

118TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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

IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ 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**

- 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.
- 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 dispropor-  
4 tionate 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 cant impacts not evaluated in the programmatic en-  
2 vironmental review.

3 (2) SUPPLEMENTAL ENVIRONMENTAL RE-  
4 VIEWS.—An agency may use a programmatic envi-  
5 ronmental review in conjunction with a supplemental  
6 environmental review that is confined to those speci-  
7 fications or impacts that were not evaluated in the  
8 programmatic environmental review.

9 (h) JOINT ENVIRONMENTAL REVIEWS.—Agencies  
10 shall allow for the use of programmatic environmental re-  
11 views to jointly conduct—

12 (1) environmental reviews under NEPA; and

13 (2) consultations or other analyses required  
14 under other applicable law.

15 (i) FEDERAL PERMITTING IMPROVEMENT STEERING  
16 COUNCIL ENVIRONMENTAL REVIEW IMPROVEMENT  
17 FUND.—Section 41009(d) of the FAST Act (42 U.S.C.  
18 4370m–8(d)) is amended—

19 (1) in paragraph (2)—

20 (A) by striking “Amounts in the Fund  
21 shall be available to the Executive Director;  
22 without fiscal year limitation, solely for the pur-  
23 poses of” and inserting “Amounts in the Fund  
24 shall be available to the Executive Director,  
25 without fiscal year limitation, for—

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

on which the initial meeting is convened under clause (ii), the issue shall be elevated to the head of the lead agency, who shall convene a leadership issue resolution meeting not later than 90 days after the date on which the initial meeting is convened under that clause with—

(I) the heads of the relevant co-operating agencies, including independent agencies (as applicable) and any relevant Secretaries;

(II) the project sponsor; and

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

(iv) REFERRAL OF ISSUE RESOLUTION FOR CLIMATE CHANGE MITIGATION OR RESILIENCE PROJECTS.—

(I) IN GENERAL.—If issue resolution for a climate change mitigation or resilience project is not achieved by 30 days after the date on which a 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. (Mae) 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 (a) DESIGNATION OF SENIOR COMMUNITY ENGE-  
10 MENT OFFICERS.—

11 (1) IN GENERAL.—Consistent with guidance  
12 provided by the Director of the Office of Manage-  
13 ment and Budget, the head of each agency with au-  
14 thority for completing environmental reviews, per-  
15 mits, or analyses required by law shall designate 1  
16 or more appropriate employees or officials of the ap-  
17 plicable agency to serve as a Senior Community En-  
18 gagement Officer (referred to in this section as an  
19 “SCO”).

20 (2) RESPONSIBILITIES.—An SCO shall—

21 (A) oversee community engagement in en-  
22 vironmental review and authorization processes  
23 carried out by the agency;

1 (B) advise the applicable head of the agen-  
2 cy on matters relating to community engage-  
3 ment;

4 (C) identify, recommend, and implement  
5 approaches to expand and improve early, mean-  
6 ingful community engagement relating to—

7 (i) the environmental review and au-  
8 thorization processes carried out by the  
9 agency; and

10 (ii) agency decisionmaking relating to  
11 those processes;

12 (D) identify and avoid or resolve conflicts  
13 with affected communities—

14 (i) to align Federal actions with the  
15 needs and interests of those communities;  
16 and

17 (ii) to minimize the potential for delay  
18 of environmental review and authorization  
19 processes carried out by the agency;

20 (E) identify opportunities with affected  
21 communities to accelerate the environmental re-  
22 view and authorization processes carried out by  
23 the agency;

24 (F) provide technical support and capacity  
25 building, on request of a community, to enhance

1 the ability of communities to engage construc-  
2 tively in agency decisionmaking; and

3 (G) assist in developing and negotiating  
4 community benefits agreements consistent with  
5 section 204.

6 (3) REPORTING.—An SCO shall report directly  
7 to a deputy secretary (or equivalent) or higher in the  
8 agency in which the SCO serves.

9 (b) REGIONAL COMMUNITY ENGAGEMENT OFFI-  
10 CERS.—An agency may appoint Regional Community En-  
11 gagement Officers to support community engagement in  
12 environmental review and authorization processes carried  
13 out by the agency within an applicable region, including  
14 activities—

15 (1) to identify and implement approaches to ex-  
16 pand and improve early, meaningful community en-  
17 gagement relating to—

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

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

22 (2) to identify and avoid or resolve conflicts  
23 with affected communities that have the potential to  
24 delay environmental review and authorization proc-  
25 esses carried out by the agency;



1 (3) to identify opportunities with affected com-  
2 munities to accelerate the environmental review and  
3 authorization processes carried out by the agency;

4 (4) to provide technical support and capacity  
5 building, on request of a community, to enhance the  
6 ability of communities to engage constructively in  
7 agency decision making; and

8 (5) to assist in developing and negotiating com-  
9 munity benefits agreements consistent with section  
10 204.

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

19 (d) FAST 41.—

20 (1) DEFINITION OF AGENCY SCO.—Section  
21 41001 of the FAST Act (42 U.S.C. 4370m) (as  
22 amended by section 201(a)(2)(A)) is amended—

23 (A) by redesignating paragraphs (2)  
24 through (18) as paragraphs (3) through (19),  
25 respectively; and

1 (B) by inserting after paragraph (1) the  
2 following:

3 “(2) AGENCY SCO.—The term ‘agency SCO’  
4 means the senior community engagement officer of  
5 an agency, as designated by the head of the agency  
6 under section 202(a)(1) of the Promoting Efficient  
7 and Engaged Reviews Act of 2023.”.

8 (2) DISPUTE RESOLUTION.—Section  
9 41003(c)(2)(C)(i) of the FAST Act (42 U.S.C.  
10 4370m–2(c)(2)(C)(i)) is amended by striking “agen-  
11 cy CERPOs” and inserting “agency CERPOS, agen-  
12 cy SCOs,”.

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

16 (A) by striking “facilitate timely” and in-  
17 serting “facilitate early, meaningful community  
18 engagement and timely”; and

19 (B) by inserting “and agency SCOs” after  
20 “agency CERPOs”.

21 **SEC. 203. OFFICE OF ENVIRONMENTAL JUSTICE AND EX-**  
22 **TERNAL CIVIL RIGHTS.**

23 (a) ESTABLISHMENT.—There is established in the  
24 Environmental Protection Agency an Office of Environ-

1 mental Justice and External Civil Rights (referred to in  
2 this section as the "Office")—

3 (1) to lead the agency-wide effort of the Envi-  
4 ronmental Protection Agency in addressing the  
5 needs of communities with environmental justice  
6 concerns;

7 (2) to maximize the benefits of programs and  
8 activities of the Environmental Protection Agency to  
9 communities with environmental justice concerns;  
10 and

11 (3) to enforce Federal civil rights laws, which  
12 together prohibit discrimination by applicants for  
13 and recipients of financial assistance from the Envi-  
14 ronmental Protection Agency.

