

118TH CONGRESS
1ST SESSION

S. _____

To improve the environmental review process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CARPER (for himself, Mr. SCHATZ, Mr. WHITEHOUSE, Ms. SMITH, Mr. MURPHY, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the environmental review process, 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 “Promoting Efficient and Engaged Reviews Act of 2023”
6 or the “PEER Act of 2023”.

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

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

TITLE I—PROCEDURAL AND TECHNOLOGICAL REFORMS TO
IMPROVE EFFICIENT AND EFFECTIVE REVIEWS

2

- Sec. 101. Programmatic environmental reviews.
- Sec. 102. Projects with mitigated effects.
- Sec. 103. Consideration of positive impacts under NEPA.
- Sec. 104. Environmentally beneficial projects.
- Sec. 105. Categorical exclusions.
- Sec. 106. Adoption of prior planning decisions.
- Sec. 107. Procedures for climate change mitigation or resilience projects.
- Sec. 108. Improving certainty.
- Sec. 109. Semiconductor program.

TITLE II—ENSURING MEANINGFUL EARLY ENGAGEMENT

- Sec. 201. Federal Permitting Improvement Steering Council within CEQ.
- Sec. 202. Senior Community Engagement Officers and Tribal Community Engagement Officers.
- Sec. 203. Office of Environmental Justice and External Civil Rights.
- Sec. 204. Community benefits agreements.
- Sec. 205. White House Environmental Justice Interagency Council.
- Sec. 206. Environmental justice analysis in NEPA.
- Sec. 207. Avoiding impacts.
- Sec. 208. Timely public release of NEPA documentation.
- Sec. 209. Grants for capacity building and community engagement.

TITLE III—FACILITATING FEDERAL REVIEWS

- Sec. 301. Fees for environmental reviews.
- Sec. 302. Federally directed reviews for nationally or regionally significant projects.
- Sec. 303. Interagency environmental data system.
- Sec. 304. E-NEPA.
- Sec. 305. University Permitting Workforce Leadership Program.
- Sec. 306. Funded liaison positions.
- Sec. 307. Rapid response permitting task forces.

TITLE IV—BUILDING OUT CRITICAL INFRASTRUCTURE FOR ZERO-EMISSION TECHNOLOGY

- Sec. 401. Geothermal activities on certain land.
- Sec. 402. Next generation highways.
- Sec. 403. Connecting Hard-to-Reach Areas with Renewably Generated Energy.
- Sec. 404. Streamlining interstate transmission of electricity.
- Sec. 405. Cost allocation.

TITLE V—FACILITATING DEVELOPMENT OF ZERO-EMISSION TECHNOLOGY AT BROWNFIELD SITES

- Sec. 501. Definitions.
- Sec. 502. Regional commission support for zero-emission technology development at brownfield sites.
- Sec. 503. Federal-State coordination and assistance for development of zero-emission technology at brownfield sites.
- Sec. 504. Renewable energy and storage development at brownfield sites.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) AGENCY.—The term “agency” has the
5 meaning given the term in section 551 of title 5,
6 United States Code.

7 (3) AUTHORIZATION.—The term “authoriza-
8 tion” has the meaning given the term in section
9 41001 of the FAST Act (42 U.S.C. 4370m).

10 (4) CATEGORICAL EXCLUSION.—The term “cat-
11 egorical exclusion” has the meaning given the term
12 in section 1508.1 of title 40, Code of Federal Regu-
13 lations (or a successor regulation).

14 (5) CHAIR.—The term “Chair” means the
15 Chair of the Council on Environmental Quality.

16 (6) COOPERATING AGENCY.—The term “cooper-
17 ating agency” has the meaning given the term in
18 section 1508.1 of title 40, Code of Federal Regula-
19 tions (or a successor regulation).

20 (7) EFFECT; IMPACT.—

21 (A) IN GENERAL.—The terms “effect” and
22 “impact” mean changes to the human environ-
23 ment as a result of a proposed agency action or
24 alternative that are reasonably foreseeable, in-
25 cluding direct, indirect, and cumulative effects.

1 (B) INCLUSIONS.—The terms “effect” and
2 “impact” include—

- 3 (i) effects relating to climate change;
4 (ii) beneficial and adverse effects; and
5 (iii) disproportionate adverse impacts
6 to communities with environmental justice
7 concerns.

8 (8) ENVIRONMENTAL ASSESSMENT.—The term
9 “environmental assessment” has the meaning given
10 the term in section 1508.1 of title 40, Code of Fed-
11 eral Regulations (or a successor regulation).

12 (9) ENVIRONMENTAL DOCUMENT.—The term
13 “environmental document” means an environmental
14 assessment, a finding of no significant impact, a no-
15 tice of intent, or an environmental impact statement.

16 (10) ENVIRONMENTAL IMPACT STATEMENT.—
17 The term “environmental impact statement” means
18 the detailed written statement required under sec-
19 tion 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)).

20 (11) ENVIRONMENTAL JUSTICE.—The term
21 “environmental justice” means the just treatment
22 and meaningful involvement of all people, regardless
23 of income, race, color, national origin, Tribal affili-
24 ation, or disability, in agency decisionmaking and

1 other Federal activities that affect human health
2 and the environment so that people—

3 (A) are fully protected from disproportion-
4 ate and adverse human health and environ-
5 mental effects (including risks) and hazards, in-
6 cluding effects and impacts relating to climate
7 change, the cumulative impacts of environ-
8 mental and other burdens, and the legacy of
9 racism or other structural or systemic barriers;
10 and

11 (B) have equitable access to a healthy, sus-
12 tainable, and resilient environment in which to
13 live, play, work, learn, grow, worship, and en-
14 gage in cultural and subsistence practices.

15 (12) ENVIRONMENTAL REVIEW.—The term
16 “environmental review” means the agency proce-
17 dures and processes for applying a categorical exclu-
18 sion or for preparing an environmental assessment,
19 an environmental impact statement, or other docu-
20 ment required under NEPA.

21 (13) FEDERAL PERMITTING DIRECTOR.—The
22 term “Federal Permitting Director” means the Fed-
23 eral Permitting Director appointed by the President
24 under section 41002(b)(1)(A) of the FAST Act (42
25 U.S.C. 4370m–1(b)(1)(A)).

1 (14) LEAD AGENCY.—The term “lead agency”
2 means the agency or agencies, in the case of joint
3 lead agencies, preparing or having taken primary re-
4 sponsibility for preparing an environmental docu-
5 ment.

6 (15) NEPA.—The term “NEPA” means the
7 National Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.).

9 (16) PARTICIPATING AGENCY.—The term “par-
10 ticipating agency” has the meaning given the term
11 in section 1508.1 of title 40, Code of Federal Regu-
12 lations (or a successor regulation).

13 (17) PROJECT SPONSOR.—The term “project
14 sponsor” means an entity, including any private,
15 public, or public-private entity, seeking an authoriza-
16 tion for a project.

17 **TITLE I—PROCEDURAL AND**
18 **TECHNOLOGICAL REFORMS**
19 **TO IMPROVE EFFICIENT AND**
20 **EFFECTIVE REVIEWS**

21 **SEC. 101. PROGRAMMATIC ENVIRONMENTAL REVIEWS.**

22 (a) IN GENERAL.—Pursuant to regulations promul-
23 gated or guidance issued by the Chair under subsection
24 (b), each agency may develop, and use, programmatic en-
25 vironmental reviews to address cumulative effects of agen-

1 cy actions and the effects of programmatic agency deci-
2 sions.

3 (b) REGULATIONS AND GUIDANCE.—The Chair shall
4 promulgate regulations relating to, or update the guidance
5 of the Council on Environmental Quality entitled “Final
6 Guidance for Effective Use of Programmatic NEPA Re-
7 views” (79 Fed. Reg. 76986 (December 23, 2014)) to in-
8 clude, the development of programmatic environmental re-
9 views for purposes of carrying out the requirements of
10 NEPA, which shall provide direction to agencies on how
11 to use programmatic environmental reviews to align with
12 environmental reviews and authorizations required under
13 other applicable Federal law, as appropriate.

14 (c) TYPES OF PROGRAMMATIC ENVIRONMENTAL RE-
15 VIEWS.—A programmatic environmental review may in-
16 clude an analysis or evaluation of—

- 17 (1) types of effects;
- 18 (2) geographic locations;
- 19 (3) agency programs of projects;
- 20 (4) categories of similar actions;
- 21 (5) complex projects with multiple phases; and
- 22 (6) other categories, as identified by the Chair
23 in regulations promulgated or guidance issued under
24 subsection (b).

1 (d) USE.—Agency environmental documents shall
2 rely on relevant decisions, analyses, commitments, and
3 procedures identified in a final programmatic environ-
4 mental review developed or adopted under subsection (a),
5 as applicable, without the need for further analysis or pub-
6 lic review, unless there are significant new circumstances
7 or information relevant to environmental concerns that
8 bear on a proposed agency action or the impacts of the
9 proposed agency action.

10 (e) REEVALUATION.—

11 (1) IN GENERAL.—In regulations promulgated
12 or guidance issued under subsection (b), the Chair
13 shall establish a maximum period of time during
14 which a programmatic environmental review may be
15 used by an agency without any reevaluation, which
16 shall not exceed a period of 10 years from the date
17 on which the programmatic environmental review
18 document was finalized.

19 (2) REEVALUATION REQUIRED.—

20 (A) IN GENERAL.—After the period of
21 time established by the Chair pursuant to para-
22 graph (1) has elapsed, an agency may continue
23 to use the programmatic environmental review
24 only after conducting a reevaluation to identify

1 any significant new circumstances or informa-
2 tion.

3 (B) SUPPLEMENTAL ENVIRONMENTAL
4 DOCUMENT.—An agency that identifies signifi-
5 cant new circumstances or information under
6 subparagraph (A) may update the applicable
7 programmatic environmental review through a
8 supplemental environmental document.

9 (f) SPECIFICATIONS.—A programmatic environ-
10 mental review shall, to the extent that the review improves
11 agency efficiency—

- 12 (1) provide the basis for a joint document;
13 (2) eliminate repetitive discussions of the same
14 issue; and
15 (3) be consistent with—
16 (A) NEPA; and
17 (B) other applicable laws.

18 (g) ADDITIONAL REVIEWS.—

19 (1) IN GENERAL.—An agency may use an envi-
20 ronmental assessment or applicable categorical ex-
21 clusion for a project covered by a programmatic en-
22 vironmental review if that programmatic environ-
23 mental review provides sufficient documentation of
24 impacts, alternatives, and mitigation such that the
25 project will not have reasonably foreseeable signifi-

1 “(A) the purposes of”;

2 (B) in subparagraph (A) (as so des-
3 ignated), by striking the period at the end and
4 inserting “; and”; and

5 (C) by adding at the end the following:

6 “(B) the development of programmatic en-
7 vironmental reviews with respect to carrying out
8 the requirements of NEPA or any other appli-
9 cable law, as appropriate, in accordance with
10 section 101 of the Promoting Efficient and En-
11 gaged Reviews Act of 2023.”; and

12 (2) in paragraph (3)—

13 (A) by striking “amounts in the Fund to
14 other Federal agencies” and inserting the fol-
15 lowing: “amounts in the Fund—

16 “(A) to other Federal agencies”;

17 (B) in subparagraph (A) (as so des-
18 ignated), by striking the period at the end and
19 inserting “; and”; and

20 (C) by adding at the end the following:

21 “(B) to other Federal agencies for activi-
22 ties to facilitate timely completion of environ-
23 mental reviews and authorizations, including
24 through the development of programmatic envi-
25 ronmental reviews with respect to carrying out

1 the requirements of NEPA or any other appli-
2 cable law, as appropriate, in accordance with
3 section 101 of the Promoting Efficient and En-
4 gaged Reviews Act of 2023.”.

5 **SEC. 102. PROJECTS WITH MITIGATED EFFECTS.**

6 (a) DEFINITION OF MITIGATION.—In this section,
7 the term “mitigation”, with respect to a project or pro-
8 gram of projects, means 1 or more actions that—

9 (1) avoid an adverse environmental impact by
10 not taking a certain action or parts of an action;

11 (2) minimize an adverse environmental impact
12 by limiting the degree or magnitude of the action
13 and its implementation;

14 (3) rectify an adverse environmental impact of
15 the project or mitigate historic or legacy adverse en-
16 vironmental impacts in an affected community, in-
17 cluding communities with environmental justice con-
18 cerns, by repairing, rehabilitating, or restoring that
19 community;

20 (4) reduce or eliminate an adverse environ-
21 mental impact over time; or

22 (5) compensate for an adverse environmental
23 impact by replacing an affected resource, or pro-
24 viding substitute resources or environments of the
25 same or similar quality and type that would not oth-

1 erwise have been preserved or protected, in a man-
2 ner that is proportionate to the type and extent of
3 the adverse environmental impact.

4 (b) MITIGATION OF ENVIRONMENTAL IMPACTS.—

5 (1) IN GENERAL.—In a decision document for
6 a project or program of projects, an agency may
7 commit to perform, or may require or allow a project
8 sponsor to commit to perform, mitigation of adverse
9 environmental impacts of the project or program or
10 projects.

11 (2) MONITORING.— An agency shall implement
12 and monitor, or require the implementation and
13 monitoring of, the mitigation commitments described
14 in paragraph (1) to ensure the effectiveness of those
15 commitments.

16 (c) COMPENSATORY MITIGATION.—An agency may
17 rely on compensatory mitigation, including compensatory
18 mitigation provided by a third party mitigation sponsor,
19 that is reasonably expected to offset 1 or more adverse
20 environmental impacts of a proposed project, to determine
21 whether the reasonably foreseeable net effects of an action
22 are not significant for particular resources, taking into
23 consideration any adverse local environmental effects, and
24 may determine the effects of a proposed project are not
25 significant and that an environmental impact statement

1 is not required to be prepared for the proposed project,
2 subject to the conditions that—

3 (1) the agency or project sponsor has avoided
4 and minimized adverse impacts to the extent prac-
5 ticable, in the determination of the agency;

6 (2) the compensatory mitigation is enforceable,
7 either by the agency or by parties to a compensatory
8 mitigation commitment;

9 (3) the agency, project sponsor, or third party
10 mitigation sponsor, as applicable, has a specific miti-
11 gation plan for implementing performance stand-
12 ards, monitoring, and long term stewardship plans
13 and funding for the compensatory mitigation for the
14 duration of the adverse impact; and

15 (4) the decision document of the agency identi-
16 fies—

17 (A) the mitigation measures that the agen-
18 cy or project sponsor is adopting and commit-
19 ting to implement, including any monitoring
20 and enforcement plan applicable to those miti-
21 gation commitments;

22 (B) the responsible provider for a third-
23 party mitigation activity and the entity over-
24 seeing the performance of the third-party com-
25 pensatory mitigation mechanism; and

1 (C) relevant information from the mitiga-
2 tion plan described in paragraph (3).

3 (d) MITIGATION MECHANISMS.—

4 (1) IN GENERAL.—In performing, allowing, or
5 requiring compensatory mitigation, an agency may
6 rely on mitigation banking or conservation banking,
7 in which the agency or project sponsor commits to
8 perform or contributes to mitigation action, includ-
9 ing through in-lieu fees, taken in advance of the
10 project at a location other than the location in which
11 a project is being carried out, and the beneficial ef-
12 fects of which have been documented, for the pur-
13 pose of compensating for adverse impacts to re-
14 sources resulting from a project.

15 (2) OVERSIGHT.—An agency that relies on
16 mechanisms described in paragraph (1) shall include
17 in its decision document provisions to ensure ade-
18 quate oversight by the agency, project sponsor, or
19 third party mitigation sponsor of the mitigation
20 mechanism to ensure that the mitigation commit-
21 ment provides an adequate and effective substitute
22 to the impacted resources or environment.

1 **SEC. 103. CONSIDERATION OF POSITIVE IMPACTS UNDER**
2 **NEPA.**

3 Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C))
4 is amended—

5 (1) in each of clauses (i) through (iii), by strik-
6 ing the comma at the end and inserting a semicolon;

7 (2) in clause (iv), by striking “, and” and in-
8 serting a semicolon;

9 (3) in clause (v), by striking the period at the
10 end and inserting a semicolon; and

11 (4) by adding at the end the following:

12 “(vi) any beneficial effects of the pro-
13 posed action, including the reasonably fore-
14 seeable avoidance of, or reduction in con-
15 centration of, greenhouse gases or other
16 air pollutants; and

17 “(vii) any adverse effects that are rea-
18 sonably foreseeable as a result of the pro-
19 posed action not being implemented;”.

20 **SEC. 104. ENVIRONMENTALLY BENEFICIAL PROJECTS.**

21 (a) IN GENERAL.—Consistent with section 1507.3 of
22 title 40, Code of Federal Regulations (or a successor regu-
23 lation), if an agency determines that a category of action
24 described in subsection (b) has significant beneficial envi-
25 ronmental effects, with no significant adverse effects, the

1 agency shall develop a categorical exclusion to exclude that
2 category of action from review under NEPA.

3 (b) TYPES OF ACTIONS DESCRIBED.—Categories of
4 actions referred to in subsection (a) include actions relat-
5 ing to the—

6 (1) restoration or remediation of terrestrial or
7 aquatic habitats or other publicly-owned or publicly-
8 managed land or water; and

9 (2) removal or remediation of contaminants or
10 invasive species.

11 (c) ADDITIONAL CATEGORIES.—The Chair may issue
12 guidance or promulgate regulations to identify other cat-
13 egories of action that are consistent with subsection (a).

14 **SEC. 105. CATEGORICAL EXCLUSIONS.**

15 (a) IN GENERAL.—An agency may adopt a categor-
16 ical exclusion that has been established by another agency,
17 subject to the conditions that—

18 (1) the agency consults on the use of the cat-
19 egorical exclusion with the other agency to ensure
20 that the use by the agency will be substantially simi-
21 lar to the use of the categorical exclusion by the
22 other agency;

23 (2) the categorical exclusion was established by
24 the other agency through an administrative process

1 consistent with section 1507.3 of title 40, Code of
2 Federal Regulations (or a successor regulation);

3 (3) the agency provides a 45-day opportunity
4 for notice and comment on the use of the categorical
5 exclusion established by the other agency; and

6 (4) there are no special or extraordinary cir-
7 cumstances that negate the ability of the agency to
8 categorically exclude a project, consistent with the
9 NEPA implementing procedures of the agency.

10 (b) PROGRAMMATIC OR PROJECT-SPECIFIC BASIS.—

11 An agency may perform the consultation activities de-
12 scribed in paragraph (1) of subsection (a) and notice and
13 comment activities described in paragraph (3) of that sub-
14 section on a programmatic or project-specific basis.

15 **SEC. 106. ADOPTION OF PRIOR PLANNING DECISIONS.**

16 (a) DEFINITION OF PRIOR STUDIES AND DECI-
17 SIONS.—In this section, the term “prior studies and deci-
18 sions” means baseline data, planning documents, studies,
19 analyses, decisions, and documentation that have been
20 previously completed for a project by an agency, or under
21 the laws and procedures of a State or an Indian Tribe,
22 including for determining the reasonable range of alter-
23 natives for the project.

24 (b) RELIANCE ON PRIOR STUDIES AND DECI-
25 SIONS.—In completing an environmental review under

1 NEPA for a project, an agency may consider, and, as ap-
2 propriate, rely on or adopt, prior studies and decisions if
3 the agency determines that—

4 (1) the prior studies and decisions are adequate
5 to comply with analytical requirements under appli-
6 cable Federal law and the NEPA implementing pro-
7 cedures of the agency;

8 (2) the applicable State or Tribal laws and pro-
9 cedures are of equal or greater rigor, as compared
10 to each applicable Federal law and the NEPA imple-
11 menting procedures of the agency, in the case of re-
12 liance on or adoption of prior studies and decisions
13 produced by a State agency or Tribal agency;

14 (3) the prior studies and decisions are acces-
15 sible to the public in a digital, searchable format and
16 were prepared under circumstances that allowed
17 for—

18 (A) opportunities for public participation;

19 and

20 (B) consideration of alternatives and envi-
21 ronmental impacts; and

22 (4) to the extent that other analyses or docu-
23 mentation are required as part of the environmental
24 review or authorization, the prior studies and deci-
25 sions are informed by other analyses or documenta-

1 tion that would have been prepared if the prior stud-
2 ies and decisions were prepared by the lead agency
3 pursuant to NEPA.

4 (c) INCORPORATION BY REFERENCE.—An agency
5 may incorporate prior studies and decisions into environ-
6 mental documents by reference, consistent with section
7 1501.12 of title 40, Code of Federal Regulations (or a suc-
8 cessor regulation).

