILITY AGENDA.

(a) In General.—During the months of October and April of each year, each agency shall publish in the Federal Register a climate and environmental justice accountability agenda (referred to in this section as the “agenda”) which shall contain—

(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic, public health, and environmental impact on a substantial number of residents within 1 or more frontline communities;

(2) a summary of—

(A) the nature of each rule under consideration for each subject area listed in the agenda pursuant to paragraph (1);

DISCUSSION DRAFT

(B) the objectives and legal basis for the issuance of each rule listed in the agenda pursuant to paragraph (1); and

(C) an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

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

(c) Frontline Communities.—Each agency shall—

(1) provide notice of each agenda to frontline communities or representatives of the frontline communities through—

(A) direct notification of frontline communities; or

(B) publication of the agenda in publications likely to be obtained by frontline communities; and

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

(d) Savings Provision.—Nothing in this section—

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

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

SEC. 302. INITIAL ANALYSIS.

(a) Initial Regulatory Analysis.—

(1) IN GENERAL.—Subject to section 305(b), whenever an agency is required by section 553 of title 5, United States Code, or any other law, to publish a general notice of proposed rulemaking for a proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall—

(A) in coordination with the Senior Advisor of the agency, prepare an initial climate and environmental justice analysis; and

(B) make available for public comment the initial climate and environmental justice analysis under subparagraph (A).

(2) REQUIREMENTS.—

(A) IMPACT ON FRONTLINE COMMUNITIES.—An initial climate and environmental justice analysis under paragraph (1) shall describe the impact of the proposed rule on frontline communities.

(B) PUBLICATION.—The initial climate and environmental justice analysis under paragraph (1), or a summary of that analysis, shall be published in the Federal Register at the time of the publication of the general notice of proposed rulemaking for the rule.

DISCUSSION DRAFT

(i) Not later than 3 days after the date on which the publication under paragraph B, the agency shall prominently display on the website of the agency and the Office a plain language summary of the information contained in the agenda.

(3) TRANSMISSION.—The agency shall transmit a copy of the initial climate and environmental justice analysis under paragraph (1) to the head of the Office.

(b) Requirement.—Each initial climate and environmental justice analysis under subsection (a)(1) shall contain—

- (1) a description of the reasons why action by the agency is being considered;
- (2) a succinct statement of the objectives of, and legal basis for, the proposed rule;
- (3) a description of and, where feasible, an estimate of the number of residents of frontline communities to which the proposed rule will have a significant impact on;
- (4) a description of the impact, or impacts, to individual frontline communities; and
- (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

(c) Significant Alternatives.—An initial climate and environmental justice analysis under subsection (a)(1) shall contain a description of any significant alternatives to the proposed rule that—

- (1) accomplish the stated objectives of applicable statutes; and
- (2) minimize any significant negative economic, environmental, or public health impact of the proposed rule on frontline communities; or
- (3) maximize any significant positive economic, environmental, or public health impact of the proposed rule on frontline communities.

(d) Projected Impacts.—

(1) IN GENERAL.—An initial climate and environmental justice analysis under subsection (a)(1) shall include a description of—

- (A) any projected, positive or negative, economic, environmental, or public health impacts on frontline communities as a result of the proposed rule;
- (B) any potential cumulative impact on frontline communities that results from the proposed rule, in combination with previously promulgated rules;
- (C) any significant alternatives to the proposed rule that—
 - (i) accomplish the stated objectives of applicable statutes; and
 - (ii) minimize the negative impacts or maximize the positive impacts for frontline communities; or
 - (iii) maximize any significant positive economic, environmental, or public health impact of the proposed rule on frontline communities; and
- (D) the advice and recommendations of representatives of frontline communities relating to issues described in subparagraphs (A), (B), and (C) and subsection (b), as described in paragraph (2).

(2) FURTHER ANALYSIS.—For the purpose of carrying out paragraph (1)(D), if the head of the Office, in consultation with the Board of Advisors, determines that, based on the initial climate and environmental justice analysis under subsection (a)(1), there will be a significant impact on 1 or more frontline communities—

(A) the head of the agency carrying out the initial climate and environmental justice analysis, in coordination with the relevant Senior Advisor for Climate and Environmental Justice, shall identify representatives of frontline communities to develop the advice and recommendations described in that paragraph; and

(B) if the Board of Advisors determines that the representatives identified under subparagraph (A) are insufficient, the Board of Advisors shall appoint additional stakeholders from frontline communities to collect the advice and recommendations described in that paragraph.