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

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

23 (1) supporting the mission of the Environ-  
24 mental Protection Agency by providing leadership on  
25 environmental justice and external civil rights in the

1 programs and activities of the Environmental Pro-  
2 tection Agency, in collaboration with other Federal  
3 agencies and partners;

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

7 (A) national programs and regions of the  
8 Environmental Protection Agency; and

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

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

17 (4) engaging with communities with environ-  
18 mental justice concerns;

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

21 (6) providing service and expertise in alter-  
22 native dispute resolution, environmental conflict res-  
23 olution, consensus-building, and collaborative prob-  
24 lem solving through the Conflict Prevention and

1 Resolution Center of the Environmental Protection  
2 Agency.

3 **SEC. 204. COMMUNITY BENEFITS AGREEMENTS.**

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

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

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

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

1 (c) PROJECTS REQUIRING ENVIRONMENTAL IMPACT

2 STATEMENTS.—The head of an agency that is serving as  
3 the lead agency for a project may require a project sponsor  
4 to enter into a community benefits agreement with a  
5 State, an affected unit of local government, an Indian  
6 Tribe, or a community benefits organization for a project  
7 requiring preparation of an environmental impact state-  
8 ment to offset, in full or in part, any significant adverse  
9 social, economic, or environmental impacts resulting from  
10 the construction or operation of the project.

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

17 (1) the available resources of the project spon-  
18 sor and avoidance of burdens on small business con-  
19 cerns;

20 (2) the scale of the project and degree of im-  
21 pacts, including cumulative impacts to communities  
22 with environmental justice concerns; and

23 (3) the benefits to a local community resulting  
24 from the project, relative to the impacts to the com-  
25 munity resulting from the project.

1 (e) NEGOTIATION.—

2 (1) IN SPONSOR.—A community benefits agree-  
3 ment described in subsection (b) or (c) shall be ne-  
4 gotiated between the project sponsor and the State,  
5 affected unit of local government, or Indian Tribe,  
6 as applicable.

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

15 (3) THIRD PARTY NEUTRAL.—For a community  
16 benefits agreement required by a lead agency under  
17 subsection (c), the lead agency—

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

1 (B) shall reimburse the Environmental  
2 Protection Agency or the Udall Foundation, as  
3 applicable, for the reasonable costs of that serv-  
4 ice.

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

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

16 (1) are beneficial to communities affected by  
17 the applicable project; and

18 (2) are identified as priorities by the applicable  
19 State, affected unit of local government, or Indian  
20 Tribe that is party to the community benefits agree-  
21 ment.

22 (g) INCLUSIONS.—A community benefits agreement  
23 may—

24 (1) address historical or legacy impacts that  
25 continue to contribute to cumulative impacts, identi-



1       fied under a community impact report pursuant to  
2       section 206(c); and

3               (2) include commitments by the project sponsor  
4       to hire members of the local workforce during con-  
5       struction, operation, or maintenance of the applica-  
6       ble project.

7   **SEC. 205. WHITE HOUSE ENVIRONMENTAL JUSTICE INTER-**  
8               **AGENCY COUNCIL.**

9       (a) **IN GENERAL.**—The President shall maintain  
10   within the Executive Office of the President a White  
11   House Environmental Justice Interagency Council (re-  
12   ferred to in this section as the “Council”).

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

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

22               (2) to promote meaningful involvement and due  
23       process in the development, implementation, and en-  
24       forcement of environmental laws;

1 (3) to coordinate with, and provide direct guid-  
2 ance and technical assistance to, environmental jus-  
3 tice communities, with a focus on increasing commu-  
4 nity understanding of the science, regulations, and  
5 policy related to agency actions on environmental  
6 justice issues;

7 (4) to address environmental health, pollution,  
8 and public health burdens in environmental justice  
9 communities, and build healthy, sustainable, and re-  
10 silient communities;

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

16 (A) clear performance metrics to ensure  
17 accountability; and

18 (B) an annually published public perform-  
19 ance scorecard on the implementation of the  
20 Council; and

21 (6) to support and facilitate interagency col-  
22 laboration on programs and activities related to envi-  
23 ronmental justice, including the development of ma-  
24 terials for environmental justice training to build the  
25 capacity of Federal employees to advance environ-

1 mental justice and to increase the meaningful par-  
2 ticipation of individuals from communities with envi-  
3 ronmental justice concerns in Federal activities.

4 (c) COMPOSITION.—

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

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

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

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

20 (f) UNIFORM CONSIDERATION GUIDANCE.—

21 (1) IN GENERAL.—To ensure that there is a  
22 common level of understanding of terminology used  
23 in dealing with environmental justice issues, not  
24 later than 1 year after the date of enactment of this  
25 Act, after coordinating with and conducting outreach

1 to environmental justice communities, State govern-  
2 ments, Tribal Governments, and local governments,  
3 the Chair, in consultation with the Council, shall de-  
4 velop and publish in the Federal Register a guidance  
5 document to assist agencies in defining and applying  
6 the following terms:

7 (A) Health disparities.

8 (B) Environmental exposure disparities.

9 (C) Demographic characteristics, including  
10 age, sex, and race or ethnicity.

11 (D) Social stressors, including poverty,  
12 housing quality, access to health care, edu-  
13 cation, immigration status, linguistic isolation,  
14 historical trauma, and lack of community re-  
15 sources.

16 (E) Cumulative effects or risks.

17 (F) Community vulnerability or suscepti-  
18 bility to adverse human health and environ-  
19 mental effects (including climate change).

20 (G) Barriers to meaningful involvement in  
21 the development, implementation, and enforce-  
22 ment of environmental laws.

23 (H) Community capacity to address envi-  
24 ronmental concerns, including the capacity to

1 obtain equitable access to environmental amen-  
2 ities.

3 (2) PUBLIC COMMENT.—For a period of not  
4 less than 30 days, the Chair shall seek public com-  
5 ment on the guidance document developed under  
6 paragraph (1).

7 (g) DEVELOPMENT OF INTERAGENCY FEDERAL EN-  
8 VIRONMENTAL JUSTICE STRATEGY.—

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

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

21 (h) SUBMISSION OF REPORT TO PRESIDENT.—

22 (1) IN GENERAL.—Not later than 180 days  
23 after updating the interagency Federal environ-  
24 mental justice strategy under subsection (g)(1), the  
25 Chair shall submit to the President a report that

1 contains a description of the implementation of the  
2 interagency Federal environmental justice strategy.

3 (2) PUBLIC AVAILABILITY.—The head of each  
4 agency that participates in the Council shall make  
5 the report described in paragraph (1) available to  
6 the public (including by posting a copy of the report  
7 on the website of each agency).

8 (i) ADMINISTRATION.—

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

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

21 (j) MEETINGS AND STAFF.—

22 (1) CHAIRPERSON.—The Chair shall—

23 (A) convene regular meetings of the Coun-  
24 cil;

1 (B) determine the agenda of the Council in  
2 accordance with this section; and

3 (C) direct the work of the Council.