9 **SEC. 107. PROCEDURES FOR CLIMATE CHANGE MITIGA-**
10 **TION OR RESILIENCE PROJECTS.**

11 (a) DEFINITION OF CLIMATE CHANGE MITIGATION
12 OR RESILIENCE PROJECT.—In this section, the term “cli-
13 mate change mitigation or resilience project” means a
14 project that avoids emissions of, or reduces concentration
15 of, greenhouse gases or enhances the resilience of commu-
16 nities to the effects of climate change, including—

17 (1) a project to construct or operate zero-emis-
18 sion technology; and

19 (2) a project to enable zero-emission technology,
20 such as transmission and charging infrastructure;

21 (3) a project to reduce atmospheric carbon,
22 such as tree planting or soil carbon sequestration;

23 (4) a project to enhance resilience to the im-
24 pacts of climate change, such as flooding, coastal

1 erosion, wildfires, drought, extreme heat, and urban
2 heat islands; and

3 (5) any other type of project identified through
4 rulemaking by the Council on Environmental Qual-
5 ity.

6 (b) PERMITTING PROCESS FOR CLIMATE CHANGE
7 MITIGATION OR RESILIENCE PROJECTS.—

8 (1) LEAD AGENCY DESIGNATION AND ROLE.—

9 (A) DESIGNATION.—

10 (i) IN GENERAL.—The lead agency for
11 a climate change mitigation or resilience
12 project shall be the agency that has prin-
13 cipal responsibility for the project.

14 (ii) DISPUTES.—In the event of a dis-
15 pute relating to the determination of a lead
16 agency under clause (i) for a climate
17 change mitigation or resilience project, the
18 Chair—

19 (I) shall expediently resolve the
20 dispute; and

21 (II) may designate a lead agency
22 for the climate change mitigation or
23 resilience project.

24 (B) ROLE.—

1 (i) IN GENERAL.—The lead agency of
2 a climate change mitigation or resilience
3 project shall—

4 (I) designate a single point of
5 contact for the climate change mitiga-
6 tion or resilience project, who shall as-
7 sist the project sponsor in tracking
8 the project timeline;

9 (II) identify and seek to minimize
10 any project delays; and

11 (III) take such actions as are
12 necessary and appropriate to facilitate
13 the expeditious resolution of the envi-
14 ronmental review for the climate
15 change mitigation or resilience
16 project.

17 (ii) COORDINATED PROJECT PLAN.—
18 The lead agency, in coordination with each
19 cooperating agency and participating agen-
20 cy, shall develop a coordinated project plan
21 for the environmental review for the cli-
22 mate change mitigation or resilience
23 project, which shall include—

24 (I) a list of, and roles and re-
25 sponsibilities for, all entities with envi-

1 ronmental review or authorization re-
2 sponsibility for the climate change
3 mitigation or resilience project;

4 (II) a permitting timetable, con-
5 sistent with the schedule described in
6 paragraph (3), establishing a com-
7 prehensive schedule of dates by which
8 all environmental reviews and author-
9 izations, and to the maximum extent
10 practicable, State permits, reviews
11 and approvals, shall be made for the
12 climate change mitigation or resilience
13 project;

14 (III) a discussion of potential
15 avoidance, minimization, and mitiga-
16 tion strategies; and

17 (IV) a plan and schedule for
18 interagency coordination and public
19 and Tribal outreach and coordination,
20 to the extent required by applicable
21 law.

22 (C) SAVINGS PROVISION.—Nothing in this
23 section precludes an agency from serving as a
24 joint lead agency for a climate change mitiga-

1 tion or resilience project, in accordance with
2 NEPA.

3 (2) ENVIRONMENTAL DOCUMENTS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (C), to the maximum extent prac-
6 ticable and consistent with Federal law, to
7 achieve compliance with NEPA, all Federal au-
8 thorizations and reviews that are necessary for
9 a climate change mitigation or resilience project
10 shall rely on a single environmental document,
11 to the extent that the environmental document
12 will enhance timely completion of the environ-
13 mental review in the determination of the lead
14 agency.

15 (B) USE OF DOCUMENT.—

16 (i) IN GENERAL.—To the maximum
17 extent practicable, the lead agency shall
18 develop environmental documents sufficient
19 to satisfy the requirements of NEPA for
20 any authorization or other Federal action
21 required for the climate change mitigation
22 or resilience project.

23 (ii) COOPERATION OF PARTICIPATING
24 AGENCIES.—Each participating agency
25 shall cooperate with the lead agency and

1 provide timely information to assist the
2 lead agency in carrying out subparagraph
3 (A).

4 (C) EXCEPTIONS.—A lead agency may
5 waive the requirements of subparagraph (A)
6 with respect to a climate change mitigation or
7 resilience project if—

8 (i) the project sponsor requests that
9 agencies issue separate environmental doc-
10 uments;

11 (ii) the obligations of a cooperating
12 agency or participating agency under
13 NEPA have already been satisfied with re-
14 spect to the climate change mitigation or
15 resilience project; or

16 (iii) the lead agency determines that
17 reliance on a single environmental docu-
18 ment described in that subparagraph
19 would not facilitate timely completion of
20 the environmental review or authorization
21 process for the climate change mitigation
22 or resilience project.

23 (3) PROJECT SCHEDULES.—To the maximum
24 extent practicable and consistent with applicable
25 Federal law, a lead agency shall, for a climate

1 change mitigation or resilience project, develop, with
2 the concurrence of each cooperating agency and in
3 consultation with the project sponsor, a schedule for
4 the climate change mitigation or resilience project
5 that is consistent with completing the environmental
6 review process—

7 (A) not later than 2 years after the date
8 on which the lead agency publishes in the Fed-
9 eral Register a notice of intent to prepare an
10 environmental impact statement to the record
11 of decision, in the case of a climate change
12 mitigation or resilience project for which the
13 lead agency determines that an environmental
14 impact statement is required, unless a senior
15 agency official of the lead agency approves a
16 longer period in writing and establishes a new
17 time limit; or

18 (B) not later than 1 year after the date on
19 which the lead agency determines that an envi-
20 ronmental assessment is required to a finding
21 of no significant impact, in the case of a cli-
22 mate change mitigation or resilience project for
23 which the lead agency determines that an envi-
24 ronmental assessment is required, unless a sen-
25 ior agency official of the lead agency approves

1 a longer period in writing and establishes a new
2 time limit.

3 (4) ISSUE IDENTIFICATION AND RESOLU-
4 TION.—

5 (A) COOPERATION.—The lead agency and
6 each cooperating agency shall work coopera-
7 tively, in accordance with this section, to iden-
8 tify and resolve issues that could—

9 (i) delay final decisionmaking for any
10 authorization for a climate change mitiga-
11 tion or resilience project;

12 (ii) significantly delay completion of
13 the environmental review for a climate
14 change mitigation or resilience project; or

15 (iii) result in the denial of any author-
16 ization required for a climate change miti-
17 gation or resilience project under applica-
18 ble law.

19 (B) ACCELERATED ISSUE RESOLUTION
20 AND REFERRAL.—

21 (i) IN GENERAL.—A cooperating
22 agency, a project sponsor, or the Governor
23 of a State in which a climate change miti-
24 gation or resilience project is located may
25 request an issue resolution meeting to be

1 conducted by the lead agency to resolve
2 issues relating to a climate change mitiga-
3 tion or resilience project described in
4 clauses (i) through (iii) of subparagraph
5 (A).

6 (ii) INITIAL MEETING.—Not later
7 than 30 days after the date on which a
8 lead agency receives a request under clause
9 (i), the project point of contact of the lead
10 agency designated under paragraph
11 (1)(B)(i)(I) shall convene appropriate staff
12 for an issue resolution meeting, which shall
13 include—

14 (I) the relevant cooperating agen-
15 cies, including independent agencies
16 (as applicable);

17 (II) the project sponsor; and

18 (III) a representative for the
19 Governor of a State in which the cli-
20 mate change mitigation or resilience
21 project is located, if the Governor re-
22 quested the issue resolution meeting
23 under clause (i).

24 (iii) ELEVATION.—If issue resolution
25 is not achieved by 30 days after the date

1 on which the initial meeting is convened
2 under clause (ii), the issue shall be ele-
3 vated to the head of the lead agency, who
4 shall convene a leadership issue resolution
5 meeting not later than 90 days after the
6 date on which the initial meeting is con-
7 vened under that clause with—

8 (I) the heads of the relevant co-
9 operating agencies, including inde-
10 pendent agencies (as applicable) and
11 any relevant Secretaries;

12 (II) the project sponsor; and

13 (III) the Governor of a State in
14 which the climate change mitigation
15 or resilience project is located, if the
16 Governor requested the initial issue
17 resolution meeting under clause (i).

18 (iv) REFERRAL OF ISSUE RESOLUTION
19 FOR CLIMATE CHANGE MITIGATION OR RE-
20 SILIENCE PROJECTS.—

21 (I) IN GENERAL.—If issue reso-
22 lution for a climate change mitigation
23 or resilience project is not achieved by
24 30 days after the date on which a
25 leadership issue resolution meeting is

1 convened under clause (iii), the head
2 of the lead agency shall refer the mat-
3 ter to the Council on Environmental
4 Quality.

5 (II) MEETING.—Not later than
6 30 days after the date on which the
7 Council on Environmental Quality re-
8 ceives a referral from the head of a
9 lead agency under subclause (I), the
10 Council on Environmental Quality
11 shall convene an issue resolution
12 meeting with—

13 (aa) the head of the lead
14 agency;

15 (bb) the heads of relevant
16 cooperating agencies, including
17 independent agencies (as applica-
18 ble);

19 (cc) the project sponsor; and

20 (dd) the Governor of a State
21 in which the climate change miti-
22 gation or resilience project is lo-
23 cated, if the Governor requested
24 the initial issue resolution meet-
25 ing under clause (i).

1 (v) RECOMMENDATION TO AND RESO-
2 LUTION BY THE PRESIDENT.—If issue res-
3 olution for a climate change mitigation or
4 resilience project is not achieved in a meet-
5 ing convened under clause (iv)—

6 (I) the Chair shall provide rec-
7 ommendations to the President relat-
8 ing to the resolution of the matter;
9 and

10 (II) the President shall have the
11 authority to resolve the matter.

12 (vi) EXTENSION OF TIMELINES.—A
13 timeline established under this paragraph
14 may be extended on mutual agreement of
15 the parties being convened, if the extension
16 will facilitate a more efficient identification
17 and resolution of issues.

18 **SEC. 108. IMPROVING CERTAINTY.**

19 (a) IN GENERAL.—Section 102(2)(C)(i) of NEPA
20 (42 U.S.C. 4332(2)(C)(i)) is amended by inserting “, in-
21 cluding the reasonably foreseeable direct, indirect, and cu-
22 mulative effects,” after “environmental impact”.

23 (b) LIMITATIONS ON CLAIMS.—

1 (1) DEFINITION OF COVERED CAUSE OF AC-
2 TION.—In this subsection, the term “covered cause
3 of action” means a cause of action that—

4 (A) is filed on or after the date of enact-
5 ment of this Act; and

6 (B) arises under subchapter II of chapter
7 5, and chapter 7, of title 5, United States Code
8 (commonly known as the “Administrative Pro-
9 cedure Act”), seeking judicial review of a final
10 agency action issuing or denying a project au-
11 thorization that is subject to the requirements
12 of NEPA.

13 (2) LIMITATIONS ON CLAIMS.—Notwithstanding
14 any other provision of law, a covered cause of action
15 shall be barred unless the covered cause of action is
16 filed not later than 3 years after publication in the
17 Federal Register announcing that the applicable en-
18 vironmental document prepared for the project is
19 final in accordance with NEPA, unless a shorter pe-
20 riod of time is specified under Federal law pursuant
21 to which judicial review is allowed.

22 (3) VENUE FOR COVERED CAUSES OF AC-
23 TION.—Notwithstanding any other provision of law,
24 a covered cause of action may only be brought in the
25 appropriate court of appeals of the United States.

1 **SEC. 109. SEMICONDUCTOR PROGRAM.**

2 Section 9909 of the William M. (Mac) Thornberry
3 National Defense Authorization Act for Fiscal Year 2021
4 (15 U.S.C. 4659) is amended by adding at the end the
5 following:

6 “(c) ENVIRONMENTAL REVIEW TRANSITION.—Each
7 of the following shall be subject to the use of a categorical
8 exclusion under the National Environmental Policy Act of
9 1969 (42 U.S.C. 4321 et seq.):

10 “(1) The provision by the Secretary of Federal
11 financial assistance for a project relating to the con-
12 struction, expansion, or modernization of a facility
13 described in section 9902(a)(1), if, as of January 1,
14 2023, all other applicable environmental permits and
15 approvals required for commencement of that project
16 have been issued.

17 “(2) The review and approval by the Secretary
18 of Defense of any activity relating to the creation,
19 expansion, or modernization of one or more facilities
20 described in the second sentence of section
21 9903(a)(1), or any activity relating to carrying out
22 section 9903(b), if, as of January 1, 2023, the
23 project sponsor has—

24 “(A) received all other applicable environ-
25 mental permits and approvals required for com-
26 mencement of that activity; and

1 “(B) commenced that activity.”

2 **TITLE II—ENSURING MEANING-**
3 **FUL EARLY ENGAGEMENT**

4 **SEC. 201. FEDERAL PERMITTING IMPROVEMENT STEERING**
5 **COUNCIL WITHIN CEQ.**

6 (a) FPISC WITHIN CEQ.—

7 (1) FPISC WITHIN CEQ.—Section 41002(a) of
8 the FAST Act (42 U.S.C. 4370m–1(a)) is amended
9 by inserting “in the Council on Environmental Qual-
10 ity” after “There is established”.

11 (2) FEDERAL PERMITTING DIRECTOR.—

12 (A) DEFINITION.—Section 41001 of the
13 FAST Act (42 U.S.C. 4370m) is amended—

14 (i) by striking paragraph (12);

15 (ii) by redesignating paragraph (13)
16 as paragraph (12); and

17 (iii) by inserting after paragraph (12)

18 (as so redesignated) the following:

19 “(13) FEDERAL PERMITTING DIRECTOR.—The
20 term ‘Federal Permitting Director’ means the Fed-
21 eral Permitting Director appointed by the President
22 under section 41002(b)(1)(A).”.

23 (B) TRANSITION.—The individual serving
24 as the Executive Director of the Federal Per-
25 mitting Improvement Steering Council on the

1 day before the date of enactment of this Act
2 shall be deemed to have been appointed as the
3 Federal Permitting Director.

4 (C) REFERENCES.—Any reference in a
5 law, map, regulation, document, paper, or other
6 record of the United States to the Executive
7 Director of the Federal Permitting Improve-
8 ment Steering Council shall be deemed to be a
9 reference to the Federal Permitting Director.

10 (D) CONFORMING AMENDMENTS.—

11 (i) Section 41002(c)(1) of the FAST
12 Act (42 U.S.C. 4370m–1(c)(1)) is amend-
13 ed, in the paragraph heading, by striking
14 “EXECUTIVE DIRECTOR” and inserting
15 “FEDERAL PERMITTING DIRECTOR”.

16 (ii) Section 41003 of the FAST Act
17 (42 U.S.C. 4370m–2) is amended—

18 (I) in subsection (b)(4), in the
19 paragraph heading, by striking “EX-
20 ECUTIVE DIRECTOR” and inserting
21 “FEDERAL PERMITTING DIRECTOR”;
22 and

23 (II) in subsection (c)(3)(C)(ii), in
24 the clause heading, by striking “EX-

1 EXECUTIVE DIRECTOR” and inserting
2 “FEDERAL PERMITTING DIRECTOR”.

3 (iii) Section 41008(a)(1) of the FAST
4 Act (42 U.S.C. 4370m–7(a)(1)) is amend-
5 ed, in the paragraph heading, by striking
6 “EXECUTIVE DIRECTOR” and inserting
7 “FEDERAL PERMITTING DIRECTOR”.

8 (iv) Title XLI of the FAST Act (42
9 U.S.C. 4370m et seq.) (as amended by
10 subparagraph (A)) is amended by striking
11 “Executive Director” each place it appears
12 and inserting “Federal Permitting Direc-
13 tor”.

14 (b) COUNCIL ON ENVIRONMENTAL QUALITY OF-
15 FICES.—Title II of NEPA (42 U.S.C. 4341 et seq.) is
16 amended—

17 (1) by redesignating section 209 as section 211;

18 and

19 (2) by inserting after section 208 the following:

20 **“SEC. 209. OFFICE OF ENVIRONMENTAL JUSTICE.**

21 “(a) ESTABLISHMENT.—There is established in the
22 Council the Office of Environmental Justice (referred to
23 in this section as the ‘Office’).

24 “(b) FEDERAL ENVIRONMENTAL JUSTICE OFFI-
25 CER.—

1 “(1) ESTABLISHMENT.—There is established
2 the position of Federal Environmental Justice Offi-
3 cer, who shall be the head of the Office.

4 “(2) APPOINTMENT.—The Federal Environ-
5 mental Justice Officer shall be appointed by the
6 President.

7 “(3) DUTIES.—The Federal Environmental
8 Justice Officer shall coordinate the implementation
9 of environmental justice policy across the Federal
10 Government.

11 “(4) SUPPORT.—The Environmental Protection
12 Agency shall support the work of the Office.

13 **“SEC. 210. OFFICE OF SUSTAINABILITY.**

14 “(a) ESTABLISHMENT.—There is established in the
15 Council the Office of Sustainability (referred to in this sec-
16 tion as the ‘Office’).

17 “(b) FEDERAL CHIEF SUSTAINABILITY OFFICER.—

18 “(1) ESTABLISHMENT.—There is established
19 the position of Federal Sustainability Officer, who
20 shall be the head of the Office.

21 “(2) APPOINTMENT.—The Federal Sustain-
22 ability Officer shall be appointed by the President.

23 “(3) DUTIES.—The Federal Sustainability Offi-
24 cer shall lead development of policies, programs, and
25 partnerships to advance sustainability and climate

1 resilient Federal operations, consistent with the sus-
2 tainability goals described in Executive Order 14057
3 (42 U.S.C. 4321 note; relating to catalyzing clean
4 energy industries and jobs through Federal sustain-
5 ability).

6 “(4) SUPPORT.—The Environmental Protection
7 Agency shall support the work of the Office.”.

8 **SEC. 202. SENIOR COMMUNITY ENGAGEMENT OFFICERS**
9 **AND TRIBAL COMMUNITY ENGAGEMENT OF-**
10 **FICERS.**

11 (a) DESIGNATION OF SENIOR COMMUNITY ENGAGE-
12 MENT OFFICERS AND TRIBAL COMMUNITY ENGAGEMENT
13 OFFICERS.—

14 (1) IN GENERAL.—Consistent with guidance
15 provided by the Director of the Office of Manage-
16 ment and Budget, the head of each agency with au-
17 thority for completing environmental reviews, per-
18 mits, or analyses required by law shall designate—

19 (A) 1 or more appropriate employees or of-
20 ficials of the applicable agency to serve as a
21 Senior Community Engagement Officer (re-
22 ferred to in this section as an “SCO”); and

23 (B) 1 or more appropriate employees or of-
24 ficials of the applicable agency (other than an
25 employee or official designated as an SCO

1 under subparagraph (A)) to serve as a Tribal
2 Community Engagement Officer (referred to in
3 this section as a “TEO”).

4 (2) RESPONSIBILITIES OF AN SCO AND TEO.—
5 An SCO and a TEO shall—

6 (A) oversee community or Tribal, as appli-
7 cable, engagement in environmental review and
8 authorization processes carried out by the agen-
9 cy;

10 (B) advise the applicable head of the agen-
11 cy on matters relating to community or Tribal,
12 as applicable, engagement;

13 (C) identify, recommend, and implement
14 approaches to expand and improve early, mean-
15 ingful community or Tribal, as applicable, en-
16 gagement relating to—

17 (i) the environmental review and au-
18 thorization processes carried out by the
19 agency; and

20 (ii) agency decisionmaking relating to
21 those processes;

22 (D) identify and avoid or resolve conflicts
23 with affected communities or Indian Tribes, as
24 applicable—

1 (i) to align Federal actions with the
2 needs and interests of those communities
3 or Indian Tribes, as applicable; and

4 (ii) to minimize the potential for delay
5 of environmental review and authorization
6 processes carried out by the agency;

7 (E) identify opportunities with affected
8 communities or Indian Tribes, as applicable, to
9 accelerate the environmental review and author-
10 ization processes carried out by the agency;

11 (F) provide technical support and capacity
12 building, on request of a community or an In-
13 dian Tribe, as applicable, to enhance the ability
14 of communities and Indian Tribes to engage
15 constructively in agency decisionmaking; and

16 (G) assist in developing and negotiating
17 community benefits agreements consistent with
18 section 204.

19 (3) TRIBAL CONSULTATION.—In addition to the
20 responsibilities described in paragraph (2), a TEO
21 shall oversee robust Tribal consultation and engage-
22 ment.

23 (4) REPORTING.—An SCO and a TEO shall re-
24 port directly to a deputy secretary (or equivalent) or

1 higher position in the agency in which the SCO and
2 TEO serves.