SEC. 303. FINAL CLIMATE AND ENVIRONMENTAL JUSTICE ANALYSIS.

(a) Final Analysis.—

(1) IN GENERAL.—When an agency promulgates a final rule under section 553 of title 5, United States Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 302(a), the agency shall prepare a final climate and environmental justice analysis.

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

(A) a statement of the need for, and objectives of, the rule;

(B) a statement of—

(i) the significant issues raised by the public comments, including those by any required further analysis under section 302(d)(2), in response to the initial climate and environmental justice analysis under section 302(a)(1);

(ii) the assessment of the issues raised by the public comments described in clause (i); and

(iii) any changes made in the proposed rule as a result of the public comments described in clause (i);

(C)(i) the response of the agency to any comments filed by the head of the Office in response to the proposed rule; and

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

(D) a description of and an estimate of the number of residents of frontline communities to which the rule will apply or an explanation of why no such estimate is available; and

(E) a description of the steps the agency has taken to minimize the negative, or

maximize the positive, significant economic, environmental, and public health impact on frontline communities that are consistent with the stated objectives of applicable statutes, including—

(i) a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule; and

(ii) a description of why each 1 of the other significant alternatives to the rule considered by the agency which affect the impact on frontline communities was rejected or adopted.

(b) Publication.—The head of the agency shall publish in the Federal Register the final climate and environmental justice analysis under subsection (a)(1) or a summary of that analysis.

SEC. 304. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY ANALYSES.

(a) Simultaneous Analyses.—An agency may perform the analyses required by sections 301, 302, and 303 in conjunction with or as a part of any other agenda or analysis required by any other law if the other analysis satisfies the provisions of those sections, including the analyses required under chapter 6 of title 5, United States Code.

(b) Exceptions.—

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

(A) the head of the agency certifies that the rule will not, if promulgated, have a significant economic, environmental, or public health impact on a substantial number of members of 1 or more frontline communities; and

(B) the head of the Office, in consultation with the Board of Advisors, approves of the certification under subparagraph (A).

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

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

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

(c) Similar Rules.—In order to avoid duplicative action, at the discretion of the Board of Advisors and in consultation with the relevant Senior Advisor for Climate and Environmental Justice, an agency may consider a series of closely related rules as 1 rule for the purposes of sections 301, 302, 303, and 306.

SEC. 305. PROCEDURES FOR GATHERING COMMENTS.

(a) In General.—When a rule is promulgated that will have a significant economic, environmental, or public health impact on a substantial number of members of 1 or more

DISCUSSION DRAFT

frontline communities, the head of the agency promulgating the rule shall ensure that frontline communities have been given an opportunity to participate in the rulemaking for the rule through at least—

- (1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic, environmental, or public health effect on a substantial number of members of 1 or more frontline communities;
- (2) the publication of general notice of proposed rulemaking in publications likely to be obtained by frontline communities;
- (3) the direct notification of interested frontline communities;
- (4) the conduct of open conferences or public hearings concerning the rule for frontline communities, including soliciting and receiving comments over computer networks; and
- (5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by frontline communities.

(b) Requirements.—Prior to publication of an initial climate and environmental justice analysis under section 302(a)(1) for a proposed rule—

- (1) an agency shall notify the head of the Office of the initial climate and environmental justice analysis and provide the head of the Office with information on—
 - (A) the potential impacts of the proposed rule on frontline communities; and
 - (B) the type of frontline communities that might be affected;
- (2) the agency shall carry out the review panel process described in subsection (c) for the proposed rule; and
- (3) where appropriate, the agency shall modify—
 - (A) the proposed rule;
 - (B) the initial climate and environmental justice analysis; or
 - (C) the decision on whether an initial climate and environmental justice analysis is required.