4 (2) EXECUTIVE DIRECTOR.—The Chair shall  
5 designate an Executive Director of the Council, who  
6 shall coordinate the work of, and head any staff as-  
7 signed to, the Council.

8 (k) OFFICERS.—To facilitate the work of the Council,  
9 the head of each agency that serves on the Council shall  
10 designate an Environmental Justice Officer within the  
11 agency, with the authority—

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

13 (2) to perform such other duties relating to the  
14 implementation of this section within the agency as  
15 the head of the agency determines to be appropriate.

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

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

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

1 (b) PURPOSE.—The purpose of this section is to es-  
2 tablish consistent protections relating to major Federal ac-  
3 tions affecting communities with environmental justice  
4 concerns in recognition of the disproportionate burden of  
5 adverse human health or environmental effects faced by  
6 those communities.

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

13 (1) will require the preparation of an environ-  
14 mental assessment or environmental impact state-  
15 ment under NEPA; and

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

18 (d) CONTENTS.—

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

21 (A) assess the degree to which a proposed  
22 major Federal action affecting a community  
23 with environmental justice concerns will cause  
24 multiple or cumulative exposure to human



1 health and environmental hazards that exacer-  
2 bate or contribute to adverse health outcomes;

3 (B) assess legacy pollution, including his-  
4 torical patterns of exposure to environmental  
5 hazards; and

6 (C) evaluate alternatives to or mitigation  
7 measures for the proposed major Federal action  
8 that will eliminate or reduce any identified sig-  
9 nificant exposure in a community with environ-  
10 mental justice concerns to human health and  
11 environmental hazards described in subpara-  
12 graph (A).

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

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

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

3 (2) notify communities of the involvement op-  
4 portunities described in paragraph (1) through ac-  
5 cessible communication methods, which may include  
6 electronic media, newspapers, radio, direct mailings,  
7 canvassing, and other outreach methods particularly  
8 targeted at communities with environmental justice  
9 concerns.

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

15 **SEC. 207. AVOIDING IMPACTS.**

16 (a) DECLARATION OF NATIONAL ENVIRONMENTAL  
17 POLICY.—Section 101(a) of NEPA (42 U.S.C. 4331(a))  
18 is amended—

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

21 (2) by striking “man’s” and inserting  
22 “human”.

23 (b) ENVIRONMENTAL REQUIREMENTS.—Section  
24 102(2) of NEPA (42 U.S.C. 4332(2)) (as amended by sec-  
25 tion 103(1)) is amended—

1 (1) by striking "insure" each place it appears  
2 and inserting "ensure";

3 (2) in subparagraph (A), by striking "man's"  
4 and inserting "the human";

5 (3) in subparagraph (C)—

6 (A) by striking clause (iii) and inserting  
7 the following:

8 "(iii) a reasonable range of alter-  
9 natives to the proposed action that—

10 "(I) are technically feasible;

11 "(II) are economically feasible;

12 "(III) meet the purpose and need  
13 of the proposed action, consistent with  
14 section 1502.2 of title 40, Code of  
15 Federal Regulations (or a successor  
16 regulation); and

17 "(IV) to the extent practicable,  
18 do not cause, contribute to, or fully  
19 offset adverse environmental impacts,  
20 including direct, indirect, or cumu-  
21 lative impacts;"; and

22 (B) in clause (iv), by striking "man's" and  
23 inserting "the human";

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

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

6 **SEC. 208. TIMELY PUBLIC RELEASE OF NEPA DOCUMENTA-**  
7 **TION.**

8 (a) IN GENERAL.—To achieve the goals described in  
9 section 1507.4 of title 40, Code of Federal Regulations  
10 (or a successor regulation), to allow agencies and the pub-  
11 lic to efficiently and effectively access information relating  
12 to environmental reviews required under NEPA, a lead  
13 agency shall post a link on the public website of the agency  
14 to environmental documents that are, to the extent prac-  
15 ticable, available in a searchable, digital format, when  
16 those environmental documents prepared by the agency  
17 are finalized by the agency, including—

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

19 (2) draft, final, and supplemental environ-  
20 mental impact statements;

21 (3) environmental assessments and Findings of  
22 No Significant Impacts;

23 (4) Record of Decision documents;

24 (5) any additional documentation related to  
25 NEPA analysis; and

1 (6) to the extent practicable, any documenta-  
2 tion associated with a determination to proceed with  
3 an action under a categorical exclusion.

4 (b) TIMING.—A lead agency shall publish the envi-  
5 ronmental documents under subsection (a) by not later  
6 than the earlier of—

7 (1) 3 days after the date on which the lead  
8 agency finalizes the environmental document; and

9 (2) 3 days after the date on which notice of the  
10 availability of the environmental document is pub-  
11 lished in the Federal Register.

12 (c) COOPERATING AGENCIES.—A cooperating agency  
13 shall provide a link to the location on the website of the  
14 lead agency to the environmental documents on which the  
15 agency was a cooperating agency

16 **SEC. 209. GRANTS FOR CAPACITY BUILDING AND COMMU-**  
17 **NITY ENGAGEMENT.**

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

21 (1) for the purpose of increasing capacity build-  
22 ing for environmental review and permitting activi-  
23 ties; and

24 (2) to enhance community engagement opportu-  
25 nities related to environmental reviews.

1 (b) PURPOSES.—Grants made under this section  
2 shall be for—

3 (1) enabling States, units of local government,  
4 Indian Tribes, and nonprofit associations to compile  
5 data, conduct analyses, and complete other activities  
6 relating to State, local, and Tribal environmental re-  
7 views, permits, and consultations;

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

11 (A) determining potential economic, social,  
12 public health, and environmental impacts; and

13 (B) identifying opportunities to mitigate  
14 those impacts;

15 (3) State and Tribal work—

16 (A) to identify zones for renewable energy;

17 (B) to facilitate renewable energy siting; or

18 (C) to provide technical assistance to units  
19 of local government to establish renewable en-  
20 ergy zoning ordinances; and

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

1 (c) FUNDING.—

2 (1) AUTHORIZATION OF APPROPRIATIONS.—

3 There is authorized to be appropriated to the Envi-  
4 ronmental Protection Agency to make grants to enti-  
5 ties described in subsection (a) under this section  
6 \$500,000,000 for each of fiscal years 2024 through  
7 2029.

8 (2) ENVIRONMENTAL REVIEW FUND.—In addi-  
9 tion to amounts made available under paragraph  
10 (1), the Administrator may use amounts available in  
11 the Environmental Review Fund for the Environ-  
12 mental Protection Agency established under section  
13 301(c) to make grants to entities described in sub-  
14 section (a) under this section.

15 **TITLE III—FACILITATING**  
16 **FEDERAL REVIEWS**

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

18 (a) ESTABLISHMENT OF FEES.—

19 (1) IN GENERAL.—The head of each agency  
20 with authority for completing environmental reviews  
21 or authorizations required by law shall set, through  
22 regulations promulgated by that agency, fees for  
23 work to complete the environmental review and any  
24 authorization for a project.