3 (b) REGIONAL COMMUNITY ENGAGEMENT OFFI-
4 CERS.—An agency may appoint Regional Community En-
5 gagement Officers to support community and Tribal en-
6 gagement in environmental review and authorization proc-
7 esses carried out by the agency within an applicable re-
8 gion, including activities—

9 (1) to identify and implement approaches to ex-
10 pand and improve early, meaningful community and
11 Tribal engagement relating to—

12 (A) the environmental review and author-
13 ization processes carried out by the agency; and

14 (B) agency decisionmaking relating to
15 those processes;

16 (2) to identify and avoid or resolve conflicts
17 with affected communities and Indian Tribes that
18 have the potential to delay environmental review and
19 authorization processes carried out by the agency;

20 (3) to identify opportunities with affected com-
21 munities and Indian Tribes to accelerate the envi-
22 ronmental review and authorization processes car-
23 ried out by the agency;

24 (4) to provide technical support and capacity
25 building, on request of a community or an Indian

1 Tribe, to enhance the ability of communities or In-
2 dian Tribes to engage constructively in agency deci-
3 sion making; and

4 (5) to assist in developing and negotiating com-
5 munity benefits agreements consistent with section
6 204.

7 (c) APPLICATION.—Notwithstanding any other provi-
8 sion of law, chapter 10 of title 5, United States Code
9 (commonly known as the “Federal Advisory Committee
10 Act”), shall not apply to stakeholder engagement proc-
11 esses or public comment activities that are required under
12 or proceeding from a Federal environmental permitting
13 process and led by an SCO, a TEO, or a regional Commu-
14 nity Engagement Officer appointed under subsection (b).

15 (d) FAST 41.—

16 (1) DEFINITION OF AGENCY SCO.—Section
17 41001 of the FAST Act (42 U.S.C. 4370m) (as
18 amended by section 201(a)(2)(A)) is amended—

19 (A) by redesignating paragraphs (2)
20 through (18) as paragraphs (3) through (19),
21 respectively; and

22 (B) by inserting after paragraph (1) the
23 following:

24 “(2) AGENCY SCO.—The term ‘agency SCO’
25 means the senior community engagement officer of

1 an agency, as designated by the head of the agency
2 under section 202(a)(1)(A) of the Promoting Effi-
3 cient and Engaged Reviews Act of 2023.”.

4 (2) DISPUTE RESOLUTION.—Section
5 41003(c)(2)(C)(i) of the FAST Act (42 U.S.C.
6 4370m–2(c)(2)(C)(i)) is amended by striking “agen-
7 cy CERPOs” and inserting “agency CERPOS, agen-
8 cy SCOs,”.

9 (3) ENVIRONMENTAL REVIEW IMPROVEMENT
10 FUND.—Section 41009(d)(3) of the FAST Act (42
11 U.S.C. 4370m–8(d)(3)) is amended—

12 (A) by striking “facilitate timely” and in-
13 serting “facilitate early, meaningful community
14 engagement and timely”; and

15 (B) by inserting “and agency SCOs” after
16 “agency CERPOs”.

17 **SEC. 203. OFFICE OF ENVIRONMENTAL JUSTICE AND EX-**
18 **TERNAL CIVIL RIGHTS.**

19 (a) ESTABLISHMENT.—There is established in the
20 Environmental Protection Agency an Office of Environ-
21 mental Justice and External Civil Rights (referred to in
22 this section as the “Office”)—

23 (1) to lead the agency-wide effort of the Envi-
24 ronmental Protection Agency in addressing the

1 needs of communities with environmental justice
2 concerns;

3 (2) to maximize the benefits of programs and
4 activities of the Environmental Protection Agency to
5 communities with environmental justice concerns;
6 and

7 (3) to enforce Federal civil rights laws, which
8 together prohibit discrimination by applicants for
9 and recipients of financial assistance from the Envi-
10 ronmental Protection Agency.

11 (b) ASSISTANT ADMINISTRATOR FOR ENVIRON-
12 MENTAL JUSTICE AND EXTERNAL CIVIL RIGHTS.—The
13 Office shall be led by an Assistant Administrator for Envi-
14 ronmental Justice and External Civil Rights (referred to
15 in this section as the “Assistant Administrator”), to be
16 appointed by the President, by and with the advice and
17 consent of the Senate.

18 (c) DUTIES.—The duties of the Office shall include—

19 (1) supporting the mission of the Environ-
20 mental Protection Agency by providing leadership on
21 environmental justice and external civil rights in the
22 programs and activities of the Environmental Pro-
23 tection Agency, in collaboration with other Federal
24 agencies and partners;

1 (2) coordinating implementation of the environ-
2 mental justice and external civil rights programs and
3 activities described in paragraph (1) across—

4 (A) national programs and regions of the
5 Environmental Protection Agency; and

6 (B) partnerships the Environmental Pro-
7 tection Agency has with other agencies and
8 partners in State, Tribal, and local governments
9 and communities;

10 (3) providing resources and other technical as-
11 sistance on civil rights and environmental justice to
12 partners in State, Tribal, and local governments and
13 communities;

14 (4) engaging with communities with environ-
15 mental justice concerns;

16 (5) providing support for community-led action
17 relating to environmental justice; and

18 (6) providing service and expertise in alter-
19 native dispute resolution, environmental conflict res-
20 olution, consensus-building, and collaborative prob-
21 lem solving through the Conflict Prevention and
22 Resolution Center of the Environmental Protection
23 Agency.

1 **SEC. 204. COMMUNITY BENEFITS AGREEMENTS.**

2 (a) DEFINITION OF COMMUNITY BENEFITS ORGANI-
3 ZATION.—In this section, the term “community benefits
4 organization” means an organization described in section
5 501(c)(3) of the Internal Revenue Code of 1986 and ex-
6 empt from taxation under section 501(a) of that Code
7 formed to protect the human health and environment of
8 communities in the area in which a proposed project is
9 to be carried out.

10 (b) CONSIDERATION IN NEPA.—In developing an en-
11 vironmental document for a project or program of
12 projects, the head of an agency that is serving as the lead
13 agency for the project shall take into consideration wheth-
14 er a project sponsor has entered into a community benefits
15 agreement with a State, an affected unit of local govern-
16 ment, an Indian Tribe, or a community benefits organiza-
17 tion that may include the disbursement of funds for social,
18 economic, or environmental benefits that will—

19 (1) offset impacts resulting from the construc-
20 tion or operation of the project; or

21 (2) address legacy or historical harm or cumu-
22 lative impacts in the location in which the project is
23 being carried out.

24 (c) PROJECTS REQUIRING ENVIRONMENTAL IMPACT
25 STATEMENTS.—The head of an agency that is serving as
26 the lead agency for a project may require a project sponsor

1 to enter into a community benefits agreement with a
2 State, an affected unit of local government, an Indian
3 Tribe, or a community benefits organization for a project
4 requiring preparation of an environmental impact state-
5 ment to offset, in full or in part, any significant adverse
6 social, economic, or environmental impacts resulting from
7 the construction or operation of the project.

8 (d) CONSIDERATIONS.—In determining whether to
9 require a project sponsor to enter into a community bene-
10 fits agreement with a State, an affected unit of local gov-
11 ernment, an Indian Tribe, or a community benefits organi-
12 zation under subsection (c), the lead agency shall con-
13 sider—

14 (1) the available resources of the project spon-
15 sor and avoidance of burdens on small business con-
16 cerns;

17 (2) the scale of the project and degree of im-
18 pacts, including cumulative impacts to communities
19 with environmental justice concerns; and

20 (3) the benefits to a local community resulting
21 from the project, relative to the impacts to the com-
22 munity resulting from the project.

23 (e) NEGOTIATION.—

24 (1) IN SPONSOR.—A community benefits agree-
25 ment described in subsection (b) or (c) shall be ne-

1 negotiated between the project sponsor and the State,
2 affected unit of local government, or Indian Tribe,
3 as applicable.

4 (2) TECHNICAL ASSISTANCE.—On request of a
5 State, affected unit of local government, or Indian
6 Tribe, the head of an agency that is serving as the
7 lead agency may provide technical assistance to the
8 State, affected unit of local government, or Indian
9 Tribe in developing and negotiating a community
10 benefits agreement described in subsection (b) or
11 (c).

12 (3) THIRD PARTY NEUTRAL.—For a community
13 benefits agreement required by a lead agency under
14 subsection (c), the lead agency—

15 (A) may request a representative of the
16 Conflict Prevention and Resolution Center of
17 the Environmental Protection Agency or the
18 John S. McCain III National Center for Envi-
19 ronmental Conflict Resolution to act as a neu-
20 tral third party in the negotiation and prepara-
21 tion of the community benefits agreement; and

22 (B) shall reimburse the Environmental
23 Protection Agency or the Udall Foundation, as
24 applicable, for the reasonable costs of that serv-
25 ice.

1 (4) MECHANISM FOR HOLDING FUNDS.—Negotiation relating to a community benefits agreement
2 described in subsection (b) or (c) shall address the
3 mechanism through which funds associated with the
4 community benefits agreement will be held and dis-
5 persed, such as through a trust fund or similar in-
6 strument.
7

8 (f) USE OF FUNDS.—Funds received by a State, af-
9 fected unit of local government, or Indian Tribe under a
10 community benefits agreement described in subsection (b)
11 or (c) shall be used for activities or infrastructure that—

12 (1) are beneficial to communities affected by
13 the applicable project; and

14 (2) are identified as priorities by the applicable
15 State, affected unit of local government, or Indian
16 Tribe that is party to the community benefits agree-
17 ment.

18 (g) INCLUSIONS.—A community benefits agreement
19 may—

20 (1) address historical or legacy impacts that
21 continue to contribute to cumulative impacts, identi-
22 fied under a community impact report pursuant to
23 section 206(c); and

24 (2) include commitments by the project sponsor
25 to hire members of the local workforce during con-

1 struction, operation, or maintenance of the applica-
2 ble project.

3 **SEC. 205. WHITE HOUSE ENVIRONMENTAL JUSTICE INTER-**
4 **AGENCY COUNCIL.**

5 (a) IN GENERAL.—The President shall maintain
6 within the Executive Office of the President a White
7 House Environmental Justice Interagency Council (re-
8 ferred to in this section as the “Council”).

9 (b) PURPOSES.—The purposes of the Council are—

10 (1) to improve coordination and collaboration
11 among agencies and to help advise and assist agen-
12 cies in identifying and addressing, as appropriate,
13 the disproportionate human health and environ-
14 mental effects of Federal programs, policies, prac-
15 tices, and activities on communities of color, low-in-
16 come communities, and Tribal and Indigenous com-
17 munities;

18 (2) to promote meaningful involvement and due
19 process in the development, implementation, and en-
20 forcement of environmental laws;

21 (3) to coordinate with, and provide direct guid-
22 ance and technical assistance to, environmental jus-
23 tice communities, with a focus on increasing commu-
24 nity understanding of the science, regulations, and

1 policy related to agency actions on environmental
2 justice issues;

3 (4) to address environmental health, pollution,
4 and public health burdens in environmental justice
5 communities, and build healthy, sustainable, and re-
6 silient communities;

7 (5) to develop and update a strategy to address
8 current and historical environmental injustice, in
9 consultation with the White House Environmental
10 Justice Advisory Council and local environmental
11 justice leaders, that includes—

12 (A) clear performance metrics to ensure
13 accountability; and

14 (B) an annually published public perform-
15 ance scorecard on the implementation of the
16 Council; and

17 (6) to support and facilitate interagency col-
18 laboration on programs and activities related to envi-
19 ronmental justice, including the development of ma-
20 terials for environmental justice training to build the
21 capacity of Federal employees to advance environ-
22 mental justice and to increase the meaningful par-
23 ticipation of individuals from communities with envi-
24 ronmental justice concerns in Federal activities.

25 (c) COMPOSITION.—

1 (1) IN GENERAL.—The Council shall be com-
2 posed of individuals described in section 7(a) of Ex-
3 ecutive Order 14096 (88 Fed. Reg. 25251; relating
4 to Revitalizing Our Nation’s Commitment to Envi-
5 ronmental Justice for All).

6 (2) ADDITIONAL MEMBERS.—The Chair may
7 include additional individuals from independent
8 agencies on the Council, including individuals from
9 the Nuclear Energy Regulatory Commission and the
10 Federal Energy Regulatory Commission, as deter-
11 mined appropriate by the Chair.

12 (d) GOVERNANCE.—The Chair shall serve as Chair-
13 person of the Council.

14 (e) REPORTING TO PRESIDENT.—The Council shall
15 report to the President through the Chair.

16 (f) UNIFORM CONSIDERATION GUIDANCE.—

17 (1) IN GENERAL.—To ensure that there is a
18 common level of understanding of terminology used
19 in dealing with environmental justice issues, not
20 later than 1 year after the date of enactment of this
21 Act, after coordinating with and conducting outreach
22 to environmental justice communities, State govern-
23 ments, Tribal Governments, and local governments,
24 the Chair, in consultation with the Council, shall de-
25 velop and publish in the Federal Register a guidance

1 document to assist agencies in defining and applying
2 the following terms:

3 (A) Health disparities.

4 (B) Environmental exposure disparities.

5 (C) Demographic characteristics, including
6 age, sex, and race or ethnicity.

7 (D) Social stressors, including poverty,
8 housing quality, access to health care, edu-
9 cation, immigration status, linguistic isolation,
10 historical trauma, and lack of community re-
11 sources.

12 (E) Cumulative effects or risks.

13 (F) Community vulnerability or suscepti-
14 bility to adverse human health and environ-
15 mental effects (including climate change).

16 (G) Barriers to meaningful involvement in
17 the development, implementation, and enforce-
18 ment of environmental laws.

19 (H) Community capacity to address envi-
20 ronmental concerns, including the capacity to
21 obtain equitable access to environmental amen-
22 ities.

23 (2) PUBLIC COMMENT.—For a period of not
24 less than 30 days, the Chair shall seek public com-

1 ment on the guidance document developed under
2 paragraph (1).

3 (g) DEVELOPMENT OF INTERAGENCY FEDERAL EN-
4 VIRONMENTAL JUSTICE STRATEGY.—

5 (1) IN GENERAL.—Not less frequently than
6 once every 4 years, after notice and opportunity for
7 public comment, the Chair, in consultation with the
8 Council, shall update a coordinated interagency Fed-
9 eral environmental justice strategy to address cur-
10 rent and historical environmental injustice, including
11 clear performance metrics to ensure accountability.

12 (2) ANNUAL PERFORMANCE SCORECARD.—The
13 Chair, in consultation with the Council, shall annu-
14 ally publish a public performance scorecard on the
15 implementation of the interagency Federal environ-
16 mental justice strategy.

17 (h) SUBMISSION OF REPORT TO PRESIDENT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after updating the interagency Federal environ-
20 mental justice strategy under subsection (g)(1), the
21 Chair shall submit to the President a report that
22 contains a description of the implementation of the
23 interagency Federal environmental justice strategy.

24 (2) PUBLIC AVAILABILITY.—The head of each
25 agency that participates in the Council shall make

1 the report described in paragraph (1) available to
2 the public (including by posting a copy of the report
3 on the website of each agency).

4 (i) ADMINISTRATION.—

5 (1) OFFICE OF ADMINISTRATION.—The Office
6 of Administration within the Executive Office of the
7 President shall provide funding and administrative
8 support for the Council, to the extent permitted by
9 law and within existing appropriations.

10 (2) OTHER AGENCIES.—To the extent per-
11 mitted by law, including section 1535 of title 31,
12 United States Code (commonly known as the “Econ-
13 omy Act”), and subject to the availability of appro-
14 priations, the Secretary of Labor, the Secretary of
15 Transportation, and the Administrator shall provide
16 administrative support for the Council, as necessary.

17 (j) MEETINGS AND STAFF.—

18 (1) CHAIRPERSON.—The Chair shall—

19 (A) convene regular meetings of the Coun-
20 cil;

21 (B) determine the agenda of the Council in
22 accordance with this section; and

23 (C) direct the work of the Council.

24 (2) EXECUTIVE DIRECTOR.—The Chair shall
25 designate an Executive Director of the Council, who

1 shall coordinate the work of, and head any staff as-
2 signed to, the Council.

3 (k) OFFICERS.—To facilitate the work of the Council,
4 the head of each agency that serves on the Council shall
5 designate an Environmental Justice Officer within the
6 agency, with the authority—

7 (1) to represent the agency on the Council; and

8 (2) to perform such other duties relating to the
9 implementation of this section within the agency as
10 the head of the agency determines to be appropriate.

11 (l) ESTABLISHMENT OF SUBGROUPS.—At the direc-
12 tion of the Chair, the Council may establish 1 or more
13 subgroups consisting exclusively of Council members or
14 their designees under this section, as appropriate.

15 **SEC. 206. ENVIRONMENTAL JUSTICE ANALYSIS IN NEPA.**

16 (a) DEFINITION OF MAJOR FEDERAL ACTION.—In
17 this section, the term “major Federal action” has the
18 meaning given the term in section 1508.1 of title 40, Code
19 of Federal Regulations (or a successor regulation).

20 (b) PURPOSE.—The purpose of this section is to es-
21 tablish consistent protections relating to major Federal ac-
22 tions affecting communities with environmental justice
23 concerns in recognition of the disproportionate burden of
24 adverse human health or environmental effects faced by
25 those communities.

1 (c) PREPARATION OF A COMMUNITY IMPACT RE-
2 PORT.—A lead agency proposing to take a major Federal
3 action shall prepare and make publicly available, as part
4 of an environmental document required under NEPA, a
5 community impact report assessing the potential impacts
6 of the proposed major Federal action if that action—

7 (1) will require the preparation of an environ-
8 mental assessment or environmental impact state-
9 ment under NEPA; and

10 (2) has reasonably foreseeable adverse impacts
11 to a community with environmental justice concerns.

12 (d) CONTENTS.—

13 (1) IN GENERAL.—A community impact report
14 described in subsection (c) shall—

15 (A) assess the degree to which a proposed
16 major Federal action affecting a community
17 with environmental justice concerns will cause
18 multiple or cumulative exposure to human
19 health and environmental hazards that exacer-
20 bate or contribute to adverse health outcomes;

21 (B) assess legacy pollution, including his-
22 torical patterns of exposure to environmental
23 hazards; and

24 (C) evaluate alternatives to or mitigation
25 measures for the proposed major Federal action

1 that will eliminate or reduce any identified sig-
2 nificant exposure in a community with environ-
3 mental justice concerns to human health and
4 environmental hazards described in subpara-
5 graph (A).

6 (2) HAZARDS NOT WITHIN JURISDICTION OF AN
7 AGENCY.—To the extent practicable, and consistent
8 with section 1502.21 of title 40, Code of Federal
9 Regulations (or a successor regulation), an agency
10 shall assess the hazards described in paragraph
11 (1)(B) even if those hazards are not within the con-
12 trol or subject to the discretion of the agency pro-
13 posing the Federal action.

14 (e) COMMUNITY ENGAGEMENT.—In carrying out the
15 requirements of this section for a proposed major Federal
16 action that may affect a community with environmental
17 justice concerns, an agency shall—

18 (1) provide early and meaningful community in-
19 volvement opportunities; and

20 (2) notify communities of the involvement op-
21 portunities described in paragraph (1) through ac-
22 cessible communication methods, which may include
23 electronic media, newspapers, radio, direct mailings,
24 canvassing, and other outreach methods particularly

1 targeted at communities with environmental justice
2 concerns.

3 (f) REGULATIONS REQUIRED.—Not later than 1 year
4 after the date of enactment of this Act, the Chair shall
5 promulgate regulations relating to conducting a commu-
6 nity impact report described in subsection (c) of part of
7 an environmental document.

8 **SEC. 207. AVOIDING IMPACTS.**

9 (a) DECLARATION OF NATIONAL ENVIRONMENTAL
10 POLICY.—Section 101(a) of NEPA (42 U.S.C. 4331(a))
11 is amended—

12 (1) by striking “man” each place it appears and
13 inserting “humankind”; and

14 (2) by striking “man’s” and inserting
15 “human”.

16 (b) ENVIRONMENTAL REQUIREMENTS.—Section
17 102(2) of NEPA (42 U.S.C. 4332(2)) (as amended by sec-
18 tion 103(1)) is amended—

19 (1) by striking “insure” each place it appears
20 and inserting “ensure”;

21 (2) in subparagraph (A), by striking “man’s”
22 and inserting “the human”;

23 (3) in subparagraph (C)—

24 (A) by striking clause (iii) and inserting
25 the following:

1 “(iii) a reasonable range of alter-
2 natives to the proposed action that—

3 “(I) are technically feasible;

4 “(II) are economically feasible;

5 “(III) meet the purpose and need
6 of the proposed action, consistent with
7 section 1502.2 of title 40, Code of
8 Federal Regulations (or a successor
9 regulation); and

10 “(IV) to the extent practicable,
11 do not cause, contribute to, or fully
12 offset adverse environmental impacts,
13 including direct, indirect, or cumu-
14 lative impacts;” and

15 (B) in clause (iv), by striking “man’s” and
16 inserting “the human”;

17 (4) in subparagraph (E), by inserting “that are
18 consistent with subparagraph (C)(iii)” after “de-
19 scribe appropriate alternatives”; and

20 (5) in subparagraph (F), by striking “man-
21 kind’s” and inserting “humankind’s”.