(c) Review Panels.—

(1) IDENTIFICATION.—Not later than 15 days after the date on which the head of the Office receives the materials described in subsection (b)(1) for a proposed rule, the head of the Office, in coordination with the Board of Advisors, shall identify individuals representative of affected frontline communities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.

(2) REVIEW PANEL.—An agency carrying out an initial climate and environmental justice analysis for a proposed rule under section 302(a)(1) shall convene a review panel for the rule, consisting of—

- (A) full-time Federal employees of the office within the agency responsible for carrying out the proposed rule;
- (B) the Senior Advisor of the agency;

DISCUSSION DRAFT

(C) full-time Federal employees of the Office of Information and Regulatory Affairs within the Office of Management and Budget;

(D)(i) the head of the Office; or

(ii) 1 or more employees of the Office; and

(E) 1 or more members of the Board of Advisors.

(3) FUNCTIONS.—A review panel convened under paragraph (2) shall—

(A) review any material the agency has prepared in connection with this title, including any draft proposed rule; and

(B) collect advice and recommendations of each individual frontline community representative identified under paragraph (1), after consultation with the head of the Office, on issues related to—

(i) the descriptions and identifications required under paragraphs (3) and (4) of section 302(b); and

(ii) the significant alternatives analyzed under section 302(c).

(4) REPORT.—Not later than 60 days after the date on which an agency convenes a review panel under paragraph (2), the review panel shall submit a report to the head of the agency on—

(A) the comments and recommendations of the frontline community representatives identified under paragraph (1); and

(B) the findings of the review panel as to the issues described in paragraph (3)(B).

(d) Agency Discretion.—The head of an agency may apply subsection (b) to rules that the head of the agency intends to certify under section 304(b), but that the head of the agency believes may have a greater than de minimis impact on a substantial number of members of 1 or more frontline communities.

(e) Consideration of Recommendations.—The final analysis under section 303 must give strong consideration to the report under section 305(c)(4) to ensure that benefits are maximized to impacted frontline communities.

SEC. 306. PERIODIC REVIEW OF RULES.

(a) Periodic Review.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency that have or will have a significant economic, environmental, or public health impact upon a substantial number of members of 1 or more frontline communities .

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

(3) PURPOSE.—The purpose of the periodic review under paragraph (1) shall be to determine whether the rules subject to the review should be—

(A) continued without change; or

DISCUSSION DRAFT

(B) amended consistent with the underlying statutes, to minimize any significant economic, environmental, or public health impact of the rules upon a substantial number of members of 1 or more frontline communities.

(4) REVIEW OF EXISTING RULES.—

(A) IN GENERAL.—The plan under paragraph (1) shall provide for the review of rules of the agency under that paragraph to be completed—

(i) for rules of the agency existing on the date of enactment of this Act, not later than the date that is 10 years after the date of enactment of this Act; and

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

(b) Considerations.—In reviewing rules under the plan under subsection (a)(1) to minimize negative, or maximize positive, significant economic, environmental, or public health impact of the rule on a substantial number of members within 1 or more frontline communities in a manner consistent with the underlying statutes, the agency shall consider—

(1) the impact on the relevant frontline communities; and

(2) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

(c) Annual List.—

(1) IN GENERAL.—Each year, the head of each agency shall publish in the Federal Register a list of the rules which have a significant economic, environmental, or public health impact on a substantial number of members of 1 or more frontline communities, which are to be reviewed pursuant to this section during the 12-month period starting on the date of the publication of the list.

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

(A) include—

(i) a brief description of each rule; and

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

(B) invite public comment on each rule.

SEC. 307. JUDICIAL REVIEW.

(a) Judicial Review.—

(1) FINAL AGENCY ACTION.—

(A) IN GENERAL.—For any rule subject to this title, a frontline community that is within the zone of interest of a final agency action is entitled to judicial review of agency compliance with the requirements of sections 303, 304(b), and 306 in accordance with chapter 7 of title 5, United States Code.

(B) COMPLIANCE.—Agency compliance with section 305(a) shall be judicially reviewable in connection with judicial review of section 303.

DISCUSSION DRAFT

(2) JURISDICTION.—

(A) IN GENERAL.—Each court having jurisdiction to review a rule for compliance with section 553 of title 5, United States Code, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 303, 304(b), and 306 in accordance with chapter 7 of title 5, United States Code.