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

3           (A) fair;

4           (B) sufficient to cover the costs to the  
5 agency of completing an environmental review  
6 or authorization; and

7           (C) consistent with any guidance estab-  
8 lished by the Council on Environmental Quality  
9 and the Office of Management and Budget  
10 under subsection (b).

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

14           (A) the value of the service or thing to the  
15 individual or entity that receives a completed  
16 environmental review, permit, or analysis;

17           (B) public interest served;

18           (C) the complexity of a project and number  
19 of agencies involved as cooperating agencies;

20           (D) potential impacts on small businesses;

21           and

22           (E) other relevant factors, as determined  
23 by the agency.

24          (b) GUIDANCE.—Not later than 120 days after the  
25 date of enactment of this Act, the Council on Environ-



1 mental Quality and the Office of Management and Budget  
2 shall issue joint guidance to agencies to facilitate the con-  
3 sistent collection of information on fees and reporting of  
4 data under subsection (c)(5).

5 (c) ENVIRONMENTAL REVIEW FUNDS.—

6 (1) ESTABLISHMENT.—There is established at  
7 each agency with authority for completing environ-  
8 mental reviews or authorizations required by law an  
9 Environmental Review Fund (referred to in this sub-  
10 section as a “Fund”), consisting of—

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

13 (B) amounts deposited in the Fund under  
14 section 302(c).

15 (2) AVAILABILITY.—Amounts in a Fund or  
16 amounts transferred to an agency under paragraph  
17 (3) shall be available to the applicable agency, with-  
18 out further appropriation, for—

19 (A) environmental review staff salaries and  
20 training and third-party contracts to support  
21 the completion of environmental reviews;

22 (B) completing environmental reviews and  
23 authorizations;

24 (C) environmental data collection;

1 (D) development of documents and anal-  
2 yses that will facilitate timely environmental re-  
3 views, including programmatic analyses and  
4 memoranda of understanding;

5 (E) costs associated with carrying out the  
6 requirements of section 302;

7 (F) monitoring compliance with agency de-  
8 cisions; and

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

12 (3) TRANSFER AUTHORITY.—

13 (A) IN GENERAL.—An agency with a Fund  
14 shall have the authority to transfer funds to an-  
15 other agency—

16 (i) for work performed as a cooper-  
17 ating agency on a project that is subject to  
18 a fee established by an agency under sub-  
19 section (a);

20 (ii) to cover the costs of conducting  
21 and completing responsibilities required  
22 under other Federal law for a project or  
23 program of projects on which an agency is  
24 serving as the lead agency; or

1 (iii) to fund liaison positions at an-  
2 other agency to facilitate interagency co-  
3 ordination and timely completion of envi-  
4 ronmental reviews and authorizations.

5 (B) ACCEPTANCE OF FUNDS.—An agency  
6 with a Fund shall have the authority to accept  
7 funding transferred by another agency under  
8 subparagraph (A).

9 (4) PROGRAMMATIC ENVIRONMENTAL REVIEW  
10 FUND.—

11 (A) ESTABLISHMENT.—An agency with a  
12 Fund may establish within the Fund a separate  
13 programmatic environmental review fund.

14 (B) CONTRIBUTION BY PROJECT SPON-  
15 SORS.—An agency may allow a project sponsor  
16 or group of project sponsors to contribute to a  
17 programmatic environmental review fund to fa-  
18 cilitate the development of a programmatic en-  
19 vironmental review.

20 (C) FEES FOR PROGRAMMATIC ENVIRON-  
21 MENTAL REVIEWS.—An agency that established  
22 a programmatic environmental review may es-  
23 tablish fees, consistent with specifications and  
24 considerations under subsection (a), when the  
25 environmental document for a project carried

1 out by a project sponsor will tier off the pro-  
2 grammatic environmental review, consistent  
3 with section 1501.11 of title 40, Code of Fed-  
4 eral Regulations (or a successor regulation).

5 (5) REPORT.—The head of each agency with a  
6 Fund shall prepare, and make publicly available on  
7 the website of the agency, an annual report on the  
8 collection and use of fees established under sub-  
9 section (a).

10 (6) CLARIFICATIONS.—

11 (A) AMOUNTS IN FUND.—Amounts in a  
12 Fund shall supplement existing amounts au-  
13 thorized to carry out activities described in  
14 paragraph (2).

15 (B) POSITIONS.—An individual hired by an  
16 agency using amounts in a Fund shall not be  
17 subject to any limitation relating to the number  
18 of full-time equivalent employees of the agency  
19 otherwise imposed by law.

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

1 **SEC. 302. FEDERALLY DIRECTED REVIEWS FOR NATION-**  
2 **ALLY OR REGIONALLY SIGNIFICANT**  
3 **PROJECTS.**

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

5 (1) to enable agencies to identify opportunities  
6 to advance commercially-viable projects that—

7 (A) support national goals; and

8 (B) require an environmental review; and

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

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

14 (B) to limit risks to project sponsors asso-  
15 ciated with delays in receiving an authorization  
16 for a project.

17 (b) **IDENTIFICATION OF PROJECTS.**—

18 (1) **PROJECT IDENTIFICATION.**—

19 (A) **IN GENERAL.**—Each agency may iden-  
20 tify nationally significant projects that would, if  
21 carried out, support national goals of reducing  
22 greenhouse gas emissions, enhancing climate re-  
23 siliency or adaptation, improving the sufficiency  
24 and reliability of the national electrical trans-  
25 mission grid, or protecting public health.

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

4 (C) AUTHORITY AND EXPERTISE.—In  
5 identifying projects under subparagraph (A),  
6 each agency shall identify projects—

7 (i) that are in the authority and ex-  
8 pertise of the agency;

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

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

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

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

21 (B) prepare an environmental document  
22 and complete any other required environmental  
23 review or authorization, as applicable, includ-  
24 ing—

25 (i) soliciting public comment;

1 (ii) coordinating with other agencies,  
2 as applicable;

3 (iii) conducting baseline analyses and  
4 surveys; and

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

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

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

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

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

20 (ii) shall be reasonably narrow  
21 enough—

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

1 (II) to provide the public with  
2 sufficient information to engage and  
3 understand the impacts and benefits  
4 of the project;

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

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

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

18 (4) STATE AND LOCAL ENGAGEMENT.—

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

23 (i) consult and cooperate with the  
24 Governor of the State in which the project  
25 is located; any affected units of local gov-



ernment, and the governing body of any  
affected Indian Tribe to identify any priorities or concerns those entities may have;  
and

(ii) to the maximum extent practicable, take those priorities and concerns into account when identifying those locations, areas, or corridors.

(B) COOPERATIVE AGREEMENT.—

(i) IN GENERAL.—The head of an agency that identifies a project under paragraph (1)(A) may enter into a cooperative agreement with relevant affected State, local, or Tribal agencies to enable full participation of those agencies in the planning, development, and public engagement relating to the project.

(ii) OBJECTIONS.—A cooperative agreement entered into under clause (i) may establish procedures for negotiating and resolving objections that affected State, local, or Tribal agencies may have with respect to the planning and development of a project identified under paragraph (1)(A).