22 **SEC. 208. TIMELY PUBLIC RELEASE OF NEPA DOCUMENTA-**
23 **TION.**

24 (a) IN GENERAL.—To achieve the goals described in
25 section 1507.4 of title 40, Code of Federal Regulations

1 (or a successor regulation), to allow agencies and the pub-
2 lie to efficiently and effectively access information relating
3 to environmental reviews required under NEPA, a lead
4 agency shall post a link on the public website of the agency
5 to environmental documents that are, to the extent prac-
6 ticable, available in a searchable, digital format, when
7 those environmental documents prepared by the agency
8 are finalized by the agency, including—

9 (1) notice of intent and other scoping notices;

10 (2) draft, final, and supplemental environ-
11 mental impact statements;

12 (3) environmental assessments and Findings of
13 No Significant Impacts;

14 (4) Record of Decision documents;

15 (5) any additional documentation related to
16 NEPA analysis; and

17 (6) to the extent practicable, any documenta-
18 tion associated with a determination to proceed with
19 an action under a categorical exclusion.

20 (b) **TIMING.**—A lead agency shall publish the envi-
21 ronmental documents under subsection (a) by not later
22 than the earlier of—

23 (1) 3 days after the date on which the lead
24 agency finalizes the environmental document; and

1 (2) 3 days after the date on which notice of the
2 availability of the environmental document is pub-
3 lished in the Federal Register.

4 (c) COOPERATING AGENCIES.—A cooperating agency
5 shall provide a link to the location on the website of the
6 lead agency to the environmental documents on which the
7 agency was a cooperating agency

8 **SEC. 209. GRANTS FOR CAPACITY BUILDING AND COMMU-
9 NITY ENGAGEMENT.**

10 (a) IN GENERAL.—The Administrator shall make
11 grants to States, units of local government, Indian Tribes,
12 and nonprofit associations—

13 (1) for the purpose of increasing capacity build-
14 ing for environmental review and permitting activi-
15 ties; and

16 (2) to enhance community engagement opportu-
17 nities related to environmental reviews.

18 (b) PURPOSES.—Grants made under this section
19 shall be for—

20 (1) enabling States, units of local government,
21 Indian Tribes, and nonprofit associations to compile
22 data, conduct analyses, and complete other activities
23 relating to State, local, and Tribal environmental re-
24 views, permits, and consultations;

1 (2) engaging in planning activities and in the
2 development and review of potential Federal actions
3 that are subject to NEPA, for the purposes of—

4 (A) determining potential economic, social,
5 public health, and environmental impacts; and

6 (B) identifying opportunities to mitigate
7 those impacts;

8 (3) State and Tribal work—

9 (A) to identify zones for renewable energy;

10 (B) to facilitate renewable energy siting; or

11 (C) to provide technical assistance to units
12 of local government to establish renewable en-
13 ergy zoning ordinances; and

14 (4) training, hiring of personnel, and other ac-
15 tivities designed to increase the capacity of States,
16 units of local government, Indian Tribes, and non-
17 profit associations, as applicable, to carry out activi-
18 ties described in paragraphs (1) through (3).

19 (c) FUNDING.—

20 (1) AUTHORIZATION OF APPROPRIATIONS.—

21 There is authorized to be appropriated to the Envi-
22 ronmental Protection Agency to make grants to enti-
23 ties described in subsection (a) under this section
24 \$500,000,000 for each of fiscal years 2024 through
25 2029.

1 (2) ENVIRONMENTAL REVIEW FUND.—In addi-
2 tion to amounts made available under paragraph
3 (1), the Administrator may use amounts available in
4 the Environmental Review Fund for the Environ-
5 mental Protection Agency established under section
6 301(c) to make grants to entities described in sub-
7 section (a) under this section.

8 **TITLE III—FACILITATING** 9 **FEDERAL REVIEWS**

10 **SEC. 301. FEES FOR ENVIRONMENTAL REVIEWS.**

11 (a) ESTABLISHMENT OF FEES.—

12 (1) IN GENERAL.—The head of each agency
13 with authority for completing environmental reviews
14 or authorizations required by law shall set, through
15 regulations promulgated by that agency, fees for
16 work to complete the environmental review and any
17 authorization for a project.

18 (2) SPECIFICATIONS.—A fee established under
19 paragraph (1) shall be—

20 (A) fair;

21 (B) sufficient to cover the costs to the
22 agency of completing an environmental review
23 or authorization; and

24 (C) consistent with any guidance estab-
25 lished by the Council on Environmental Quality

1 and the Office of Management and Budget
2 under subsection (b).

3 (3) **ADDITIONAL CONSIDERATIONS.**—In estab-
4 lishing a fee under paragraph (1), the head of an
5 agency may also consider—

6 (A) the value of the service or thing to the
7 individual or entity that receives a completed
8 environmental review, permit, or analysis;

9 (B) public interest served;

10 (C) the complexity of a project and number
11 of agencies involved as cooperating agencies;

12 (D) potential impacts on small businesses;

13 and

14 (E) other relevant factors, as determined
15 by the agency.

16 (b) **GUIDANCE.**—Not later than 120 days after the
17 date of enactment of this Act, the Council on Environ-
18 mental Quality and the Office of Management and Budget
19 shall issue joint guidance to agencies to facilitate the con-
20 sistent collection of information on fees and reporting of
21 data under subsection (c)(5).

22 (c) **ENVIRONMENTAL REVIEW FUNDS.**—

23 (1) **ESTABLISHMENT.**—There is established at
24 each agency with authority for completing environ-
25 mental reviews or authorizations required by law an

1 Environmental Review Fund (referred to in this sub-
2 section as a “Fund”), consisting of—

3 (A) fees established under subsection (a)
4 that are collected by the agency; and

5 (B) amounts deposited in the Fund under
6 section 302(c).

7 (2) AVAILABILITY.—Amounts in a Fund or
8 amounts transferred to an agency under paragraph
9 (3) shall be available to the applicable agency, with-
10 out further appropriation, for—

11 (A) environmental review staff salaries and
12 training and third-party contracts to support
13 the completion of environmental reviews;

14 (B) completing environmental reviews and
15 authorizations;

16 (C) environmental data collection;

17 (D) development of documents and anal-
18 yses that will facilitate timely environmental re-
19 views, including programmatic analyses and
20 memoranda of understanding;

21 (E) costs associated with carrying out the
22 requirements of section 302;

23 (F) monitoring compliance with agency de-
24 cisions; and

1 (G) other activities and services that will
2 facilitate timely environmental reviews, as de-
3 termined by the head of the agency.

4 (3) TRANSFER AUTHORITY.—

5 (A) IN GENERAL.—An agency with a Fund
6 shall have the authority to transfer funds to an-
7 other agency—

8 (i) for work performed as a cooper-
9 ating agency on a project that is subject to
10 a fee established by an agency under sub-
11 section (a);

12 (ii) to cover the costs of conducting
13 and completing responsibilities required
14 under other Federal law for a project or
15 program of projects on which an agency is
16 serving as the lead agency; or

17 (iii) to fund liaison positions at an-
18 other agency to facilitate interagency co-
19 ordination and timely completion of envi-
20 ronmental reviews and authorizations.

21 (B) ACCEPTANCE OF FUNDS.—An agency
22 with a Fund shall have the authority to accept
23 funding transferred by another agency under
24 subparagraph (A).

1 (4) PROGRAMMATIC ENVIRONMENTAL REVIEW
2 FUND.—

3 (A) ESTABLISHMENT.—An agency with a
4 Fund may establish within the Fund a separate
5 programmatic environmental review fund.

6 (B) CONTRIBUTION BY PROJECT SPON-
7 SORS.—An agency may allow a project sponsor
8 or group of project sponsors to contribute to a
9 programmatic environmental review fund to fa-
10 cilitate the development of a programmatic en-
11 vironmental review.

12 (C) FEES FOR PROGRAMMATIC ENVIRON-
13 MENTAL REVIEWS.—An agency that established
14 a programmatic environmental review may es-
15 tablish fees, consistent with specifications and
16 considerations under subsection (a), when the
17 environmental document for a project carried
18 out by a project sponsor will tier off the pro-
19 grammatic environmental review, consistent
20 with section 1501.11 of title 40, Code of Fed-
21 eral Regulations (or a successor regulation).

22 (5) REPORT.—The head of each agency with a
23 Fund shall prepare, and make publicly available on
24 the website of the agency, an annual report on the

1 collection and use of fees established under sub-
2 section (a).

3 (6) CLARIFICATIONS.—

4 (A) AMOUNTS IN FUND.—Amounts in a
5 Fund shall supplement existing amounts au-
6 thorized to carry out activities described in
7 paragraph (2).

8 (B) POSITIONS.—An individual hired by an
9 agency using amounts in a Fund shall not be
10 subject to any limitation relating to the number
11 of full-time equivalent employees of the agency
12 otherwise imposed by law.

13 (d) WAIVER.—Fees established under subsection (a)
14 may exempt parties for which the fee would impose an
15 undue financial burden or is otherwise determined to be
16 inappropriate, as the determined by the applicable agency.

17 **SEC. 302. FEDERALLY DIRECTED REVIEWS FOR NATION-**
18 **ALLY OR REGIONALLY SIGNIFICANT**
19 **PROJECTS.**

20 (a) PURPOSES.—The purposes of this section are—

21 (1) to enable agencies to identify opportunities
22 to advance commercially-viable projects that—

23 (A) support national goals; and

24 (B) require an environmental review; and

1 (2) to complete any necessary environmental re-
2 views and authorizations for projects described in
3 paragraph (1)—

4 (A) to facilitate timely completion of envi-
5 ronmental reviews for the project; and

6 (B) to limit risks to project sponsors asso-
7 ciated with delays in receiving an authorization
8 for a project.

9 (b) IDENTIFICATION OF PROJECTS.—

10 (1) PROJECT IDENTIFICATION.—

11 (A) IN GENERAL.—Each agency may iden-
12 tify nationally significant projects that would, if
13 carried out, support national goals of reducing
14 greenhouse gas emissions, enhancing climate re-
15 siliency or adaptation and resilience to the im-
16 pacts of climate change, such as flooding, coast-
17 al erosion, wildfires, drought, extreme heat, and
18 urban heat islands, improving the sufficiency
19 and reliability of the national electrical trans-
20 mission grid, or protecting public health.

21 (B) JOINT AGENCIES.—As appropriate, 2
22 or more agencies may jointly identify projects
23 under subparagraph (A).

1 (C) AUTHORITY AND EXPERTISE.—In
2 identifying projects under subparagraph (A),
3 each agency shall identify projects—

4 (i) that are in the authority and ex-
5 pertise of the agency;

6 (ii) for which the agency will serve as
7 the lead agency with responsibility for car-
8 rying out the environmental review for the
9 projects pursuant to NEPA; and

10 (iii) for which the agency has a rea-
11 sonable expectation that there will be a
12 non-Federal entity interested in the oppor-
13 tunity to develop the project.

14 (2) REQUIREMENTS.—For each project identi-
15 fied under paragraph (1)(A), an agency shall—

16 (A) identify the location, area, or corridor
17 where the project could be developed; and

18 (B) prepare an environmental document
19 and complete any other required environmental
20 review or authorization, as applicable, includ-
21 ing—

22 (i) soliciting public comment;

23 (ii) coordinating with other agencies,
24 as applicable;

1 (iii) conducting baseline analyses and
2 surveys; and

3 (iv) conducting consultations with
4 Tribal governments and other consulta-
5 tions required under Federal law; and

6 (C) resolve any litigation that may arise
7 with respect to completing the environmental
8 review.

9 (3) SPECIFICATIONS.—In carrying out the envi-
10 ronmental review for a project identified under para-
11 graph (1)(A), an agency—

12 (A) may establish parameters for the scale,
13 impact, and location of the project, which—

14 (i) would provide an entity that suc-
15 cessfully bids to develop the project under
16 subsection (c)(1) flexibility in that develop-
17 ment; and

18 (ii) shall be reasonably narrow
19 enough—

20 (I) to take into account the na-
21 ture of any impacts and benefits of
22 the project; and

23 (II) to provide the public with
24 sufficient information to engage and

1 understand the impacts and benefits
2 of the project;

3 (B) shall identify locations and project pa-
4 rameters based on the reasonably foreseeable
5 expectation of avoiding or minimizing adverse
6 environmental impacts, in the determination of
7 the agency;

8 (C) may establish requirements for mitiga-
9 tion, including compensatory mitigation, of un-
10 avoidable environmental impacts, to be carried
11 out by the entity that successfully bids to de-
12 velop the project under subsection (c)(1); and

13 (D) may establish requirements for com-
14 munity benefits payments consistent with sec-
15 tion 204.

16 (4) STATE AND LOCAL ENGAGEMENT.—

17 (A) PRIORITIES AND CONCERNS.—In iden-
18 tifying the location, area, or corridor where a
19 project could be developed under paragraph
20 (2)(A), an agency shall—

21 (i) consult and cooperate with the
22 Governor of the State in which the project
23 is located, any affected units of local gov-
24 ernment, and the governing body of any
25 affected Indian Tribe to identify any prior-

1 ities or concerns those entities may have;
2 and

3 (ii) to the maximum extent prac-
4 ticable, take those priorities and concerns
5 into account when identifying those loca-
6 tions, areas, or corridors.

7 (B) COOPERATIVE AGREEMENT.—

8 (i) IN GENERAL.—The head of an
9 agency that identifies a project under
10 paragraph (1)(A) may enter into a cooper-
11 ative agreement with relevant affected
12 State, local, or Tribal agencies to enable
13 full participation of those agencies in the
14 planning, development, and public engage-
15 ment relating to the project.

16 (ii) OBJECTIONS.—A cooperative
17 agreement entered into under clause (i)
18 may establish procedures for negotiating
19 and resolving objections that affected
20 State, local, or Tribal agencies may have
21 with respect to the planning and develop-
22 ment of a project identified under para-
23 graph (1)(A).

24 (5) ADDITIONAL REVIEWS.—If, following the
25 solicitation of bids under subsection (c)(1), a project

1 sponsor determines it necessary to significantly mod-
2 ify the project beyond the parameters established by
3 the lead agency, the lead agency shall conduct a sup-
4 plemental environmental review limited only to eval-
5 uating the effect of those changes.

6 (6) PROGRAMMATIC REVIEWS.—The authorities
7 described in this section may be applied toward the
8 development of programmatic environmental reviews
9 that evaluate a program of projects, or to activities,
10 including site monitoring and assessment, that may
11 be required prior to developing a project-specific en-
12 vironmental document.

13 (c) BIDDING.—

14 (1) IN GENERAL.—For each project identified
15 under subsection (b)(1)(A), the agency shall solicit
16 bids, in accordance with paragraphs (2) and (3), and
17 consistent with the applicable agency authorities,
18 from private and non-Federal entities for the right
19 to develop the project.

20 (2) REQUIREMENTS.—A bid submitted under
21 paragraph (1) shall not be in an amount that is less
22 than the estimated cost to the applicable agency, as
23 determined by that agency, of carrying out the re-
24 quirements described in subsection (b)(2) for the ap-
25 plicable project.

1 (3) **TIMING.**—An agency may solicit bids under
2 paragraph (1) at the completion of the final environ-
3 mental document or conclusion of any litigation re-
4 lating to the project.

5 (4) **TRANSPARENCY.**—Each agency that solicits
6 bids under paragraph (1) shall make information
7 publicly available on the successful bid for each
8 project, which shall include—

9 (A) the name of the entity that success-
10 fully bid to develop that project;

11 (B) the total number of bids submitted to
12 develop that project; and

13 (C) the amount of the successful bid sub-
14 mitted for that project.

15 (5) **PROJECT SPECIFICATIONS.**—A private or
16 non-Federal entity that acquires the right to develop
17 a project under paragraph (1) shall comply with the
18 specifications of the project established under sub-
19 section (b)(3).

20 (d) **ENVIRONMENTAL REVIEW FUND.**—Amounts re-
21 ceived by an agency as a result of bids received under sub-
22 section (c)(1) shall be deposited in the Environmental Re-
23 view Fund of the agency established by section 301(c)(1).

24 (e) **RECOMMENDATION OF PROJECTS.**—Each agency
25 that identifies projects under subsection (b)(1)(A) shall—

1 (1) provide an opportunity for the public to rec-
2 ommend projects, that align with the national goals
3 described in that subsection, that the agency should
4 identify and review under subsection (b)(2); and

5 (2) seek to identify and review projects that fill
6 gaps identified by Rapid Response Permitting Task
7 Forces established under section 307(a).

8 **SEC. 303. INTERAGENCY ENVIRONMENTAL DATA SYSTEM.**

9 (a) PURPOSE.—The purpose of this section is to ad-
10 vance the purposes of NEPA by improving the availability
11 and shared use of environmental data, including geo-
12 graphic information system data, in implementing section
13 101 of that Act (42 U.S.C. 4331).

14 (b) ENVIRONMENTAL DATA SYSTEM.—

15 (1) IN GENERAL.—The Chair, in coordination
16 with, and support from, the Administrator and the
17 Director of the Office of Management and Budget
18 (referred to in this section as the “Director”) and in
19 consultation with the Federal Geographic Data Com-
20 mittee and heads of agencies with relevant geo-
21 graphic information system data, shall oversee the
22 development of linked interagency environmental
23 data collection systems that include georeferenced
24 qualitative and quantitative data for use by all agen-

1 cies in preparing any environmental document and
2 tracking environmental outcomes, including—

3 (A) documents required for compliance
4 with NEPA;

5 (B) required monitoring data and informa-
6 tion; and

7 (C) data on mitigation commitments re-
8 quired in documents described in subparagraph
9 (A).

10 (2) GOALS.—In developing linked interagency
11 environmental data collection systems under para-
12 graph (1), the Chair, in coordination with the Ad-
13 ministrators and the Director, shall seek—

14 (A) to standardize and enhance the use of
15 nonconfidential geographic information and
16 geospatial data in environmental review, author-
17 ization, and decisionmaking;

18 (B) to ensure that data is findable, acces-
19 sible, interoperable, and reusable;

20 (C) to facilitate coordination between agen-
21 cies, including up-to-date georeferenced infor-
22 mation sharing about current agency actions;

23 (D) to enable project sponsors—

24 (i) to identify project locations that
25 would avoid or minimize impacts; and

1 (ii) to conduct preliminary scoping of
2 impacts;

3 (E) to improve the accuracy and efficiency
4 of decisionmaking, facilitate the preparation of
5 environmental documents, and expedite the en-
6 vironmental review process under NEPA;

7 (F) to reduce the duplication of efforts by
8 agencies;

9 (G) to standardize the collection of envi-
10 ronmental impacts and outcomes;

11 (H) to track long-term environmental out-
12 comes, including the efficacy of mitigation com-
13 mitments; and

14 (I) to provide critical information to the
15 public.

16 (3) EXISTING DATA.—In developing linked
17 interagency environmental data collection systems
18 under paragraph (1), the Chair in coordination with
19 the Administrator and the Director, shall interface
20 relevant information from existing geographic infor-
21 mation systems and other relevant systems and
22 databases.

23 (4) AGENCY RESPONSIBILITIES.—Each agency
24 with environmental review responsibilities or relevant
25 environmental data shall—

1 (A) participate in the development of
2 linked interagency environmental data collection
3 systems under paragraph (1);

4 (B) make relevant environmental data
5 available to be integrated into those linked
6 interagency environmental data collection sys-
7 tems; and

8 (C) make environmental documents avail-
9 able to be integrated into those linked inter-
10 agency environmental data collection systems.

11 (5) REQUIREMENTS.—

12 (A) ENVIRONMENTAL DATA SYSTEM.—
13 Linked environmental data collection systems
14 required under paragraph (1) shall, at a min-
15 imum—

16 (i) include—

17 (I) digital geographic information
18 system data or other location data for
19 the activities for which an environ-
20 mental impact statement or an envi-
21 ronmental assessment was prepared;

22 (II) in a machine-readable for-
23 mat, each environmental impact state-
24 ment and environmental assessment,

1 including appendices, prepared pursu-
2 ant to NEPA; and

3 (III) to the extent practicable,
4 geographic information system data or
5 other location data for documents,
6 permits, monitoring reports, or re-
7 ports prepared under State environ-
8 mental review laws;

9 (ii) be searchable and sortable to
10 allow users to find specific documents and
11 specific types of information, such as—

12 (I) analysis of types of environ-
13 mental impact;

14 (II) analysis of types of Federal
15 actions;

16 (III) geographic location;

17 (IV) ecological, cultural, and his-
18 torical features and resources; and

19 (V) other categories, as deter-
20 mined by the Chair, the Adminis-
21 trator, and the Director;

22 (iii) use an interactive, digital, and
23 cloud-based platform; and

24 (iv) enable States to integrate relevant
25 State-level environmental data.

1 (B) PUBLIC AVAILABILITY.—

2 (i) IN GENERAL.—The Chair, in co-
3 ordination with the Administrator and the
4 Director, shall make the linked interagency
5 environmental data collection systems re-
6 quired under paragraph (1) publicly avail-
7 able, to the extent consistent with section
8 552 of title 5, United States Code, and any
9 exemption from disclosure of sensitive site-
10 specific information under applicable law.