(B) COMPLIANCE.—Agency compliance with section 305(a) shall be judicially reviewable in connection with judicial review of section 303.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a frontline community may seek a review described in paragraph (1) during the period—

(i) beginning on the date of final agency action; and

(ii) ending after the time prescribed by the underlying statutes, or 1 year after the date described in clause (i), whichever is longer.

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

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

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

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

(b) Record.—In an action for the judicial review of a rule, the climate and environmental justice analysis for that rule, including an initial climate and environmental justice analysis prepared or corrected pursuant to subsection (a)(4)(A), shall constitute part of the entire record of agency action in connection with such review.

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

(d) Savings.—Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.

SEC. 308. AVAILABILITY.

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

TITLE IV—FEDERAL INVESTMENTS

SEC. 401. REVIEW OF FEDERAL INVESTMENTS.

(a) Identification.—Not later than 2 years after the date of enactment of this Act, and every 2

DISCUSSION DRAFT

years thereafter, the head of the Office shall work with the head of each agency to determine which investments of the agency have an environmental or climate change nexus.

(b) Review.—

(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, for each investment of an agency identified under subsection (a), the head of the Office and the head of the agency shall carry out a review of the investment to ensure that, to the extent allowable by law, frontline communities benefit from the investment.

(2) REQUIREMENTS.—The review under paragraph (1) shall include—

(A) an examination of the eligibility requirements for the investment to ensure that frontline communities can compete to receive the investment;

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

(C) an examination of whether priority for the investment may be given if the applicant is or primarily serves a frontline community.

(c) New Investments.—Notwithstanding any other provision of law, a new investment with an environmental or climate change nexus shall undergo an assessment to ensure that—

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

(2) an examination of the eligibility requirements for the investment to ensure that frontline communities can compete to receive the investment;

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

(4) an examination of whether priority for the investment may be given if the applicant is or primarily serves a frontline community.

(d) Retrospective Review.—

(1) IN GENERAL.—Not less frequently than once every 10 years, the head of the Office shall work with the head of each agency and the relevant Senior Advisor for Climate and Environmental Justice to review the application and administration of any investment of the agency with an environmental or climate change nexus to ensure that the investment is serving frontline communities.

(e) Review Panels.—If the head of the Office, in coordination with the Board of Advisors and the relevant Senior Advisor for Climate and Environmental Justice, determines that an investment subject to a review under paragraphs (b), (c), or (d) shall undergo an additional review to amend the administrative or substantive aspects that are not properly serving frontline communities, a review panel shall be made up by—

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

(B) 1 or more employees of the Office;

(2) 1 or more member of the Board of Advisors;

(3) the relevant Senior Advisor for Climate and Environmental Justice; and

(4) a committee of the Board of Advisors established under section 203(c).

SEC. 402. REPORT OF FEDERAL INVESTMENTS.

(a) Initial Report.—Not later than 60 days after the date on which an agency convenes a review panel under section 401(e), the review panel shall submit a report to the head of the agency on—

- (1) the comments and recommendations of the committee identified under section 401(e)(4); and
- (2) the findings of the full review panel.

(b) Consideration of Recommendations.—The head of the Agency, in coordination with the head of the Office, must give strong consideration to the initial report under paragraph (a) to ensure that federal investments benefit frontline communities.

(c) Final Report.—

(1) IN GENERAL.—When an agency executes a review under section 401, the agency shall prepare a final report in coordination with the review panel under section 401(e), if applicable.

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

- (A) a statement of the need for, and objectives of, the investment;
- (B) a statement of—
 - (i) the recommendations of the review panel; and
 - (ii) any changes made in the application of the investment as a result of the recommendations of the review panel (i);
- (C) a description of the steps the agency has taken to ensure that frontline communities benefit from the federal investment, including—
 - (i) a description of the factual, policy, and legal reasons why each 1 of the recommendations by the review panel was rejected or adopted.

(d) Publication.—The head of the agency shall publish in the Federal Register the final review of federal investment under subsection (a)(1) or a summary of that review.

SEC. 403. AVAILABILITY.

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