1           (5) ADDITIONAL REVIEWS.—If, following the  
2           solicitation of bids under subsection (c)(1), a project  
3           sponsor determines it necessary to significantly mod-  
4           ify the project beyond the parameters established by  
5           the lead agency, the lead agency shall conduct a sup-  
6           plemental environmental review limited only to eval-  
7           uating the effect of those changes.

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

15          (c) BIDDING.—

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

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

1        requirements described in subsection (b)(2) for the ap-  
2        plicable project.

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

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

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

13            (B) the total number of bids submitted to  
14        develop that project; and

15            (C) the amount of the successful bid sub-  
16        mitted for that project.

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

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

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

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

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

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

11 (a) PURPOSE.—The purpose of this section is to ad-  
12 vance the purposes of NEPA by improving the availability  
13 and shared use of environmental data, including geo-  
14 graphic information system data, in implementing section  
15 101 of that Act (42 U.S.C. 4331).

16 (b) ENVIRONMENTAL DATA SYSTEM.—

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

1 qualitative and quantitative data for use by all agen-  
2 cies in preparing any environmental document and  
3 tracking environmental outcomes, including—

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

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

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

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

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

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

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

24 (D) to enable project sponsors—

1 (i) to identify project locations that  
2 would avoid or minimize impacts; and

3 (ii) to conduct preliminary scoping of  
4 impacts;

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

9 (F) to reduce the duplication of efforts by  
10 agencies;

11 (G) to standardize the collection of envi-  
12 ronmental impacts and outcomes;

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

16 (I) to provide critical information to the  
17 public.

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

1 (4) AGENCY RESPONSIBILITIES.—Each agency  
2 with environmental review responsibilities or relevant  
3 environmental data shall—

4 (A) participate in the development of  
5 linked interagency environmental data collection  
6 systems under paragraph (1);

7 (B) make relevant environmental data  
8 available to be integrated into those linked  
9 interagency environmental data collection sys-  
10 tems; and

11 (C) make environmental documents avail-  
12 able to be integrated into those linked inter-  
13 agency environmental data collection systems.

14 (5) REQUIREMENTS.—

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

19 (i) include—

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

1 (II) in a machine-readable for-  
2 mat, each environmental impact state-  
3 ment and environmental assessment,  
4 including appendices, prepared pursu-  
5 ant to NEPA; and

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

12 (ii) be searchable and sortable to  
13 allow users to find specific documents and  
14 specific types of information, such as—

15 (I) analysis of types of environ-  
16 mental impact;

17 (II) analysis of types of Federal  
18 actions;

19 (III) geographic location;

20 (IV) ecological, cultural, and his-  
21 torical features and resources; and

22 (V) other categories, as deter-  
23 mined by the Chair, the Adminis-  
24 trator, and the Director;



1 (iii) use an interactive, digital, and  
2 cloud-based platform; and

3 (iv) enable States to integrate relevant  
4 State-level environmental data.

5 (B) PUBLIC AVAILABILITY.—

6 (i) IN GENERAL.—The Chair, in co-  
7 ordination with the Administrator and the  
8 Director, shall make the linked interagency  
9 environmental data collection systems re-  
10 quired under paragraph (1) publicly avail-  
11 able, to the extent consistent with section  
12 552 of title 5, United States Code, and any  
13 exemption from disclosure of sensitive site-  
14 specific information under applicable law.

15 (ii) PUBLIC OUTREACH TOOLS.—  
16 Linked interagency environmental data col-  
17 lection systems required under paragraph  
18 (1) shall include tools that—

19 (I) enhance the abilities of agen-  
20 cies to conduct the public outreach  
21 and engagement required under  
22 NEPA;

23 (II) enable agencies to publish in-  
24 formation regarding public engage-  
25 ment opportunities under NEPA; and

1 (III) facilitate opportunities for  
2 the public to provide agencies with  
3 relevant environmental or scientific in-  
4 formation and data, including locally-  
5 specific environmental data, that  
6 could complement monitoring efforts  
7 and enhance evidence-based decision-  
8 making.

9 (c) ADDITIONAL TOOLS.—Agencies shall look for op-  
10 portunities—

11 (1) to use, and to encourage recipients of Fed-  
12 eral funding to use, sustainable, efficient review and  
13 construction practices; and

14 (2) to expand the use of digital processes within  
15 environmental reviews, construction, and mainte-  
16 nance activities.

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

23 **SEC. 304. E-NEPA.**

24 (a) PERMITTING PORTAL STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Council on Environmental Quality shall conduct, and submit to Congress the results of, a study on the potential to create an online permitting portal for permits that require review under section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)) that would—

(A) allow applicants—

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

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

(iii) to track the progress of individual applications;

(B) enhance interagency coordination in consultation by—

(i) allowing for comments in 1 unified portal;

(ii) centralizing data necessary for reviews; and

(iii) streamlining communications between other agencies and the applicant; and

1 (C) boost transparency in agency decision-  
2 making.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

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

7 (b) DIGITAL ENVIRONMENTAL REVIEW.—

8 (1) IN GENERAL.—A lead agency may use or  
9 allow a project sponsor to use digital, visual, or vir-  
10 tual tools and presentations, including through inter-  
11 active and cloud-based platforms, in place of nar-  
12 rative text descriptions in any environmental impact  
13 statement or environmental assessment—

14 (A) unless an agency determines that  
15 doing so would not—

16 (i) facilitate more effective agency co-  
17 ordination and public review;

18 (ii) improve the ability of the public  
19 and stakeholders to engage with the envi-  
20 ronmental review process;

21 (iii) improve the ability of the public  
22 and stakeholders to have a deeper and  
23 more consistent understanding of the Fed-  
24 eral action and its effects on the environ-  
25 ment; or

1 (iv) facilitate long-term accessibility of  
2 data and information contained in the re-  
3 view for use in other environmental reviews  
4 and environmental monitoring; and

5 (B) subject to the requirement that those  
6 materials are archivable and made part of an  
7 accessible and permanent file relating to the en-  
8 vironmental review and authorization.

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

16 (c) DIGITAL PLATFORMS FOR NEPA REVIEWS FOR  
17 INFRASTRUCTURE PROJECTS.—

18 (1) DEFINITIONS.—In this subsection:

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

22 (i) The nationally significant freight  
23 and highway projects program under sec-  
24 tion 117 of title 23, United States Code  
25 (commonly known as the “Infrastructure

1 for Rebuilding America (INFRA) grant  
2 program”).

3 (ii) The national infrastructure  
4 project assistance program under section  
5 6701 of title 49, United States Code (com-  
6 monly known as the “Mega grant pro-  
7 gram”).

8 (iii) The local and regional project as-  
9 sistance program under section 6702 of  
10 title 49, United States Code (commonly  
11 known as the “Rebuilding American Infra-  
12 structure with Sustainability and Equity  
13 (RAISE) grant program”).