11 (ii) PUBLIC OUTREACH TOOLS.—
12 Linked interagency environmental data col-
13 lection systems required under paragraph
14 (1) shall include tools that—

15 (I) enhance the abilities of agen-
16 cies to conduct the public outreach
17 and engagement required under
18 NEPA;

19 (II) enable agencies to publish in-
20 formation regarding public engage-
21 ment opportunities under NEPA; and

22 (III) facilitate opportunities for
23 the public to provide agencies with
24 relevant environmental or scientific in-
25 formation and data, including locally-

1 specific environmental data, that
2 could complement monitoring efforts
3 and enhance evidence-based decision-
4 making.

5 (c) ADDITIONAL TOOLS.—Agencies shall look for op-
6 portunities—

7 (1) to use, and to encourage recipients of Fed-
8 eral funding to use, sustainable, efficient review and
9 construction practices; and

10 (2) to expand the use of digital processes within
11 environmental reviews, construction, and mainte-
12 nance activities.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to the Council on Environ-
15 mental Quality to carry out the linked interagency envi-
16 ronmental data collection systems required under sub-
17 section (b)(1) \$20,000,000 for each of fiscal years 2023
18 through 2028.

19 **SEC. 304. E-NEPA.**

20 (a) PERMITTING PORTAL STUDY.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Council on
23 Environmental Quality shall conduct, and submit to
24 Congress the results of, a study on the potential to
25 create an online permitting portal for permits that

1 require review under section 102(2)(C) of NEPA
2 (42 U.S.C. 4332(2)(C)) that would—

3 (A) allow applicants—

4 (i) to submit required documents or
5 materials relating to a permit application
6 in 1 unified portal;

7 (ii) to upload additional documents as
8 required by the applicable agency; and

9 (iii) to track the progress of individual
10 applications;

11 (B) enhance interagency coordination in
12 consultation by—

13 (i) allowing for comments in 1 unified
14 portal;

15 (ii) centralizing data necessary for re-
16 views; and

17 (iii) streamlining communications be-
18 tween other agencies and the applicant;

19 and

20 (C) boost transparency in agency decision-
21 making.

22 (2) AUTHORIZATION OF APPROPRIATIONS.—

23 There is authorized to be appropriated to the Coun-
24 cil of Environmental Quality to carry out this sub-
25 section \$500,000.

1 (b) DIGITAL ENVIRONMENTAL REVIEW.—

2 (1) IN GENERAL.—A lead agency may use or
3 allow a project sponsor to use digital, visual, or vir-
4 tual tools and presentations, including through inter-
5 active and cloud-based platforms, in place of nar-
6 rative text descriptions in any environmental impact
7 statement or environmental assessment—

8 (A) unless an agency determines that
9 doing so would not—

10 (i) facilitate more effective agency co-
11 ordination and public review;

12 (ii) improve the ability of the public
13 and stakeholders to engage with the envi-
14 ronmental review process;

15 (iii) improve the ability of the public
16 and stakeholders to have a deeper and
17 more consistent understanding of the Fed-
18 eral action and its effects on the environ-
19 ment; or

20 (iv) facilitate long-term accessibility of
21 data and information contained in the re-
22 view for use in other environmental reviews
23 and environmental monitoring; and

24 (B) subject to the requirement that those
25 materials are archivable and made part of an

1 accessible and permanent file relating to the en-
2 vironmental review and authorization.

3 (2) GUIDANCE.—Not later than 180 days after
4 the date of enactment of this Act, the Chair shall
5 issue technology-neutral best practice guidance to
6 encourage agencies and project sponsors to use an
7 interactive, digital, cloud-based platform in carrying
8 out the environmental impact analysis and commu-
9 nity engagement processes required under NEPA.

10 (c) DIGITAL PLATFORMS FOR NEPA REVIEWS FOR
11 INFRASTRUCTURE PROJECTS.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) COVERED PROJECT.—The term “cov-
14 ered project” means a project that received a
15 grant under any of the following:

16 (i) The nationally significant freight
17 and highway projects program under sec-
18 tion 117 of title 23, United States Code
19 (commonly known as the “Infrastructure
20 for Rebuilding America (INFRA) grant
21 program”).

22 (ii) The national infrastructure
23 project assistance program under section
24 6701 of title 49, United States Code (com-

1 monly known as the “Mega grant pro-
2 gram”).

3 (iii) The local and regional project as-
4 sistance program under section 6702 of
5 title 49, United States Code (commonly
6 known as the “Rebuilding American Infra-
7 structure with Sustainability and Equity
8 (RAISE) grant program”).

9 (iv) The program for national infra-
10 structure investments (commonly known as
11 the “Rebuilding American Infrastructure
12 with Sustainability and Equity (RAISE)
13 grant program” and formerly known as the
14 “Better Utilizing Investments to Leverage
15 Development (BUILD) grant program”).

16 (B) SECRETARY.—The term “Secretary”
17 means the Secretary of Transportation.

18 (2) PURPOSES.—The purposes of this sub-
19 section are—

20 (A) to expedite the environmental review
21 process at agencies and for the general public;
22 and

23 (B) to facilitate interactive public stake-
24 holder engagement and understanding of envi-
25 ronmental impacts of proposed Federal actions.

1 (3) DIGITAL PLATFORM DEMONSTRATION
2 PROJECTS.—

3 (A) IN GENERAL.—The Secretary shall
4 identify not less than 10 covered projects to
5 demonstrate the use of interactive, digital,
6 cloud-based platforms in carrying out the envi-
7 ronmental impact analysis and community en-
8 gagement processes required under NEPA.

9 (B) VOLUNTARY PARTICIPATION.—The
10 Secretary shall establish a process for projects
11 that receive Federal funds from the Secretary
12 to voluntarily participate in the demonstration
13 project under subparagraph (A), which may in-
14 clude projects in States participating in the sur-
15 face transportation project delivery program
16 under section 327 of title 23, United States
17 Code.

18 (C) COVERED PROJECTS.—Notwith-
19 standing any other provision of law, in selecting
20 covered projects to participate in the dem-
21 onstration project under subparagraph (A), the
22 Secretary shall give priority to applications for
23 projects that demonstrate a plan to implement
24 an interactive, cloud-based platform to carry
25 out the environmental impact analysis and com-

1 munity engagement processes required under
2 NEPA.

3 (4) REPORTS.—

4 (A) IN GENERAL.—Not later than 180
5 days after the date of enactment of this Act,
6 the Secretary shall submit to the Committee on
7 Environment and Public Works of the Senate
8 and the Committee on Transportation and In-
9 frastructure of the House of Representatives a
10 report on the efficacy of using interactive,
11 cloud-based platforms in carrying out environ-
12 mental impact analysis and community engage-
13 ment requirements under NEPA, including—

14 (i) metrics that describe estimates of
15 achieved efficiencies, community engage-
16 ment measures, and efficiencies enjoyed
17 across agencies; and

18 (ii) examples of digital workflows en-
19 abled.

20 (B) PUBLICATION OF EXAMPLES.—Not
21 later than 1 year after the date of enactment of
22 this Act, the Secretary shall publish on the
23 website of the Department of Transportation,
24 and submit to the Committee on Environment
25 and Public Works of the Senate and the Com-

1 mittee on Transportation and Infrastructure of
2 the House of Representatives, not less than 5
3 examples of an environmental impact state-
4 ment, environmental assessment, or categorical
5 exclusion document developed using an inter-
6 active, digital, cloud-based platform.

7 (5) SAVINGS PROVISION.—Nothing in this sub-
8 section affects or interferes with the authorities or
9 responsibilities assumed by a State under section
10 327 of title 23, United States Code.

11 **SEC. 305. UNIVERSITY PERMITTING WORKFORCE LEADER-**
12 **SHIP PROGRAM.**

13 (a) IN GENERAL.—The Administrator, in consulta-
14 tion with the Chair, shall establish a program, to be known
15 as the “University Permitting Workforce Leadership Pro-
16 gram” (referred to in this section as the “program”).

17 (b) USE OF FUNDS.—Amounts made available to
18 carry out the program shall be used to support the edu-
19 cation and recruitment of personnel for environmental re-
20 view and permitting, including through financial assist-
21 ance for scholarships, fellowships, and research at institu-
22 tions of higher education in areas relevant to the pro-
23 grammatic mission of the applicable agency, with an em-
24 phasis on providing financial assistance with respect to the
25 Federal permitting process.

1 (c) HUMAN CAPITAL PLANNING.—

2 (1) IN GENERAL.—Each agency with responsi-
3 bility for environmental review and authorization
4 shall develop and, on an annual basis, revise an envi-
5 ronmental review workforce human capital plan that
6 identifies workforce needs to facilitate efficient proc-
7 esses for environmental review and permitting, in-
8 cluding the identification of gaps in funding and ex-
9 pertise, hiring challenges, and policies to mitigate
10 turnover that will help avoid mid-project staffing
11 changes.

12 (2) SUBMISSION TO EPA AND OMB.—Each
13 agency described in paragraph (1) shall submit the
14 environmental review workforce human capital plan
15 required under that paragraph, and any revision to
16 that plan, to—

17 (A) the Administrator; and

18 (B) the Director of the Office of Manage-
19 ment and Budget.

20 (3) PATHWAYS TO HIRING.—An agency de-
21 scribed in paragraph (1) may, in carrying out the
22 environmental review workforce human capital plan
23 of that agency required under that paragraph, use
24 the pathways programs established under part 362
25 of title 5, Code of Federal Regulations (or a suc-

1 cessor program), to facilitate the recruitment and
2 hiring of personnel for environmental review and
3 permitting.

4 (4) USE OF PLANS.—The Administrator shall
5 use environmental review workforce human capital
6 plans submitted to the Administrator under para-
7 graph (2) to inform the work of the Administrator
8 in carrying out subsection (b).

9 (5) AUTHORITY TO PROVIDE FUNDS.—An agen-
10 cy that, in preparing the environmental review work-
11 force human capital plan pursuant to paragraph (1),
12 has identified workforce gaps for the processes of
13 the agency for environmental review and permitting,
14 may—

15 (A) use funds made available to the agency
16 as appropriate to support the program; and

17 (B) establish reimbursable agreements
18 with the Administrator, another agency with en-
19 vironmental review and authorization respon-
20 sibilities, institutions of higher education, or
21 nonprofit entities to facilitate timely and effi-
22 cient environmental reviews and authorizations.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to carry out the program
25 \$45,000,000 for each of fiscal years 2023 through 2028.

1 **SEC. 306. FUNDED LIAISON POSITIONS.**

2 (a) IN GENERAL.—The head of an agency that is
3 serving as the lead agency for a project or program may
4 provide funds from the Environmental Review Fund of the
5 agency established by section 301(c)(1)—

6 (1) to fund liaison positions at affected State
7 agencies, units of local government, and Indian
8 Tribes participating in the environmental review
9 process for the project or program; or

10 (2) to fund other activities described in sub-
11 section (c), if the head of the agency determines that
12 providing the funds would substantially improve
13 timely completion of environmental reviews or en-
14 hance environmental outcomes.

15 (b) USE OF FUNDS.—Funds provided by an agency
16 under subsection (a) may only be provided to an affected
17 State agency, unit of local government, or Indian Tribe
18 to support activities that directly and meaningfully con-
19 tribute to facilitating an inclusive, science-based, timely,
20 efficient, and effective permitting and review process, in-
21 cluding—

22 (1) carrying out public engagement activities,
23 including in communities with environmental justice
24 concerns;

25 (2) planning, collecting, and analyzing relevant
26 data;

1 (3) scoping environmental impacts of the appli-
2 cable project or program;

3 (4) reviewing environmental analyses; and

4 (5) conducting consultation processes for the
5 project or program.

6 (c) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities
7 referred to in subsections (a)(2) and (b) include—

8 (1) planning and feasibility activities that pre-
9 ceed the initiation of the environmental review proc-
10 ess for the applicable project or program;

11 (2) activities directly relating to the environ-
12 mental review process for the project or program;

13 (3) hiring dedicated staffing;

14 (4) training agency personnel;

15 (5) information gathering and mapping activi-
16 ties;

17 (6) development and maintenance of decision
18 support tools; and

19 (7) developing programmatic agreements.

20 (d) AMOUNTS.—Funds provided under subsection (a)
21 may only be in an amount that the head of the applicable
22 agency determines is necessary for affected State agencies,
23 units of local government, or Indian Tribes participating
24 in the environmental review process for a project or pro-
25 gram to meet the schedules for environmental review.

1 (e) AGREEMENT.—Prior to providing funds under
2 subsection (a) for the purpose of funding liaison positions
3 or other activities described in subsection (c), the applica-
4 ble agency and affected State agency, unit of local govern-
5 ment, or Indian Tribe, as applicable, shall enter into an
6 agreement that establishes the projects and priorities to
7 be addressed by the use of those funds.

8 (f) PRIVATE SECTOR LIAISONS.—

9 (1) IN GENERAL.—The head of an agency that
10 is serving as a lead agency or cooperating agency
11 may allow a project sponsor—

12 (A) to fund a liaison position in the lead
13 agency or cooperating agency, as applicable; or

14 (B) to contribute funds to support a liai-
15 son position in an affected State agency, unit of
16 local government, or Indian Tribe participating
17 in the environmental review process for a
18 project or program.

19 (2) AUTHORITY.—An agency that receive funds
20 from a project sponsor under paragraph (1) shall
21 have sole authority over the hiring, management,
22 and termination of liaison positions established with
23 those funds.

24 (3) ADDITIONAL AGREEMENT.—Prior to receiv-
25 ing funds under paragraph (1) for the purpose of es-

1 establishing a liaison position described in subpara-
2 graph (A) of that paragraph, the head of the lead
3 agency or cooperating agency, as applicable, and the
4 project sponsor may enter into an agreement relat-
5 ing to the project and priorities to be addressed by
6 the funded liaison position.

7 (4) NO EFFECT ON OUTCOMES.—Receipt of
8 funding provided by a project sponsor under para-
9 graph (1) is not intended to have any effect on the
10 content or outcome of environmental reviews or deci-
11 sions relating to the project or program proposed by
12 the project sponsor that provided the funding.

13 **SEC. 307. RAPID RESPONSE PERMITTING TASK FORCES.**

14 (a) RAPID RESPONSE PERMITTING TASK FORCES.—
15 The Federal Permitting Director shall convene inter-
16 agency sector-specific teams of experts, including inde-
17 pendent agencies, as appropriate, (referred to in this sec-
18 tion as a “Rapid Response Permitting Task Force”) to
19 advance the responsible build-out and modernization of
20 United States infrastructure by facilitating interagency
21 coordination on siting, permitting, supply chain, and re-
22 lated issues.

23 (b) SECTORS.—The sectors to be covered by Rapid
24 Response Permitting Task Forces shall be at the discre-

1 tion of the Federal Permitting Director, but shall in-
2 clude—

- 3 (1) offshore wind energy;
- 4 (2) onshore renewable energy;
- 5 (3) transmission;
- 6 (4) the production and processing of critical
7 minerals; and
- 8 (5) environmental restoration and nature-based
9 projects.

10 (c) RESPONSIBILITIES.—Each Rapid Response Per-
11 mitting Task Force shall—

12 (1)(A) monitor the status of large, complex, or
13 nationally or regionally significant projects and pro-
14 grams of projects;

15 (B) provide regular updates to the Federal Per-
16 mitting Director on those projects;

17 (2) identify infrastructure gaps where projects
18 would be appropriate for development with a feder-
19 ally-directed review consistent with section 302(a);

20 (3) seek to reduce bottlenecks and facilitate the
21 successful and timely review of permit applications
22 for projects in the respective sector of the Rapid Re-
23 sponse Permitting Task Force;

24 (4) identify strategies to address disputes or
25 complicated issues with respect to projects and pro-

1 grams of projects described in paragraph (1)(A), in-
2 cluding opportunities to prepare new programmatic
3 analyses and approaches; and

4 (5) submit an annual report to the Federal Per-
5 mitting Director identifying environmental review
6 and permitting issues that pose a challenge to the
7 successful and timely review of permit applications
8 for projects in the respective sector of the Rapid Re-
9 sponse Permitting Task Force, including factors re-
10 lating to personnel, budget, processes, interagency
11 coordination, administration, policies, or legal con-
12 siderations.

13 (d) ISSUE RESOLUTION.—The Federal Permitting
14 Director shall—

15 (1) resolve issues described in subsection (c)(5),
16 where practicable; or

17 (2) issue recommendations to the heads of the
18 relevant agencies on how to resolve those issues.

19 **TITLE IV—BUILDING OUT CRIT-**
20 **ICAL INFRASTRUCTURE FOR**
21 **ZERO-EMISSION** **TECH-**
22 **NOLOGY**

23 **SEC. 401. GEOTHERMAL ACTIVITIES ON CERTAIN LAND.**

24 The Geothermal Steam Act of 1970 (30 U.S.C. 1001
25 et seq.) is amended by adding at the end the following:

1 **“SEC. 30. GEOTHERMAL ACTIVITIES ON CERTAIN LAND.**

2 “The Secretary shall evaluate and seek to provide
3 parity for Federal drilling permits for geothermal explo-
4 ration and production activities as compared to Federal
5 drilling permits for oil and gas exploration and production
6 activities conducted on a non-Federal surface estate, in-
7 cluding consideration of adoption or establishment of cat-
8 egorical exclusions relating to geothermal exploration and
9 production activities under the National Environmental
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

11 **SEC. 402. NEXT GENERATION HIGHWAYS.**

12 (a) IN GENERAL.—Section 111 of title 23, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 “(f) NEXT GENERATION HIGHWAYS.—

16 “(1) IN GENERAL.—The Secretary shall iden-
17 tify and expand opportunities for highway rights-of-
18 way to be used for the mitigation of climate change,
19 including through deployment of electrical trans-
20 mission and distribution projects, renewable energy
21 generation and storage, and alternative fueling or
22 charging facilities, and through use for habitat con-
23 servation and as wildlife corridors.

24 “(2) UTILITY SITING.—Notwithstanding any
25 provision of State or local law, the Secretary shall
26 ensure that the siting of utilities, including electrical

1 transmission and distribution projects, renewable en-
2 ergy generation and storage, broadband and commu-
3 nication infrastructure, and alternative fueling or
4 charging facilities, is allowed on rights-of-way of the
5 Federal-aid highway system, unless the Secretary
6 determines that the siting would conflict with safe
7 use of the highway.

8 “(3) USE OF REAL PROPERTY INTERESTS.—
9 Use of real property interests to site high voltage
10 transmission lines, renewable energy generation,
11 broadband and communication infrastructure, or al-
12 ternative fueling or charging facilities on highway
13 rights-of-way—

14 “(A) shall be considered to be in the public
15 interest; and

16 “(B) shall not require any additional ap-
17 proval from the Federal Highway Administra-
18 tion.”.

19 (b) STUDY AND GUIDANCE.—

20 (1) STUDY AND BEST PRACTICES.—Not later
21 than 1 year after the date of enactment of this Act,
22 the Administrator of the Federal Highway Adminis-
23 tration shall conduct, and publish a report on the re-
24 sults of, a study on best practices for siting high

1 voltage transmission lines on highway rights-of-way,
2 including recommendations on practices—

3 (A) to ensure safety;

4 (B) to facilitate future highway mainte-
5 nance and construction work;

6 (C) to facilitate future maintenance work
7 for the transmission lines;

8 (D) to integrate transmission planning and
9 siting into transportation planning; and

10 (E) to facilitate electrical needs for light-
11 duty, medium-duty, and heavy-duty rapid
12 charging infrastructure on public roadways.

13 (2) GUIDANCE.—Not later than 180 days after
14 the date on which the report under paragraph (1) is
15 published, the Administrator of the Federal High-
16 way Administration shall issue guidance and provide
17 technical assistance to States on updates to Utility
18 Accommodation Policies of the State to facilitate the
19 accommodation of high voltage transmission lines,
20 renewable energy generation, broadband and com-
21 munication infrastructure, or alternative fueling or
22 charging facilities on highway rights-of-way.

23 (c) INCENTIVES FOR ELECTRIC GRID RELI-
24 ABILITY.—The Secretary of Transportation shall identify
25 opportunities to provide incentives for the siting of high

1 voltage transmission lines on transportation rights-of-way
2 that would significantly increase interregional trans-
3 mission and electric grid reliability, including through the
4 use of selection criteria for discretionary grants under title
5 23, United States Code.

6 (d) USE OF FEDERAL FUNDS.—

7 (1) IN GENERAL.—Of the amounts apportioned
8 to a State under section 104(b)(1) of title 23,
9 United States Code, for each fiscal year, a State
10 may use not more than \$1,000,000 to support oper-
11 ational and maintenance expenses related to use of
12 highway rights-of-way for high voltage transmission
13 lines.

14 (2) HIGH VOLTAGE TRANSMISSION LINES.—In
15 the case of a project for which a State uses Federal
16 funds to accommodate high voltage transmission
17 lines on highway rights-of-way, the amounts de-
18 scribed in paragraph (1) may be used to enable the
19 use of electricity by a State or local public agency,
20 including for charging infrastructure for vehicles
21 owned by the State or local public agency.

22 **SEC. 403. CONNECTING HARD-TO-REACH AREAS WITH RE-**
23 **NEWABLY GENERATED ENERGY.**

24 (a) FINDINGS.—Congress finds that—

1 (1) current transmission planning is fractured
2 across many jurisdictions, prioritizes incumbent enti-
3 ties and highly localized transmission, and fails to
4 identify cost-effective solutions for 21st century
5 needs;

6 (2) the historical structure, regulations, and in-
7 centives of the electric power system lead to under-
8 planning and under-investment in the regional and
9 interregional transmission lines that are needed for
10 a reliable and resilient grid;

11 (3) much of the existing transmission infra-
12 structure of the United States is in need of signifi-
13 cant upgrade or replacement;

14 (4) the energy sector of the United States is at
15 a critical juncture, with a rapidly changing power
16 generation mix and new public policy mandates;

17 (5) it is imperative to proactively plan for elec-
18 tricity transmission in the future, including by tak-
19 ing into account long-term changes to demand and
20 load growth;

21 (6) renewable energy resources must be incor-
22 porated into the grid efficiently in order to meet
23 State and Federal decarbonization goals;

1 (7) the public desires, and has a right to, elec-
2 tricity data that is transparent, organized, and ac-
3 cessible;

4 (8) having reliable and diverse sources of elec-
5 tricity generation is a foundational need for the en-
6 tire economy;

7 (9) climate change has increased the frequency
8 and intensity of severe weather events that affect the
9 grid;

10 (10) it is in the national interest to implement
11 policies that provide effective electric infrastructure
12 to save consumers money, avoid preventable damage,
13 ensure energy reliability, and save lives;

14 (11) the Federal Government has a responsi-
15 bility to combat rising transmission costs and ensure
16 customers receive just and reasonable rates for elec-
17 tricity; and

18 (12) industry experience, scientific studies, and
19 modern examples of reformed electricity trans-
20 mission provide confidence that new public policies
21 and regulatory guidance will achieve more efficient
22 and beneficial planning than the status quo.

23 (b) DEFINITIONS.—In this section:

24 (1) COMMISSION.—The term “Commission”
25 means the Federal Energy Regulatory Commission.

1 (2) INDEPENDENT SYSTEM OPERATOR.—The
2 term “Independent System Operator” has the mean-
3 ing given the term in section 3 of the Federal Power
4 Act (16 U.S.C. 796).

5 (3) INTERCONNECTION CUSTOMER.—The term
6 “interconnection customer” means an individual or
7 entity that has submitted to the owner or operator
8 of a transmission facility or transmission system a
9 request to interconnect a generation project or en-
10 ergy storage project that is subject to the jurisdic-
11 tion of the Commission.

12 (4) INTERREGIONAL TRANSMISSION PLANNING
13 PROCESS.—The term “interregional transmission
14 planning process” means a joint process by trans-
15 mission providers in 2 or more adjacent transmission
16 planning regions to evaluate electric energy trans-
17 mission needs.

18 (5) LOAD-SERVING ENTITY.—The term “load-
19 serving entity” has the meaning given the term in
20 section 217(a) of the Federal Power Act (16 U.S.C.
21 824q(a)).

22 (6) PRICING NODE.—The term “pricing node”
23 means a specific electrical bus location on the grid
24 where an injection or withdrawal of power is mod-
25 eled.

1 (7) REGIONAL TRANSMISSION ORGANIZATION.—

2 The term “Regional Transmission Organization”
3 has the meaning given the term in section 3 of the
4 Federal Power Act (16 U.S.C. 796).

5 (8) TRANSMISSION FACILITY.—The term
6 “transmission facility” means a facility that is used
7 for the transmission of electric energy in interstate
8 commerce.

9 (9) TRANSMISSION PLANNING REGION.—The
10 term “transmission planning region” means a region
11 for which electric energy transmission planning is
12 appropriate, as determined by the Commission, such
13 as a region established pursuant to the guidance in
14 the final rule of the Commission entitled “Trans-
15 mission Planning and Cost Allocation by Trans-
16 mission Owning and Operating Public Utilities” (76
17 Fed. Reg. 49842 (August 11, 2011)).

18 (10) TRANSMISSION PROVIDER.—The term
19 “transmission provider” means a public utility (as
20 defined in section 201(e) of the Federal Power Act
21 (16 U.S.C. 824(e))) that owns, operates, or controls
22 1 or more transmission facilities.

23 (c) TRANSMISSION PLANNING AND COST ALLOCA-
24 TION.—

1 (1) RULEMAKING.—Not later than 18 months
2 after the date of enactment of this Act, the Commis-
3 sion shall promulgate a final rule that establishes
4 transmission planning processes and cost-allocation
5 processes that—

6 (A) ensure that transmission providers—

7 (i) engage in formalized interregional
8 transmission planning processes and inter-
9 connection-wide transmission planning
10 processes, in conjunction with transmission
11 planning processes within transmission
12 planning regions;

13 (ii) harmonize interregional trans-
14 mission planning processes and inter-
15 connection-wide transmission planning
16 processes with other transmission planning
17 regions, such as by using a joint model on
18 a consistent timeline with a unified set of
19 minimum requirements regarding needs,
20 input assumptions, and benefit metrics;

21 (iii) include as part of planning and
22 cost-allocation processes the use of grid-en-
23 hancing transmission technologies and
24 nontransmission alternatives that increase

- 1 delivery of power over transmission net-
2 works, including, at a minimum—
- 3 (I) dynamic line ratings;
 - 4 (II) topology optimization;
 - 5 (III) power flow control;
 - 6 (IV) advanced conductors; and
 - 7 (V) storage-as-transmission;
- 8 (iv) conduct interregional and inter-
9 connection-wide planning regularly and not
10 less frequently than once every 3 years;
- 11 (v) conduct system-wide planning
12 based on a range of possible future load
13 and generation scenarios; and
 - 14 (vi) are required to incorporate in a
15 transmission planning process the full
16 scope of benefits of transmission invest-
17 ment, including, at a minimum—
- 18 (I) reduced costs of electric en-
19 ergy to customers, including reduced
20 costs associated with lower quantities
21 of necessary capacity, ancillary serv-
22 ices, and reserve margins;
 - 23 (II) access to resources in neigh-
24 boring transmission planning regions;

1 (III) the transmission of renew-
2 able energy or the ability of renewable
3 energy to connect to the grid;

4 (IV) improvements in reliability,
5 resilience, and flexibility of the grid,
6 including, at a minimum—

7 (aa) reduced loss of load
8 probability;

9 (bb) increased resource di-
10 versity;

11 (cc) increased climate hard-
12 ening; and

13 (dd) increased ability to
14 maintain functionality during re-
15 gionally appropriate weather con-
16 ditions and severe weather sce-
17 narios;

18 (V) leveraging resources across
19 climatological patterns or time zones
20 to account for resource availability
21 and weather patterns;

22 (VI) avoidance, to the maximum
23 extent practicable, of sensitive envi-
24 ronmental areas and cultural heritage
25 sites;

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1 (VII) reasonable and economical
2 use of existing rights-of-way;

3 (VIII) market facilitation bene-
4 fits, including, at a minimum, in-
5 creased competitiveness, liquidity, and
6 integrity of broader geographic mar-
7 kets;

8 (IX) avoided costs and deferred
9 cost savings, including reduced gen-
10 eration costs and reduced future
11 transmission investment costs;

12 (X) the integration of grid-en-
13 hancing technologies;

14 (XI) meeting local, State, and
15 Federal policy goals, including goals
16 established in decarbonization, cli-
17 mate, and clean energy laws (includ-
18 ing regulations);

19 (XII) protections to maintain
20 just and reasonable rates for cus-
21 tomers; and

22 (XIII) any other production costs
23 savings or other economic benefits
24 from proposed transmission projects;

1 (B) require that regional and interregional
2 cost-allocation methodologies allocate costs on
3 the basis of the multiple benefits described in
4 subclauses (I) through (XIII) of subparagraph
5 (A)(vi);

6 (C) incorporate a 10- to 20-year future re-
7 source mix for each load-serving entity and
8 State, which may require a load-serving entity
9 to make publicly available the resource plans of
10 the load-serving entity if, in the determination
11 of the Commission, those plans are not ade-
12 quately described in publicly stated plans in Se-
13 curities and Exchange Commission filings,
14 State agency filings, and power purchase con-
15 tracts;

16 (D) prioritize interregional cost-benefit
17 considerations over regional cost-benefit consid-
18 erations;

19 (E) require transmission providers to
20 maximize the use of portfolio-based cost alloca-
21 tions;

22 (F) in cases in which costs and benefits
23 are difficult to quantify, may allocate trans-
24 mission investment costs among transmission
25 system customers in proportion to—

1 (i) in the case of regional projects, the
2 share of electricity of each customer in the
3 region; or

4 (ii) in the case of interregional
5 projects, the share of electricity of each
6 customer in each applicable region; and

7 (G) to the extent practicable, prevent
8 transmission providers from using cost-alloca-
9 tion methodologies that—

10 (i) discourage distributed generation,
11 energy efficiency, demand response, or
12 storage if more economic than trans-
13 mission;

14 (ii) are constrained by consideration
15 only of benefits that are easy to allocate;
16 or

17 (iii) undermine previous cost-alloca-
18 tion agreements for projects already in op-
19 eration.

20 (2) TECHNICAL CONFERENCE.—

21 (A) IN GENERAL.—As part of the rule-
22 making process under paragraph (1), the Com-
23 mission may convene a technical conference to
24 consider implementation details, as the Com-
25 mission determines to be appropriate.

1 (B) PARTICIPATION.—

2 (i) LEADERSHIP.—A technical con-
3 ference convened under subparagraph (A)
4 may be led by the members of the Commis-
5 sion.

6 (ii) PARTICIPATION.—The Commis-
7 sion may invite to participate in a technical
8 conference convened under subparagraph
9 (A) representatives of residential rate-
10 payers, transmission providers, environ-
11 mental justice and equity groups, Tribal
12 communities, Independent System Opera-
13 tors, Regional Transmission Organizations,
14 consumer protection groups, renewable en-
15 ergy advocates, State utility commission
16 and energy offices, and such other entities
17 as the Commission determines appropriate.

18 (iii) TIMELINE.—The Commission
19 may establish and enforce a timeline for a
20 technical conference convened under sub-
21 paragraph (A) that discourages actions by
22 participants that may unnecessarily delay
23 the conference.

24 (C) PUBLIC COMMENT.—The Commission
25 may provide an opportunity for public comment

1 on the topics considered by a technical con-
2 ference convened under subparagraph (A).

3 (3) OFFICE OF PUBLIC PARTICIPATION.—The
4 Commission shall consult the Office of Public Par-
5 ticipation during the rulemaking process under para-
6 graph (1), including with respect to—

7 (A) guidance on public participation re-
8 quirements;

9 (B) communications with the public con-
10 cerning transmission planning that may impact
11 local communities and land owners, including
12 Tribal, indigenous, and environmental justice
13 communities; and

14 (C) minimum data transparency and ac-
15 cess requirements.

16 (4) JOINT FEDERAL-STATE TASK FORCE ON
17 ELECTRIC TRANSMISSION.—The Commission may
18 consult the Joint Federal-State Task Force on Elec-
19 tric Transmission in any actions that—

20 (A) involve shared Federal and State regu-
21 latory authority and processes; or

22 (B) would benefit from a combined Federal
23 and State perspective.

24 (d) INTERREGIONAL MINIMUM TRANSFER REQUIRE-
25 MENTS.—

1 (1) ELECTRIC RELIABILITY.—Section 215(i)(2)
2 of the Federal Power Act (16 U.S.C. 824o(i)(2)) is
3 amended by striking “or transmission”.

4 (2) RULEMAKING.—Not later than 18 months
5 after the date of enactment of this Act, the Commis-
6 sion shall promulgate a final rule that establishes a
7 minimum transfer capability that—

8 (A) shall govern minimum transfer re-
9 quirements between transmission planning re-
10 gions;

11 (B) achieves reliability and resilience
12 standards during plausible extreme weather sce-
13 narios;

14 (C) optimizes efficiency of delivering re-
15 newable energy to demand centers; and

16 (D) incorporates the best available science
17 relating to energy transmission, climatological
18 patterns, climate change causes and impacts,
19 grid reliability, and grid resiliency, including
20 study results from the Department of Energy
21 or National Laboratories (as defined in section
22 2 of the Energy Policy Act of 2005 (42 U.S.C.
23 15801)).

1 (e) DATA TRANSPARENCY.—Part II of the Federal
2 Power Act (16 U.S.C. 824 et seq.) is amended by adding
3 at the end the following:

4 **“SEC. 224. DATA TRANSPARENCY.**

5 “(a) IN GENERAL.—The Commission shall require all
6 public utilities and other entities subject to the jurisdiction
7 of the Commission to make hourly operating data trans-
8 parent and accessible to the public, including—

9 “(1) as original source data posted in a timely
10 manner; and

11 “(2) through coordination with an online data-
12 base operated by the Administrator of the Energy
13 Information Administration.

14 “(b) DATA.—Data made publicly available under sub-
15 section (a) shall—

16 “(1) be organized and easy to understand;

17 “(2) be centralized and provided in usable for-
18 mats, including an application programming inter-
19 face;

20 “(3) be available free of charge or at-cost;

21 “(4) be published in a timely manner;

22 “(5) include generation by fuel type; and

23 “(6) include average and hourly, or more fre-
24 quent if technologically feasible, marginal green-
25 house gas emissions per megawatt hour of electricity

1 generated within the metered boundaries of each en-
2 tity and for each pricing node.

3 “(c) **COMMERCIAL PRODUCTS.**—The Commission
4 may identify and reduce regulatory barriers to the devel-
5 opment of commercial products that use the data made
6 publicly available under subsection (a) in order to provide
7 verifiable emissions reductions, including short- and long-
8 term nodal congestion products.

9 “(d) **APPROPRIATION.**—In addition to amounts oth-
10 erwise made available to the Administrator of the Energy
11 Information Administration, there is appropriated to the
12 Administrator of the Energy Information Administration
13 for fiscal year 2023, out of any funds in the Treasury not
14 otherwise appropriated, \$10,000,000 to develop and oper-
15 ate the database described in subsection (a)(2), to remain
16 available until expended.”.

17 (f) **PROMOTING COMPETITION FOR GENERATION.**—
18 Part II of the Federal Power Act (16 U.S.C. 824 et seq.)
19 (as amended by subsection (e)) is amended by adding at
20 the end the following:

21 **“SEC. 225. DUE REGARD FOR FAIR COMPETITION.**

22 “(a) **IN GENERAL.**—In order to effectively protect
23 against the exercise of market power through affiliate
24 abuse, the Commission shall require that any new genera-
25 tion described in subsection (b) is procured through a

1 competitive process and without any right of first refusal
2 for an incumbent utility, subject to subsection (e).

3 “(b) NEW GENERATION DESCRIBED.—The new gen-
4 eration referred to in subsection (a) is new generation that
5 is—

6 “(1) above a Commission-determined size
7 threshold;

8 “(2) above a Commission-determined cost mate-
9 riality threshold; and

10 “(3) ultimately used to sell power in interstate
11 commerce.

12 “(c) EXEMPTION.—New generation that is procured
13 through a process administered by a Regional Trans-
14 mission Organization or an Independent System Operator
15 is exempted from the requirements of subsection (a).”.

16 (g) STATE SUBSIDIES.—Part II of the Federal Power
17 Act (16 U.S.C. 824 et seq.) (as amended by subsection
18 (f)) is amended by adding at the end the following:

19 **“SEC. 226. STATE SUBSIDIES.**

20 “In order to promote competition in wholesale mar-
21 kets, reliability, and affordability, the Commission shall
22 not use price mitigation methods to counteract the effects
23 of State subsidies for renewable energy resources.”.

1 (h) OFFICE OF TRANSMISSION.—Part III of the Fed-
2 eral Power Act is amended by inserting after section 317
3 (16 U.S.C. 825p) the following:

4 **“SEC. 318. OFFICE OF TRANSMISSION.**

5 “(a) ESTABLISHMENT.—There shall be established in
6 the Commission an office, to be known as the ‘Office of
7 Transmission’ (referred to in this section as the ‘Office’).

8 “(b) DIRECTOR.—The Office shall be administered
9 by a Director, who shall be appointed by the Chairman
10 of the Commission.

11 “(c) DUTIES.—The Director of the Office shall—

12 “(1) review transmission plans submitted by
13 public utilities in accordance with the regional and
14 interregional transmission planning processes, in-
15 cluding the processes established pursuant to section
16 206;

17 “(2) coordinate transmission-related matters of
18 the Commission, as the Commission determines ap-
19 propriate;

20 “(3) carry out the responsibilities of the Com-
21 mission under section 216, in coordination with the
22 Office of Energy Projects of the Commission;

23 “(4) review opportunities for innovation in
24 transmission planning and operation, including de-

1 ployment of grid-enhancing technologies, advanced
2 conductors, and other approaches; and

3 “(5) provide oversight of interregional trans-
4 mission planning activities.”.

5 (i) INTERCONNECTION.—Not later than 1 year after
6 the date of enactment of this Act, the Commission shall
7 promulgate regulations, or revise existing regulations—

8 (1) to prohibit a public utility from requiring an
9 interconnection customer to exclusively or dispro-
10 portionately fund, without reimbursement, the costs of
11 any network upgrade identified as necessary for the
12 interconnect request of the interconnection customer;

13 (2) to encourage cost-sharing models that re-
14 flect the broad set of benefits and beneficiaries for
15 any network upgrades identified as needed in an
16 interconnection or affected system study, subject to
17 the requirement that the model adheres to any re-
18 quirements established under paragraph (1); and

19 (3) to alleviate interconnection backlogs and re-
20 duce informational and procedural barriers in inter-
21 connection, which may include—

22 (A) the establishment of an interconnection
23 analysis center within the Office of Trans-
24 mission established under section 318 of the
25 Federal Power Act; and

1 (B) consultation with staff and the use of
2 other resources of the Department of Energy.

3 (j) INDEPENDENT TRANSMISSION MONITOR.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, for the purpose
6 of monitoring the planning and operation of trans-
7 mission facilities in transmission planning regions,
8 the Commission shall—

9 (A)(i) require each transmission planning
10 region to establish an independent entity to
11 monitor the planning and operation of trans-
12 mission facilities in the transmission planning
13 region; and

14 (ii) establish a council, to be known as the
15 “Council of Transmission Monitors”—

16 (I) to provide oversight of each inde-
17 pendent entity established pursuant to
18 clause (i); and

19 (II) to ensure interregional collabora-
20 tion and consistency; or

21 (B) establish an independent entity to
22 monitor the planning and operation of trans-
23 mission facilities in all transmission planning
24 regions.

1 (2) ROLE OF TRANSMISSION MONITOR.—An
2 independent entity described in subparagraph (A)(i)
3 or (B) of paragraph (1) shall, as applicable—

4 (A) review the operation of applicable
5 transmission planning regions for inefficiency
6 and practices that may lead to unjust and un-
7 reasonable rates;

8 (B) review transmission planning proc-
9 esses;

10 (C) review costs of transmission facilities,
11 including identifying inefficiencies among local,
12 regional, and interregional planning;

13 (D) provide examples and advice to trans-
14 mission providers on appropriate regional trans-
15 mission operations, planning, and cost-alloca-
16 tion processes; and

17 (E) identify situations in which, with re-
18 spect to a transmission planning process—

19 (i) nonwire alternatives may be more
20 cost-effective than transmission;

21 (ii) grid-enhancing technologies may
22 be appropriate; or

23 (iii) high-capacity, interregional lines
24 may be—

25 (I) more cost-effective; or

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1 (II) a more appropriate reliability
2 and resilience alternative.

3 (k) ADVISORY COMMITTEE.—

4 (1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this Act, the Commission
6 shall establish an advisory committee (referred to in
7 this subsection as the “committee”) to make rec-
8 ommendations on—

9 (A) oversight and governance of Inde-
10 pendent System Operators or Regional Trans-
11 mission Organizations;

12 (B) stakeholder participation best prac-
13 tices—

14 (i) that ensure transparency, account-
15 ability, independence, oversight, and fair
16 representation; and

17 (ii) the purpose of which are to pro-
18 mote competition, reliability, and afford-
19 ability in all transmission planning regions;

20 (C) enhancing transparency and open deci-
21 sionmaking in regions not classified as Inde-
22 pendent System Operators or Regional Trans-
23 mission Organizations; and

1 (D) the requirements of governing boards
2 within Independent System Operators or Re-
3 gional Transmission Organizations.

4 (2) REPRESENTATION.—The committee shall be
5 composed of not more than 30 members, including—

6 (A) at least 2 representatives of end-use
7 customers;

8 (B) at least 1 representative of trans-
9 mission providers;

10 (C) at least 2 representatives of environ-
11 mental justice and equity groups;

12 (D) at least 1 representative of Tribal
13 communities;

14 (E) at least 1 representative of Inde-
15 pendent System Operators;

16 (F) at least 1 representative of Regional
17 Transmission Organizations;

18 (G) at least 1 representative of consumer
19 protection groups;

20 (H) at least 2 representatives of renewable
21 energy advocates;

22 (I) at least 1 representative of State com-
23 missions;

24 (J) at least 1 representative of public
25 power entities;

1 (K) at least 1 representative of marketers;

2 and

3 (L) at least 1 representative of generators.