14 (iv) The program for national infra-  
15 structure investments (commonly known as  
16 the “Rebuilding American Infrastructure  
17 with Sustainability and Equity (RAISE)  
18 grant program” and formerly known as the  
19 “Better Utilizing Investments to Leverage  
20 Development (BUILD) grant program”).

21 (B) SECRETARY.—The term “Secretary”  
22 means the Secretary of Transportation.

23 (2) PURPOSES.—The purposes of this sub-  
24 section are—

1 (A) to expedite the environmental review  
2 process at agencies and for the general public;  
3 and

4 (B) to facilitate interactive public stake-  
5 holder engagement and understanding of envi-  
6 ronmental impacts of proposed Federal actions.

7 (3) DIGITAL PLATFORM DEMONSTRATION  
8 PROJECTS.—

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

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

24 (C) COVERED PROJECTS.—Notwith-  
25 standing any other provision of law, in selecting

1 covered projects to participate in the dem-  
2 onstration project under subparagraph (A), the  
3 Secretary shall give priority to applications for  
4 projects that demonstrate a plan to implement  
5 an interactive, cloud-based platform to carry  
6 out the environmental impact analysis and com-  
7 munity engagement processes required under  
8 NEPA.

9 (4) REPORTS.—

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

20 (i) metrics that describe estimates of  
21 achieved efficiencies, community engage-  
22 ment measures, and efficiencies enjoyed  
23 across agencies; and

24 (ii) examples of digital workflows en-  
25 abled.



1 (B) PUBLICATION OF EXAMPLES.—Not  
2 later than 1 year after the date of enactment of  
3 this Act, the Secretary shall publish on the  
4 website of the Department of Transportation,  
5 and submit to the Committee on Environment  
6 and Public Works of the Senate and the Com-  
7 mittee on Transportation and Infrastructure of  
8 the House of Representatives, not less than 5  
9 examples of an environmental impact state-  
10 ment, environmental assessment, or categorical  
11 exclusion document developed using an inter-  
12 active, digital, cloud-based platform.

13 (5) SAVINGS PROVISION.—Nothing in this sub-  
14 section affects or interferes with the authorities or  
15 responsibilities assumed by a State under section  
16 327 of title 23, United States Code.

17 **SEC. 305. UNIVERSITY PERMITTING WORKFORCE LEADER-**  
18 **SHIP PROGRAM.**

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

23 (b) USE OF FUNDS.—Amounts made available to  
24 carry out the program shall be used to support the edu-  
25 cation and recruitment of personnel for environmental re-

1 view and permitting, including through financial assist-  
2 ance for scholarships, fellowships, and research at institu-  
3 tions of higher education in areas relevant to the pro-  
4 grammatic mission of the applicable agency, with an em-  
5 phasis on providing financial assistance with respect to the  
6 Federal permitting process.

7 (c) HUMAN CAPITAL PLANNING.—

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

18 (2) SUBMISSION TO EPA AND OMB.—Each  
19 agency described in paragraph (1) shall submit the  
20 environmental review workforce human capital plan  
21 required under that paragraph, and any revision to  
22 that plan, to—

23 (A) the Administrator; and

24 (B) the Director of the Office of Manage-  
25 ment and Budget.

(3) PATHWAYS TO HIRING.—An agency described in paragraph (1) may, in carrying out the environmental review workforce human capital plan of that agency required under that paragraph, use the pathways programs established under part 362 of title 5, Code of Federal Regulations (or a successor program), to facilitate the recruitment and hiring of personnel for environmental review and permitting.

(4) USE OF PLANS.—The Administrator shall use environmental review workforce human capital plans submitted to the Administrator under paragraph (2) to inform the work of the Administrator in carrying out subsection (b).

(5) AUTHORITY TO PROVIDE FUNDS.—An agency that, in preparing the environmental review workforce human capital plan pursuant to paragraph (1), has identified workforce gaps for the processes of the agency for environmental review and permitting, may—

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

(B) establish reimbursable agreements with the Administrator, another agency with environmental review and authorization respon-

1           sibilities, institutions of higher education, or  
2           nonprofit entities to facilitate timely and effi-  
3           cient environmental reviews and authorizations.

4           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
5 authorized to be appropriated to carry out the program  
6 \$45,000,000 for each of fiscal years 2023 through 2028.

7 **SEC. 306. FUNDED LIAISON POSITIONS.**

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

12           (1) to fund liaison positions at affected State  
13 agencies, units of local government, and Indian  
14 Tribes participating in the environmental review  
15 process for the project or program; or

16           (2) to fund other activities described in sub-  
17 section (c), if the head of the agency determines that  
18 providing the funds would substantially improve  
19 timely completion of environmental reviews or en-  
20 hance environmental outcomes.

21           (b) USE OF FUNDS.—Funds provided by an agency  
22 under subsection (a) may only be provided to an affected  
23 State agency, unit of local government, or Indian Tribe  
24 to support activities that directly and meaningfully con-  
25 tribute to facilitating an inclusive, science-based, timely,

1 efficient, and effective permitting and review process, in-  
2 cluding—

3 (1) carrying out public engagement activities,  
4 including in communities with environmental justice  
5 concerns;

6 (2) planning, collecting, and analyzing relevant  
7 data;

8 (3) scoping environmental impacts of the appli-  
9 cable project or program;

10 (4) reviewing environmental analyses; and

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

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

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

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

20 (3) hiring dedicated staffing;

21 (4) training agency personnel;

22 (5) information gathering and mapping activi-  
23 ties;

24 (6) development and maintenance of decision  
25 support tools; and

1 (7) developing programmatic agreements.

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

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

15 (f) PRIVATE SECTOR LIAISONS.—

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

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

21 (B) to contribute funds to support a liai-  
22 son position in an affected State agency, unit of  
23 local government, or Indian Tribe participating  
24 in the environmental review process for a  
25 project or program.

1           (2) **AUTHORITY.**—An agency that receive funds  
2           from a project sponsor under paragraph (1) shall  
3           have sole authority over the hiring, management,  
4           and termination of liaison positions established with  
5           those funds.

6           (3) **ADDITIONAL AGREEMENT.**—Prior to receiv-  
7           ing funds under paragraph (1) for the purpose of es-  
8           tablishing a liaison position described in subpara-  
9           graph (A) of that paragraph, the head of the lead  
10          agency or cooperating agency, as applicable, and the  
11          project sponsor may enter into an agreement relat-  
12          ing to the project and priorities to be addressed by  
13          the funded liaison position.

14          (4) **NO EFFECT ON OUTCOMES.**—Receipt of  
15          funding provided by a project sponsor under para-  
16          graph (1) is not intended to have any effect on the  
17          content or outcome of environmental reviews or deci-  
18          sions relating to the project or program proposed by  
19          the project sponsor that provided the funding.

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

21          (a) **RAPID RESPONSE PERMITTING TASK FORCES.**—  
22          The Federal Permitting Director shall convene inter-  
23          agency sector-specific teams of experts, including inde-  
24          pendent agencies, as appropriate, (referred to in this sec-  
25          tion as a “Rapid Response Permitting Task Force”) to

1 advance the responsible build-out and modernization of  
2 United States infrastructure by facilitating interagency  
3 coordination on siting, permitting, supply chain, and re-  
4 lated issues.