4 (3) APPLICABILITY.—Chapter 10 of title 5,
5 United States Code, shall apply to the committee.

6 (I) APPROPRIATIONS.—In addition to amounts other-
7 wise available, there is appropriated to the Commission
8 for fiscal year 2023, out of any funds in the Treasury not
9 otherwise appropriated, \$200,000,000, to remain available
10 until expended, to carry out—

11 (1) subsections (e), (d), and (i); and

12 (2) the amendment made by subsection (h).

13 **SEC. 404. STREAMLINING INTERSTATE TRANSMISSION OF**
14 **ELECTRICITY.**

15 Part II of the Federal Power Act (16 U.S.C. 824 et
16 seq.) (as amended by section 403(g)) is amended by add-
17 ing at the end the following:

18 **“SEC. 227. SITING OF CERTAIN INTERSTATE ELECTRIC**
19 **TRANSMISSION FACILITIES.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) AFFECTED LANDOWNER.—

22 “(A) IN GENERAL.—The term ‘affected
23 landowner’ includes each owner of a property
24 interest in land or other property described in
25 subparagraph (B), including—

1 “(i) the Federal Government;

2 “(ii) a State or local government; and

3 “(iii) each owner noted in the most
4 recent county or city tax record as receiv-
5 ing the relevant tax notice with respect to
6 that interest.

7 “(B) LAND AND OTHER PROPERTY DE-
8 SCRIBED.—The land or other property referred
9 to in subparagraph (A) is any land or other
10 property—

11 “(i) that is or will be crossed by the
12 energy transmission facility proposed to be
13 constructed or modified under the applica-
14 ble certificate of public convenience and
15 necessity;

16 “(ii) that is or will be used as a facil-
17 ity site with respect to the energy trans-
18 mission facility proposed to be constructed
19 or modified under the applicable certificate
20 of public convenience and necessity;

21 “(iii) that abuts any boundary of an
22 existing right-of-way or other facility site
23 that—

24 “(I) is owned by an electric util-
25 ity; and

1 “(II) is located not more than
2 500 feet from the energy transmission
3 facility to be constructed or modified
4 under the applicable certificate of
5 public convenience and necessity;

6 “(iv) that abuts the boundary of a
7 proposed facility site for the energy trans-
8 mission facility to be constructed or modi-
9 fied under the applicable certificate of pub-
10 lic convenience and necessity;

11 “(v) that is crossed by, or abuts any
12 boundary of, an existing or proposed right-
13 of-way that—

14 “(I) will be used for the energy
15 transmission facility to be constructed
16 or modified under the applicable cer-
17 tificate of public convenience and ne-
18 cessity; and

19 “(II) is located not more than
20 500 feet from the proposed location of
21 that energy transmission facility; or

22 “(vi) on which a residence is located
23 not more than 500 feet from the boundary
24 of any right-of-way for that energy trans-
25 mission facility.

1 “(2) ALTERNATING CURRENT TRANSMISSION
2 FACILITY.—The term ‘alternating current trans-
3 mission facility’ means a transmission facility that
4 uses alternating current for the bulk transmission of
5 electric energy.

6 “(3) ENERGY TRANSMISSION FACILITY.—The
7 term ‘energy transmission facility’ means, as appli-
8 cable—

9 “(A) an alternating current transmission
10 facility; or

11 “(B) a high-voltage, direct current trans-
12 mission facility.

13 “(4) FACILITY SITE.—The term ‘facility site’
14 includes—

15 “(A) a right-of-way;

16 “(B) an access road;

17 “(C) a contractor yard; and

18 “(D) any temporary workspace.

19 “(5) HIGH-VOLTAGE, DIRECT CURRENT TRANS-
20 MISSION FACILITY.—The term ‘high-voltage, direct
21 current transmission facility’ means a transmission
22 facility that uses direct current for the bulk trans-
23 mission of electric energy.

24 “(6) TRIBAL LAND.—The term ‘Tribal land’
25 has the meaning given the term ‘Indian land’ in sec-

1 tion 2601 of the Energy Policy Act of 1992 (25
2 U.S.C. 3501).

3 “(b) CERTIFICATE OF PUBLIC CONVENIENCE AND
4 NECESSITY.—

5 “(1) IN GENERAL.—On receipt of an applica-
6 tion under subsection (c)(1) relating to an energy
7 transmission facility described in paragraph (2), the
8 Commission, after making the finding described in
9 paragraph (3) with respect to that energy trans-
10 mission facility, shall issue to any person, by publi-
11 cation in the Federal Register, a certificate of public
12 convenience and necessity for the construction,
13 modification, operation, or abandonment of that en-
14 ergy transmission facility, subject to such reasonable
15 terms and conditions as the Commission determines
16 to be appropriate.

17 “(2) ENERGY TRANSMISSION FACILITY DE-
18 SCRIBED.—An energy transmission facility referred
19 to in paragraph (1) is an energy transmission facil-
20 ity that—

21 “(A) traverses or, on construction or modi-
22 fication in accordance with a certificate of pub-
23 lic convenience and necessity issued under that
24 paragraph, will traverse not fewer than 2
25 States; and

1 “(B) is not less than 1,000 megawatts or
2 1,000 megavolt-amperes in power capacity.

3 “(3) FINDING DESCRIBED.—The finding re-
4 ferred to in paragraph (1) is a finding that—

5 “(A) the applicant for a certificate of pub-
6 lic convenience and necessity is able and will-
7 ing—

8 “(i) to carry out the activities and
9 perform the services proposed in the appli-
10 cation in a manner determined to be ap-
11 propriate by the Commission; and

12 “(ii) to achieve compliance with the
13 applicable requirements of—

14 “(I) this part; and

15 “(II) any rules and regulations
16 promulgated by the Commission pur-
17 suant to this part;

18 “(B) the energy transmission facility to be
19 constructed, modified, or operated under the
20 certificate of public convenience and necessity
21 will—

22 “(i) traverse not fewer than 2 States;

23 “(ii) be used for the transmission of
24 electric energy in interstate commerce; and

1 “(iii) have a power capacity of not less
2 than 1,000 megawatts or 1,000 megavolt-
3 amperes; and

4 “(C) operation of the energy transmission
5 facility as proposed in the application—

6 “(i) will—

7 “(I) enable the use of renewable
8 energy;

9 “(II) reduce congestion; or

10 “(III) improve the reliability of
11 the transmission system;

12 “(ii) will maximize, to the extent rea-
13 sonable and economical, the use of—

14 “(I) existing facility sites; and

15 “(II) the transmission capabili-
16 ties of existing energy transmission
17 facilities; and

18 “(iii) will, to the extent practicable,
19 minimize the use of eminent domain.

20 “(4) RULEMAKING.—Not later than 18 months
21 after the date of enactment of this section, the Com-
22 mission shall issue rules specifying—

23 “(A) a pre-filing process during which a
24 person described in subsection (c)(1) and the
25 Commission shall consult with—

1 “(i) the appropriate State agencies,
2 State public utility commissions, and State
3 energy offices in each State the proposed
4 project traverses;

5 “(ii) appropriate Federal agencies;
6 and

7 “(iii) each Indian Tribe that may be
8 affected by the proposed project;

9 “(B) the form of, and information to be
10 contained in, an application submitted under
11 subsection (c)(1);

12 “(C) requirements for determining whether
13 the applicable energy transmission facility will
14 be constructed or modified—

15 “(i) to traverse not fewer than 2
16 States;

17 “(ii) to be used for the transmission
18 of electric energy in interstate commerce;
19 and

20 “(iii) to have a power capacity of not
21 less than 1,000 megawatts or 1,000 mega-
22 volt-amperes;

23 “(D) criteria for determining the reason-
24 able and economical use of—

25 “(i) existing rights-of-way; and

1 “(ii) the transmission capabilities of
2 existing towers or structures;

3 “(E) the manner in which an application
4 submitted under subsection (c)(1) and any pro-
5 posal for the construction or modification of an
6 energy transmission facility shall be considered,
7 which, to the extent practicable, shall be con-
8 sistent with State statutory and regulatory poli-
9 cies concerning generation and retail sales of
10 electricity in the States in which the electric en-
11 ergy transmitted by the energy transmission fa-
12 cility will be generated or sold; and

13 “(F) the manner in which the Commission
14 will consider the needs of communities that will
15 be impacted directly by the proposed energy
16 transmission facility, including how any impacts
17 of the proposed energy transmission facility
18 could be mitigated or offset.

19 “(5) PUBLIC NOTICE, COMMENT, AND OPPOR-
20 TUNITY FOR A HEARING ON CERTAIN DRAFT DOCU-
21 MENTS.—

22 “(A) IN GENERAL.—The Commission shall
23 provide not less than 90 days for public com-
24 ment on any initial scoping document or draft
25 environmental impact statement prepared for

1 an energy transmission facility with respect to
2 which an application for a certificate of public
3 convenience and necessity has been submitted
4 under subsection (c)(1).

5 “(B) NOTICE AND OPPORTUNITY FOR
6 HEARING.—The Commission shall—

7 “(i) publish in the Federal Register a
8 notice of the filing of each draft scoping
9 document or draft environmental impact
10 statement described in clause (i); and

11 “(ii) provide to the individuals and en-
12 tities described in paragraph (6)(B) notice
13 and reasonable opportunity for the presen-
14 tation of any views and recommendations
15 with respect to the initial scoping docu-
16 ment or draft environmental impact state-
17 ment.

18 “(C) TRIBAL CONSENT.—With respect to
19 an Indian Tribe that may be affected by a po-
20 tential project, the Commission—

21 “(i) shall provide notice to the appro-
22 priate Tribal officials and an opportunity
23 of public comment in accordance with sub-
24 paragraph (A); and

1 “(ii) shall not approve a scoping docu-
2 ment or draft environmental impact state-
3 ment unless consent has been obtained
4 from the proper Tribal officials in a man-
5 ner consistent with the requirements of
6 section 2 of the Act of February 5, 1948
7 (62 Stat. 18, chapter 45; 25 U.S.C. 324).

8 “(6) NOTICE AND OPPORTUNITY FOR A HEAR-
9 ING ON APPLICATIONS.—

10 “(A) IN GENERAL.—In any proceeding be-
11 fore the Commission to consider an application
12 for a certificate of public convenience and ne-
13 cessity under this section, the Commission
14 shall—

15 “(i) publish a notice of the application
16 in the Federal Register; and

17 “(ii) provide to the individuals and en-
18 tities described in subparagraph (B) a no-
19 tice and reasonable opportunity for the
20 presentation of any views and rec-
21 ommendations with respect to the need for,
22 and impact of, the construction or modi-
23 fication of the energy transmission facility
24 proposed to be constructed or modified
25 under the certificate.

1 “(B) INDIVIDUALS AND ENTITIES DE-
2 SCRIBED.—The individuals and entities referred
3 to in subparagraph (A) are—

4 “(i) an agency, selected by the Gov-
5 ernor (or equivalent official) of the applica-
6 ble State, of each State in which the en-
7 ergy transmission facility proposed to be
8 constructed or modified under the applica-
9 ble certificate of public convenience and
10 necessity is or will be located;

11 “(ii) each affected landowner; and

12 “(iii) as determined by the Commis-
13 sion—

14 “(I) each affected Federal agen-
15 cy; and

16 “(II) each Indian Tribe that may
17 be affected by the proposed construc-
18 tion or modification.

19 “(C) PROHIBITION.—The Commission may
20 not—

21 “(i) require an applicant for a certifi-
22 cate of public convenience and necessity
23 under this section to provide any notice re-
24 quired under this section; or

1 “(2) REQUIREMENTS.—Any notice provided to
2 an affected landowner under paragraph (1) shall in-
3 clude the following:

4 “(A) The following statement in 14-point
5 bold typeface:

6 “‘The [name of applicant] has proposed build-
7 ing power lines that will cross your property,
8 and may also require building transmission tow-
9 ers on your property. If the Federal Energy
10 Regulatory Commission approves [applicant]’s
11 proposed project, then [applicant] may have the
12 right to build transmission towers on, and
13 power lines over, your property, or use your
14 property to construct the proposed project, sub-
15 ject to paying you just compensation for the
16 loss of your property.

17 “‘If you want to raise objections to this, or oth-
18 erwise comment on this project, you can do so
19 by submitting written comments to the Federal
20 Energy Regulatory Commission Docket No.
21 [_____]. You can do this electronically or by
22 mail. To do so electronically [to be inserted by
23 the Commission]. To do so by mail [to be in-
24 serted by the Commission].’.

1 “(B) A description of the proposed project,
2 including—

3 “(i) the location of the proposed
4 project (including a general location map);

5 “(ii) the purpose of the proposed
6 project; and

7 “(iii) the timing of the proposed
8 project.

9 “(C) The name of, and the location in the
10 docket of the Commission at which may be
11 found, each submission by the applicant to the
12 Commission relating to the proposed project.

13 “(D) A general description of what the ap-
14 plicant will need from the landowner if the pro-
15 posed project is approved, including the activi-
16 ties the applicant may undertake and the facili-
17 ties that the applicant may seek to construct on
18 the property of the landowner.

19 “(E) A description of how the landowner
20 may contact the applicant, including—

21 “(i) a website; and

22 “(ii) a local or toll-free telephone
23 number and the name of a specific person
24 to contact who is knowledgeable about the
25 proposed project.

1 “(F) A description of how the landowner
2 may contact the Commission, including—

3 “(i) a website; and

4 “(ii) a local or toll-free telephone
5 number and the name of a specific person
6 to contact who is knowledgeable about the
7 proposed project.

8 “(G) A summary of the rights that the
9 landowner has—

10 “(i) before the Commission; and

11 “(ii) in other proceedings under—

12 “(I) the Federal Rules of Civil
13 Procedure; and

14 “(II) the eminent domain rules of
15 the relevant State.

16 “(H) Any other information that the Com-
17 mission determines to be appropriate.

18 “(3) OBLIGATION OF APPLICANT.—An appli-
19 cant for a certificate of public convenience and ne-
20 cessity under this section shall submit to the Com-
21 mission, together with the application for the certifi-
22 cate, the name and address of each affected land-
23 owner.

24 “(e) REGULATORY JURISDICTION.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the Commission shall have exclusive juris-
3 diction over, and no State shall regulate any aspect
4 of, the siting or permitting of an energy trans-
5 mission facility constructed, modified, or operated
6 under a certificate of public convenience and neces-
7 sity issued under this section.

8 “(2) SAVINGS CLAUSE.—Nothing in this section
9 affects the rights of States under—

10 “(A) the Coastal Zone Management Act of
11 1972 (16 U.S.C. 1451 et seq.);

12 “(B) the Federal Water Pollution Control
13 Act (33 U.S.C. 1251 et seq.);

14 “(C) the Clean Air Act (42 U.S.C. 7401 et
15 seq.); or

16 “(D) division A of subtitle III of title 54,
17 United States Code (formerly known as the
18 ‘National Historic Preservation Act’).

19 “(f) JUDICIAL REVIEW.—

20 “(1) IN GENERAL.—Any person aggrieved by
21 an order issued by the Commission under this sec-
22 tion may obtain review of the order in—

23 “(A) the court of appeals of the United
24 States for any judicial circuit in which the en-
25 ergy transmission facility to be constructed or

1 modified under the applicable certificate of pub-
2 lic convenience and necessity is or will be lo-
3 cated; or

4 “(B) the United States Court of Appeals
5 for the District of Columbia Circuit.

6 “(2) PETITION FOR REVIEW.—

7 “(A) IN GENERAL.—A person may obtain
8 review under paragraph (1) by filing in the ap-
9 plicable court a written petition praying that
10 the order of the Commission be modified or set
11 aside in whole or in part.

12 “(B) TIMING.—A petition under subpara-
13 graph (A) shall be filed by not later than 60
14 days after the date on which the applicable
15 order of the Commission is published in the
16 Federal Register.

17 “(3) PERSON AGGRIEVED.—Notwithstanding
18 any other provision of this Act, a person aggrieved
19 by an order of the Commission issued under this
20 section need not—

21 “(A) have been a party to the proceedings
22 before the Commission in which that order was
23 issued in order to obtain judicial review of the
24 order under this subsection; or

1 “(B) have requested rehearing before the
2 Commission prior to seeking judicial review.

3 “(g) RIGHT OF EMINENT DOMAIN FOR ENERGY
4 TRANSMISSION FACILITIES.—

5 “(1) IN GENERAL.—The holder of a certificate
6 of public convenience and necessity may acquire
7 through the exercise of the right of eminent domain
8 in a court described in paragraph (2) any right-of-
9 way, land, or other property that is necessary to
10 construct, modify, operate, or maintain an energy
11 transmission facility in accordance with that certifi-
12 cate if the holder—

13 “(A) cannot acquire the necessary right-of-
14 way, land, or other property by contract;

15 “(B) is unable to agree with the owner of
16 the right-of-way, land, or other property with
17 respect to the compensation to be paid for that
18 right-of-way, land, or other property; or

19 “(C) cannot clear defective title with re-
20 spect to the right-of-way, land, or other prop-
21 erty.

22 “(2) COURT DESCRIBED.—A court referred to
23 in paragraph (1) is—

1 “(A) the district court of the United States
2 for the district in which the applicable land or
3 other property is located; or

4 “(B) the appropriate State court.

5 “(3) NOTICE OF DECISION TO ISSUE CERTIFI-
6 CATE.—The holder of a certificate of public conven-
7 ience and necessity may not exercise the right of
8 eminent domain under this subsection with respect
9 to any property covered by the certificate unless the
10 Commission has first, in addition to publishing the
11 notice of certificate of public convenience and neces-
12 sity in the Federal Register, provided all affected
13 landowners with notice of—

14 “(A) the decision of the Commission to
15 grant the certificate; and

16 “(B) the procedures for obtaining judicial
17 review of that decision under subsection (f), in-
18 cluding a description of the time period for
19 seeking judicial review under that subsection.

20 “(h) CONDEMNATION PROCEDURES.—

21 “(1) APPRAISALS.—

22 “(A) IN GENERAL.—A holder of, or appli-
23 cant for, a certificate of public convenience and
24 necessity shall have any property that the hold-
25 er or applicant seeks to acquire through the ex-

1 ercise of the right of eminent domain under
2 subsection (g) appraised in accordance with
3 generally accepted appraisal standards by an
4 appraiser selected by the owner of the property,
5 subject to subparagraph (D).

6 “(B) REQUIREMENTS.—

7 “(i) COSTS.—The applicable holder of,
8 or applicant for, a certificate of public con-
9 venience and necessity shall pay for each
10 appraisal carried out under subparagraph
11 (A).

12 “(ii) INSPECTIONS.—The owner of the
13 applicable property (or a designated rep-
14 resentative of the owner) shall be given the
15 opportunity to accompany the appraiser
16 during any inspection of the property that
17 is part of an appraisal under subparagraph
18 (A).

19 “(C) TIMING.—An appraisal under sub-
20 paragraph (A) shall be carried out before the
21 holder of, or applicant for, the certificate of
22 public convenience and necessity—

23 “(i) makes an offer of just compensa-
24 tion under paragraph (2); or

1 “(ii) commences an action or pro-
2 ceeding to exercise the right of eminent do-
3 main under subsection (g).

4 “(D) SELECTION OF APPRAISER.—If the
5 owner of the applicable property does not select
6 an appraiser under subparagraph (A) by the
7 date that is 60 days after the date on which the
8 holder of, or applicant for, the applicable certifi-
9 cate of public convenience and necessity re-
10 quests that the owner do so, the holder or ap-
11 plicant shall have the right to select the ap-
12 praiser.

13 “(2) OFFERS OF JUST COMPENSATION.—

14 “(A) IN GENERAL.—Any offer of just com-
15 pensation made to an affected landowner of
16 property that is covered by a certificate of pub-
17 lic convenience and necessity—

18 “(i) shall be made in writing;

19 “(ii) may not be for an amount less
20 than the fair market value of the property,
21 as determined by an appraisal carried out
22 under paragraph (1); and

23 “(iii) shall include compensation for—

24 “(I) any lost income from the
25 property; and

1 “(II) any damages to any other
2 property of the owner.

3 “(B) TIMING.—The holder of, or applicant
4 for, a certificate of public convenience and ne-
5 cessity may not make an offer of just com-
6 pensation to an affected landowner until the
7 date that is 30 days after the date on which the
8 Commission provides a notice to the affected
9 landowner under subsection (g)(3).

10 “(3) JURISDICTIONAL LIMITATIONS.—

11 “(A) MINIMUM JURISDICTIONAL
12 AMOUNT.—A district court of the United States
13 shall only have jurisdiction of an action or pro-
14 ceeding to exercise the right of eminent domain
15 under subsection (g) if the amount claimed by
16 the owner of the property to be condemned ex-
17 ceeds \$3,000.

18 “(B) STATE OWNERSHIP INTERESTS.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), a district court of the
21 United States shall have no jurisdiction to
22 condemn any interest owned by a State.

23 “(ii) EXCEPTION.—Notwithstanding
24 clause (i), a district court of the United
25 States shall have jurisdiction—

1 “(B) may not—

2 “(i) condemn any other interest; or

3 “(ii) condemn an interest for any pur-
4 pose not described in that certificate.

5 “(5) RIGHT OF POSSESSION.—With respect to
6 any action or proceeding to exercise the right of emi-
7 nent domain under subsection (g), an owner of prop-
8 erty covered by the applicable certificate of public
9 convenience and necessity shall not be required to
10 surrender possession of that property unless the
11 holder of the certificate—

12 “(A) has paid to the owner the award of
13 compensation in the action or proceeding; or

14 “(B) has deposited the amount of that
15 award with the court.

16 “(6) LITIGATION COSTS.—

17 “(A) IN GENERAL.—A holder of a certifi-
18 cate of public convenience and necessity that
19 commences an action or proceeding to exercise
20 the right of eminent domain under subsection
21 (g) shall be liable to the owner of any property
22 condemned in that proceeding for the costs de-
23 scribed in subparagraph (B) if the amount
24 awarded to that owner for the property con-
25 demned is more than 125 percent of the

1 amount offered to the owner by the holder be-
2 fore the commencement of that action or pro-
3 ceeding.

4 “(B) COSTS DESCRIBED.—The costs re-
5 ferred to in subparagraph (A) are litigation
6 costs incurred for the action or proceeding de-
7 scribed in that subparagraph by the owner of
8 the property condemned, including—

9 “(i) reasonable attorney fees; and

10 “(ii) expert witness fees and costs.

11 “(i) ENFORCEMENT OF CONDITIONS.—

12 “(1) IN GENERAL.—An affected landowner the
13 property of which has been acquired by eminent do-
14 main under subsection (g) shall have the right—

15 “(A) to enforce any condition in the appli-
16 cable certificate of public convenience and ne-
17 cessity; and

18 “(B) to seek damages for a violation of
19 any condition described in subparagraph (A).

20 “(2) JURISDICTION.—The district courts of the
21 United States shall have jurisdiction over any action
22 arising under paragraph (1).

23 “(j) OTHER LANDOWNER RIGHTS AND PROTEC-
24 TIONS.—

1 “(1) FAILURE TO TIMELY COMPLETE
2 PROJECTS.—

3 “(A) SURRENDER OF CONDEMNED PROP-
4 ERTY.—

5 “(i) IN GENERAL.—An individual or
6 entity from which an interest in property is
7 acquired through the exercise of the right
8 of eminent domain under subsection (g) by
9 the holder of a certificate of public conven-
10 ence and necessity that is issued for the
11 construction, modification, or operation of
12 an energy transmission facility may de-
13 mand that the holder of the certificate sur-
14 render that interest to that individual or
15 entity if—

16 “(I)(aa) the energy transmission
17 facility is not in operation (as modi-
18 fied, in the case of a modification of
19 an energy transmission facility) by the
20 date specified in the certificate (in-
21 cluding any modification of the certifi-
22 cate by the Commission); and

23 “(bb) there is no request for the
24 extension of that date pending before
25 the Commission; or

1 “(II) subject to clause (ii), the
2 holder of the certificate, with the ap-
3 proval of the Commission, abandons
4 the portion of the energy transmission
5 facility that is located on the applica-
6 ble property relating to that interest.

7 “(ii) REQUIREMENT.—The Commis-
8 sion may not approve in a certificate of
9 public convenience and necessity issued
10 under this section or in any subsequent
11 proceeding the abandonment of all or any
12 part of an energy transmission facility un-
13 less the Commission requires the holder of
14 the applicable certificate of public conven-
15 ience and necessity to offer to each indi-
16 vidual or entity described in clause (i) the
17 option of having the property acquired
18 from that individual or entity as described
19 in that clause restored to the condition
20 that the property was in prior to the
21 issuance of the certificate.

22 “(B) REPAYMENT OF CONDEMNATION
23 AWARD.—If an individual or entity described in
24 subparagraph (A)(i) demands the surrender of
25 an interest under that subparagraph, the holder

1 of the applicable certificate of public conven-
2 ence and necessity shall be entitled to repay-
3 ment of an amount equal to not more than 50
4 percent of the condemnation award relating to
5 the interest.

6 “(C) JURISDICTION.—The district courts
7 of the United States shall have jurisdiction over
8 any action arising under this paragraph.

9 “(2) MATERIAL MISREPRESENTATIONS.—

10 “(A) RESCISSION OF TRANSACTION.—

11 “(i) IN GENERAL.—An affected land-
12 owner that proves, by a preponderance of
13 the evidence, that the affected landowner
14 has granted a right-of-way or any other in-
15 terest based on a material misrepresenta-
16 tion made by or on behalf of an applicant
17 for, or holder of, a certificate of public con-
18 venience and necessity under this section
19 shall have the right to rescind the trans-
20 action.

21 “(ii) JURISDICTION.—The district
22 courts of the United States shall have ju-
23 risdiction over any action arising under
24 clause (i).

25 “(B) CIVIL PENALTIES.—

1 “(i) IN GENERAL.—If an applicant
2 for, or holder of, a certificate of public con-
3 venience and necessity makes a material
4 misrepresentation, or if a material mis-
5 representation is made on behalf of such
6 an applicant or holder, to an affected land-
7 owner concerning the energy transmission
8 facility to be constructed or modified under
9 the certificate, the applicant or holder shall
10 be subject to a civil penalty, to be assessed
11 by the Commission, in an amount not to
12 exceed \$10,000 per affected landowner to
13 which the misrepresentation was made.

14 “(ii) PROCEDURE.—The penalty de-
15 scribed in clause (i) shall be assessed by
16 the Commission after providing notice and
17 an opportunity for a public hearing.

18 “(iii) REQUIREMENT.—In determining
19 the amount of a penalty under clause (i),
20 the Commission shall take into consider-
21 ation the nature and seriousness of the vio-
22 lation.”.

1 **SEC. 405. COST ALLOCATION.**

2 (a) DEFINITION OF COVERED TRANSMISSION FACIL-
3 ITY.—In this section, the term “covered transmission fa-
4 cility” means a transmission facility that—

5 (1)(A) traverses not fewer than 2 States; or

6 (B) is located on the outer Continental shelf;

7 and

8 (2) has a power capacity of not less than 1,000
9 megawatts or 1,000 megavolt-amperes.

10 (b) COST ALLOCATION PROPOSAL.—A transmitting
11 utility that owns or operates a covered transmission facil-
12 ity shall be responsible for developing and filing a cost al-
13 location proposal with the Federal Energy Regulatory
14 Commission pursuant to section 205 of the Federal Power
15 Act (16 U.S.C. 824d), in which, consistent with the re-
16 quirements under subparagraphs (A)(vi), (F), and (G) of
17 section 403(c)(1), the derived benefits of the construction
18 and operation of the covered transmission facility are iden-
19 tified and allocated among beneficiaries in a manner that
20 is approximately commensurate to the derived benefits.

21 (c) EFFECTIVENESS.—This section shall remain in
22 effect with respect to a covered transmission facility until
23 the final rule under section 403(c)(1) is promulgated and
24 fully implemented by all transmission providers for the re-
25 gion or regions in which the covered transmission facility
26 is located.

1 **TITLE V—FACILITATING DEVEL-**
2 **OPMENT OF ZERO-EMISSION**
3 **TECHNOLOGY AT**
4 **BROWNFIELD SITES**

5 **SEC. 501. DEFINITIONS.**

6 In this title:

7 (1) **APPROPRIATE COMMITTEES OF CON-**
8 **GRESS.**—The term “appropriate committees of Con-
9 **gress”** means—

10 (A) the Committee on Environment and
11 Public Works of the Senate; and

12 (B) the Committee on Energy and Com-
13 merce of the House of Representatives.

14 (2) **BROWNFIELD SITE.**—The term “brownfield
15 site” has the meaning given the term in section 101
16 of the Comprehensive Environmental Response,
17 Compensation, and Liability Act of 1980 (42 U.S.C.
18 9601).

19 (3) **REGIONAL COMMISSION.**—The term “re-
20 gional commission” means—

21 (A) the Delta Regional Authority estab-
22 lished by section 382B(a)(1) of the Consoli-
23 dated Farm and Rural Development Act (7
24 U.S.C. 2009aa–1(a)(1));

1 (B) the Appalachian Regional Commission
2 established by section 14301(a) of title 40,
3 United States Code;

4 (C) the Southeast Crescent Regional Com-
5 mission established by section 15301(a)(1) of
6 that title;

7 (D) the Southwest Border Regional Com-
8 mission established by section 15301(a)(2) of
9 that title;

10 (E) the Northern Border Regional Com-
11 mission established by section 15301(a)(3) of
12 that title;

13 (F) the Great Lakes Authority established
14 by section 15301(a)(4) of that title; and

15 (G) the Denali Commission established by
16 section 303(a) of the Denali Commission Act of
17 1998 (42 U.S.C. 3121 note; Public Law 105-
18 277).

19 (4) **RETIRED FOSSIL FUEL SITE.**—The term
20 “retired fossil fuel site” means the site of 1 or more
21 fossil fuel electric generation facilities that are re-
22 tired or scheduled to retire, including multi-unit fa-
23 cilities that are partially shut down.

1 (5) ZERO-EMISSION TECHNOLOGY.—The term
2 “zero-emission technology” means any technology
3 that—

4 (A) produces zero emissions of—

5 (i) any air pollutant that is listed pur-
6 suant to section 108(a) of the Clean Air
7 Act (42 U.S.C. 7408(a)) (or any precursor
8 to such an air pollutant); and

9 (ii) any air pollutant that is a green-
10 house gas; and

11 (B) assists in the efforts to reduce or avoid
12 greenhouse gas emissions and other forms of
13 air pollution.

14 **SEC. 502. REGIONAL COMMISSION SUPPORT FOR ZERO-**
15 **EMISSION TECHNOLOGY DEVELOPMENT AT**
16 **BROWNFIELD SITES.**

17 (a) AUTHORITY.—Each regional commission may
18 provide technical assistance to, make grants to, enter into
19 contracts with, or otherwise provide amounts to individ-
20 uals or entities in the applicable region for projects and
21 activities—

22 (1) to conduct research and analysis regarding
23 the economic impact of siting, permitting, con-
24 structing, and operating zero-emission technology at
25 a brownfield site, including a retired fossil fuel site;

1 (2) to provide meaningful community engage-
2 ment in identifying and considering the potential en-
3 vironmental effects, including cumulative effects, of
4 zero-emission technology at a brownfield site, includ-
5 ing a retired fossil fuel site;

6 (3) to assist with workforce training or retrain-
7 ing to perform activities relating to the siting, per-
8 mitting, and operation of zero-emission technology
9 at a brownfield site, including a retired fossil fuel
10 site; and

11 (4) to engage with the Environmental Protec-
12 tion Agency, the Department of Energy, and other
13 agencies with expertise in zero-emission technologies,
14 brownfield sites, or the permitting process under
15 NEPA.

16 (b) LIMITATION ON AVAILABLE AMOUNTS.—

17 (1) IN GENERAL.—Except as provided in para-
18 graphs (2) and (3), not more than 50 percent of the
19 cost of any project or activity eligible for a grant
20 under this section may be paid using amounts made
21 available to carry out this section.

22 (2) DISTRESSED COUNTIES.—In the case of a
23 project or activity to be carried out in a county for
24 which a distressed county designation is in effect
25 under section 14526 or 15702 of title 40, United

1 States Code, not more than 80 percent of the cost
2 of the project or activity may be paid using amounts
3 made available to carry out this section.

4 (3) AT-RISK COUNTIES, TRANSITIONAL COUN-
5 TIES, AND ISOLATED AREAS OF DISTRESS.—

6 (A) IN GENERAL.—In the case of a project
7 or activity to be carried out in a county or area
8 described in subparagraph (B), not more than
9 70 percent of the cost of the project or activity
10 may be paid using amounts made available to
11 carry out this section.

12 (B) COUNTY OR AREA DESCRIBED.—A
13 county or area referred to in subparagraph (A)
14 is—

15 (i) a county for which an at-risk coun-
16 ty designation is in effect under section
17 14526 of title 40, United States Code;

18 (ii) a county for which a transitional
19 county designation is in effect under sec-
20 tion 15702 of that title; or

21 (iii) an area for which an isolated area
22 of distress designation is in effect under
23 section 15702 of that title.

24 (c) SOURCES OF ASSISTANCE.—Subject to subsection
25 (b), a grant provided under this section may be provided

1 from amounts made available to carry out this section, in
2 combination with amounts made available—

3 (1) under any other Federal program; or

4 (2) from any other source.

5 (d) FEDERAL SHARE.—Notwithstanding any provi-
6 sion of law limiting the Federal share under any other
7 Federal program, amounts made available to carry out
8 this section may be used to increase that Federal share,
9 as the applicable regional commission determines to be ap-
10 propriate.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$5,000,000 for each of fiscal years 2023 through 2028.

14 **SEC. 503. FEDERAL-STATE COORDINATION AND ASSIST-**
15 **ANCE FOR DEVELOPMENT OF ZERO-EMIS-**
16 **SION TECHNOLOGY AT BROWNFIELD SITES.**

17 (a) PERMITTING COOPERATIVE AGREEMENTS AU-
18 THORIZED.—At the request of the Governor of a State,
19 the Administrator may enter into a permitting cooperative
20 agreement with the State under which each party to the
21 agreement shall identify steps, including timelines, that
22 the parties will take to streamline the consideration of
23 Federal and State environmental permits for zero-emis-
24 sion technology development on appropriate brownfield
25 sites.

1 (b) AUTHORITY UNDER AGREEMENT.—In carrying
2 out this section, the Administrator may—

3 (1) accept from an owner or developer of a
4 zero-emission technology project on a brownfield site
5 a consolidated application for all permits required by
6 the Administrator, to the extent that such a consoli-
7 dated application is consistent with other applicable
8 law;

9 (2) enter into memoranda of agreement with
10 other agencies to coordinate among agencies the con-
11 sideration of applications and permits for the devel-
12 opment of zero-emission technology on brownfield
13 sites; and

14 (3) enter into memoranda of understanding
15 with States under which, to the extent practicable,
16 Federal and State review of applications and permits
17 for the development of zero-emission technology on
18 brownfield sites will be coordinated and concurrently
19 considered.

20 (c) STATE ASSISTANCE.—The Administrator may
21 provide financial assistance to State governments to facili-
22 tate the hiring of additional personnel with expertise in
23 fields relevant to the consideration of applications and en-
24 vironmental permits for the development of zero-emission
25 technology on brownfield sites.

1 (d) OTHER ASSISTANCE.—The Administrator may
2 provide technical, legal, or other assistance to a State to
3 facilitate the review by the State of applications and per-
4 mits for the development of zero-emission technology on
5 brownfield sites.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to carry out this section
8 \$5,000,000 for each of fiscal years 2023 through 2028.

9 **SEC. 504. RENEWABLE ENERGY AND STORAGE DEVELOP-**
10 **MENT AT BROWNFIELD SITES.**

11 (a) DEFINITION OF ELIGIBLE RESPONSE SITE.—
12 Section 101 of the Comprehensive Environmental Re-
13 sponse, Compensation, and Liability Act of 1980 (42
14 U.S.C. 9601) is amended—

15 (1) in paragraph (41)(B)—

16 (A) in clause (i), by striking “or” after the
17 semicolon;

18 (B) in clause (ii)(II), by striking the period
19 at the end and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) a renewable brownfield site.”;

22 and

23 (2) by adding at the end the following:

24 “(42) RENEWABLE BROWNFIELD SITE.—The
25 term ‘renewable brownfield site’ means a facility—

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1 “(A) that is—

2 “(i) a brownfield site; or

3 “(ii) an area of a brownfield site;

4 “(B) at which—

5 “(i) the primary use is the develop-
6 ment of—

7 “(I) wind or solar energy re-
8 sources;

9 “(II) storage resources for elec-
10 tricity generated by wind or solar en-
11 ergy resources; or

12 “(III) other renewable energy re-
13 sources with zero emissions of green-
14 house gases or any air pollutant that
15 is listed pursuant to section 108(a) of
16 the Clean Air Act (42 U.S.C.
17 7408(a)) (or any precursor to such an
18 air pollutant) that are identified by
19 the Administrator through rulemaking
20 as appropriate for development on a
21 brownfield site;

22 “(ii) the combined energy or storage
23 resources described in clause (i) constitute
24 at least 1 megawatt of production or stor-
25 age capacity; and

1 “(iii) the use of the brownfield site or
2 area, and any expansion, redevelopment, or
3 reuse of the brownfield site or area, is lim-
4 ited to that which is necessary for the de-
5 velopment of the energy or storage re-
6 sources described in clause (i); and

7 “(C) that is located not closer than 1000
8 feet from a community with environmental jus-
9 tice (as defined in section 2 of the Promoting
10 Efficient and Engaged Reviews Act of 2023)
11 concerns.

12 “(43) RENEWABLE BROWNFIELD DEVEL-
13 OPER.—

14 “(A) IN GENERAL.—The term ‘renewable
15 brownfield developer’, with respect to a renew-
16 able brownfield site, means the following per-
17 sons:

18 “(i) PERSON WITH AN OWNERSHIP IN-
19 TEREST.—A person that—

20 “(I) acquires ownership of the re-
21 newable brownfield site after the date
22 of enactment of the Promoting Effi-
23 cient and Engaged Reviews Act of
24 2023;

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1 “(II) establishes by a preponderance of the evidence each of the criteria described in clauses (i) and (iii) through (viii) of paragraph (40)(B); and

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6 “(III) meets the criteria on inquiries described in subparagraph (B).

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8 “(ii) PERSON WITH A LEASEHOLD INTEREST.—

9
10 “(I) IN GENERAL.—A person—

11 “(aa) that acquires a leasehold interest in the renewable brownfield site after the date of enactment of the Promoting Efficient and Engaged Reviews Act of 2023;

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17 “(bb) that meets the condition described in paragraph (40)(A)(ii)(II); and

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20 “(cc) with respect to which any of the conditions described in subclause (II) apply.

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23 “(II) CONDITIONS DESCRIBED.—

24 The conditions referred to in subclause (I)(cc) are the following:

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1 “(aa) The conditions de-
2 scribed in paragraph
3 (40)(A)(ii)(III).

4 “(bb) The owner of the facil-
5 ity that is subject to the lease-
6 hold interest is—

7 “(AA) a person de-
8 scribed in clause (i); or

9 “(BB) a bona fide pro-
10 spective purchaser.

11 “(B) CRITERIA ON INQUIRIES.—The cri-
12 teria referred to in subparagraph (A)(i)(III) are
13 the following:

14 “(i) The person has submitted to the
15 President and the State or Tribal author-
16 ity within which the renewable brownfield
17 site is located—

18 “(I) a redevelopment plan that
19 details the plans of the person to re-
20 develop the site as a renewable
21 brownfield site; and

22 “(II) a written report of findings,
23 including supporting evidence, derived
24 from all appropriate inquiries made by
25 the person, according to the terms

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1 provided in subclauses (I) and (II) of
2 paragraph (40)(B)(ii).

3 “(ii) As of 180 days after the date on
4 which the written report required under
5 clause (i)(II) is submitted, the President or
6 the State or Tribal authority has not pro-
7 vided to the person a response that in-
8 cludes a written notice of concern con-
9 taining—

10 “(I) a written assessment of the
11 report submitted under that clause
12 finding that—

13 “(aa) the person’s proposed
14 redevelopment of the site is not
15 consistent with protecting human
16 health and the environment from
17 hazardous substances, pollutants,
18 or contaminants at the facility;
19 or

20 “(bb) the report provides in-
21 sufficient information to assess
22 whether the proposed develop-
23 ment is not consistent with pro-
24 tecting human health and the en-

1 vironment from hazardous sub-
2 stances; and

3 “(II) if applicable, specific in-
4 structions for how the person may
5 amend the report or redevelopment
6 plan to address the issues raised in
7 the written notice of concern provided
8 by the President or State or Tribal
9 authority.

10 “(C) EFFECT OF AMENDED FINDINGS RE-
11 PORT.—If the person seeking to establish their
12 status as a renewable brownfield developer has
13 delivered to the President or State or Tribal au-
14 thority an amended report of findings derived
15 from all appropriate inquiries, as provided for in
16 subclause (II) of subparagraph (B)(ii), and if
17 the President or the State or Tribal authority
18 has not provided the person with a subsequent
19 notice of concern within 180 days of the deliv-
20 ery of the amended report of findings, as pro-
21 vided for in that subparagraph, the criteria de-
22 scribed in subparagraph (B) are satisfied for
23 purposes of subparagraph (A)(i)(III).”.

24 (b) LIABILITY.—Section 107 of the Comprehensive
25 Environmental Response, Compensation, and Liability Act

1 of 1980 (42 U.S.C. 9607) is amended by adding at the
2 end the following:

3 “(s) RENEWABLE BROWNFIELD DEVELOPER EX-
4 EMPTION.—Notwithstanding subsection (a)(1), a renew-
5 able brownfield developer whose potential liability for a re-
6 lease or threatened release is based solely on the renewable
7 brownfield developer being considered to be an owner or
8 operator of a facility shall not be liable, including liability
9 for any claim for contribution under this Act, so long as
10 the renewable brownfield developer does not impede a re-
11 sponse action or natural resource restoration.”.