5 (b) SECTORS.—The sectors to be covered by Rapid  
6 Response Permitting Task Forces shall be at the discre-  
7 tion of the Federal Permitting Director, but shall in-  
8 clude—

- 9 (1) offshore wind energy;
- 10 (2) onshore renewable energy;
- 11 (3) transmission;
- 12 (4) the production and processing of critical  
13 minerals; and
- 14 (5) environmental restoration and nature-based  
15 projects.

16 (c) RESPONSIBILITIES.—Each Rapid Response Per-  
17 mitting Task Force shall—

- 18 (1)(A) monitor the status of large, complex, or  
19 nationally or regionally significant projects and pro-  
20 grams of projects;
- 21 (B) provide regular updates to the Federal Per-  
22 mitting Director on those projects;
- 23 (2) identify infrastructure gaps where projects  
24 would be appropriate for development with a feder-  
25 ally-directed review consistent with section 302(a);



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

5 (4) identify strategies to address disputes or  
6 complicated issues with respect to projects and pro-  
7 grams of projects described in paragraph (1)(A), in-  
8 cluding opportunities to prepare new programmatic  
9 analyses and approaches; and

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

19 (d) **ISSUE RESOLUTION.**—The Federal Permitting  
20 Director shall—

21 (1) resolve issues described in subsection (c)(5),  
22 where practicable; or

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

1 **TITLE IV—BUILDING OUT CRIT-**  
2 **ICAL INFRASTRUCTURE FOR**  
3 **ZERO-EMISSION** **TECH-**  
4 **NOLOGY**

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

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

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

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

18 **SEC. 402. NEXT GENERATION HIGHWAYS.**

19 (a) **IN GENERAL.**—Section 111 of title 23, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:

22 **“(f) NEXT GENERATION HIGHWAYS.—**

23 **“(1) IN GENERAL.**—The Secretary shall iden-  
24 tify and expand opportunities for highway rights-of-  
25 way to be used for the mitigation of climate change,

1 including through deployment of electrical trans-  
2 mission and distribution projects, renewable energy  
3 generation and storage, and alternative fueling or  
4 charging facilities, and through use for habitat con-  
5 servation and as wildlife corridors.

6 “(2) UTILITY SITING.—Notwithstanding any  
7 provision of State or local law, the Secretary shall  
8 ensure that the siting of utilities, including electrical  
9 transmission and distribution projects, renewable en-  
10 ergy generation and storage, broadband and commu-  
11 nication infrastructure, and alternative fueling or  
12 charging facilities, is allowed on rights-of-way of the  
13 Federal-aid highway system, unless the Secretary  
14 determines that the siting would conflict with safe  
15 use of the highway.

16 “(3) USE OF REAL PROPERTY INTERESTS.—  
17 Use of real property interests to site high voltage  
18 transmission lines, renewable energy generation,  
19 broadband and communication infrastructure, or al-  
20 ternative fueling or charging facilities on highway  
21 rights-of-way—

22 “(A) shall be considered to be in the public  
23 interest; and

1           “(B) shall not require any additional ap-  
2           proval from the Federal Highway Administra-  
3           tion.”.

4           (b) STUDY AND GUIDANCE.—

5           (1) STUDY AND BEST PRACTICES.—Not later  
6           than 1 year after the date of enactment of this Act,  
7           the Administrator of the Federal Highway Adminis-  
8           tration shall conduct, and publish a report on the re-  
9           sults of, a study on best practices for siting high  
10          voltage transmission lines on highway rights-of-way,  
11          including recommendations on practices—

12                (A) to ensure safety;

13                (B) to facilitate future highway mainte-  
14          nance and construction work;

15                (C) to facilitate future maintenance work  
16          for the transmission lines;

17                (D) to integrate transmission planning and  
18          siting into transportation planning; and

19                (E) to facilitate electrical needs for light-  
20          duty, medium-duty, and heavy-duty rapid  
21          charging infrastructure on public roadways.

22           (2) GUIDANCE.—Not later than 180 days after  
23          the date on which the report under paragraph (1) is  
24          published, the Administrator of the Federal High-  
25          way Administration shall issue guidance and provide

1 technical assistance to States on updates to Utility  
2 Accommodation Policies of the State to facilitate the  
3 accommodation of high voltage transmission lines,  
4 renewable energy generation, broadband and com-  
5 munication infrastructure, or alternative fueling or  
6 charging facilities on highway rights-of-way.

7 (e) INCENTIVES FOR ELECTRIC GRID RELI-  
8 ABILITY.—The Secretary of Transportation shall identify  
9 opportunities to provide incentives for the siting of high  
10 voltage transmission lines on transportation rights-of-way  
11 that would significantly increase interregional trans-  
12 mission and electric grid reliability, including through the  
13 use of selection criteria for discretionary grants under title  
14 23, United States Code.

15 (d) USE OF FEDERAL FUNDS.—

16 (1) IN GENERAL.—Of the amounts apportioned  
17 to a State under section 104(b)(1) of title 23,  
18 United States Code, for each fiscal year, a State  
19 may use not more than \$1,000,000 to support oper-  
20 ational and maintenance expenses related to use of  
21 highway rights-of-way for high voltage transmission  
22 lines.

23 (2) HIGH VOLTAGE TRANSMISSION LINES.—In  
24 the case of a project for which a State uses Federal  
25 funds to accommodate high voltage transmission

1 lines on highway rights-of-way, the amounts de-  
2 scribed in paragraph (1) may be used to enable the  
3 use of electricity by a State or local public agency,  
4 including for charging infrastructure for vehicles  
5 owned by the State or local public agency.

6 **SEC. 403. CONNECTING HARD-TO-REACH AREAS WITH RE-**  
7 **NEWABLY GENERATED ENERGY.**

8 (a) FINDINGS.—Congress finds that—

9 (1) current transmission planning is fractured  
10 across many jurisdictions, prioritizes incumbent enti-  
11 ties and highly localized transmission, and fails to  
12 identify cost-effective solutions for 21st century  
13 needs;

14 (2) the historical structure, regulations, and in-  
15 centives of the electric power system lead to under-  
16 planning and under-investment in the regional and  
17 interregional transmission lines that are needed for  
18 a reliable and resilient grid;

19 (3) much of the existing transmission infra-  
20 structure of the United States is in need of signifi-  
21 cant upgrade or replacement;

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

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

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

8 (7) the public desires, and has a right to, elec-  
9 tricity data that is transparent, organized, and ac-  
10 cessible;

11 (8) having reliable and diverse sources of elec-  
12 tricity generation is a foundational need for the en-  
13 tire economy;

14 (9) climate change has increased the frequency  
15 and intensity of severe weather events that affect the  
16 grid;

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

21 (11) the Federal Government has a responsi-  
22 bility to combat rising transmission costs and ensure  
23 customers receive just and reasonable rates for elec-  
24 tricity; and

1 (12) industry experience, scientific studies, and  
2 modern examples of reformed electricity trans-  
3 mission provide confidence that new public policies  
4 and regulatory guidance will achieve more efficient  
5 and beneficial planning than the status quo.

6 (b) DEFINITIONS.—In this section:

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

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

13 (3) INTERCONNECTION CUSTOMER.—The term  
14 “interconnection customer” means an individual or  
15 entity that has submitted to the owner or operator  
16 of a transmission facility or transmission system a  
17 request to interconnect a generation project or en-  
18 ergy storage project that is subject to the jurisdic-  
19 tion of the Commission.

20 (4) INTERREGIONAL TRANSMISSION PLANNING  
21 PROCESS.—The term “interregional transmission  
22 planning process” means a joint process by trans-  
23 mission providers in 2 or more adjacent transmission  
24 planning regions to evaluate electric energy trans-  
25 mission needs.



1 (5) LOAD-SERVING ENTITY.—The term “load-  
2 serving entity” has the meaning given the term in  
3 section 217(a) of the Federal Power Act (16 U.S.C.  
4 824q(a)).

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

9 (7) REGIONAL TRANSMISSION ORGANIZATION.—  
10 The term “Regional Transmission Organization”  
11 has the meaning given the term in section 3 of the  
12 Federal Power Act (16 U.S.C. 796).

13 (8) TRANSMISSION FACILITY.—The term  
14 “transmission facility” means a facility that is used  
15 for the transmission of electric energy in interstate  
16 commerce.

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

1           (10) TRANSMISSION PROVIDER.—The term  
2       “transmission provider” means a public utility (as  
3       defined in section 201(e) of the Federal Power Act  
4       (16 U.S.C. 824(e))) that owns, operates, or controls  
5       1 or more transmission facilities.

6       (c) TRANSMISSION PLANNING AND COST ALLOCA-  
7       TION.—

8           (1) RULEMAKING.—Not later than 18 months  
9       after the date of enactment of this Act, the Commis-  
10      sion shall promulgate a final rule that establishes  
11      transmission planning processes and cost-allocation  
12      processes that—

13           (A) ensure that transmission providers—

14               (i) engage in formalized interregional  
15               transmission planning processes and inter-  
16               connection-wide transmission planning  
17               processes, in conjunction with transmission  
18               planning processes within transmission  
19               planning regions;

20               (ii) harmonize interregional trans-  
21               mission planning processes and inter-  
22               connection-wide transmission planning  
23               processes with other transmission planning  
24               regions, such as by using a joint model on  
25               a consistent timeline with a unified set of

1 minimum requirements regarding needs,  
2 input assumptions, and benefit metrics;

3 (iii) include as part of planning and  
4 cost-allocation processes the use of grid-en-  
5 hancing transmission technologies and  
6 nontransmission alternatives that increase  
7 delivery of power over transmission net-  
8 works, including, at a minimum—

9 (I) dynamic line ratings;

10 (II) topology optimization;

11 (III) power flow control;

12 (IV) advanced conductors; and

13 (V) storage-as-transmission;

14 (iv) conduct interregional and inter-  
15 connection-wide planning regularly and not  
16 less frequently than once every 3 years;

17 (v) conduct system-wide planning  
18 based on a range of possible future load  
19 and generation scenarios; and

20 (vi) are required to incorporate in a  
21 transmission planning process the full  
22 scope of benefits of transmission invest-  
23 ment, including, at a minimum—

24 (I) reduced costs of electric en-  
25 ergy to customers, including reduced

1 costs associated with lower quantities  
2 of necessary capacity, ancillary serv-  
3 ices, and reserve margins;

4 (II) access to resources in neigh-  
5 boring transmission planning regions;

6 (III) the transmission of renew-  
7 able energy or the ability of renewable  
8 energy to connect to the grid;

9 (IV) improvements in reliability,  
10 resilience, and flexibility of the grid,  
11 including, at a minimum—

12 (aa) reduced loss of load  
13 probability;

14 (bb) increased resource di-  
15 versity;

16 (cc) increased climate hard-  
17 ening; and

18 (dd) increased ability to  
19 maintain functionality during re-  
20 gionally appropriate weather con-  
21 ditions and severe weather sce-  
22 narios;

23 (V) leveraging resources across  
24 climatological patterns or time zones

1 to account for resource availability  
2 and weather patterns;

3 (VI) avoidance, to the maximum  
4 extent practicable, of sensitive envi-  
5 ronmental areas and cultural heritage  
6 sites;

7 (VII) reasonable and economical  
8 use of existing rights-of-way;

9 (VIII) market facilitation bene-  
10 fits, including, at a minimum, in-  
11 creased competitiveness, liquidity, and  
12 integrity of broader geographic mar-  
13 kets;

14 (IX) avoided costs and deferred  
15 cost savings, including reduced gen-  
16 eration costs and reduced future  
17 transmission investment costs;

18 (X) the integration of grid-en-  
19 hancing technologies;

20 (XI) meeting local, State, and  
21 Federal policy goals, including goals  
22 established in decarbonization, cli-  
23 mate, and clean energy laws (includ-  
24 ing regulations);

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1 (XII) protections to maintain  
2 just and reasonable rates for cus-  
3 tomers; and

4 (XIII) any other production costs  
5 savings or other economic benefits  
6 from proposed transmission projects;

7 (B) require that regional and interregional  
8 cost-allocation methodologies allocate costs on  
9 the basis of the multiple benefits described in  
10 subclauses (I) through (XIII) of subparagraph  
11 (A)(vi);

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

22 (D) prioritize interregional cost-benefit  
23 considerations over regional cost-benefit consid-  
24 erations;

1 (E) require transmission providers to  
2 maximize the use of portfolio-based cost alloca-  
3 tions;

4 (F) in cases in which costs and benefits  
5 are difficult to quantify, may allocate trans-  
6 mission investment costs among transmission  
7 system customers in proportion to—

8 (i) in the case of regional projects, the  
9 share of electricity of each customer in the  
10 region; or

11 (ii) in the case of interregional  
12 projects, the share of electricity of each  
13 customer in each applicable region; and

14 (G) to the extent practicable, prevent  
15 transmission providers from using cost-alloca-  
16 tion methodologies that—

17 (i) discourage distributed generation,  
18 energy efficiency, demand response, or  
19 storage if more economic than trans-  
20 mission;

21 (ii) are constrained by consideration  
22 only of benefits that are easy to allocate;  
23 or

1 (iii) undermine previous cost-alloca-  
2 tion agreements for projects already in op-  
3 eration.

4 (2) TECHNICAL CONFERENCE.—

5 (A) IN GENERAL.—As part of the rule-  
6 making process under paragraph (1), the Com-  
7 mission may convene a technical conference to  
8 consider implementation details, as the Com-  
9 mission determines to be appropriate.

10 (B) PARTICIPATION.—

11 (i) LEADERSHIP.—A technical con-  
12 ference convened under subparagraph (A)  
13 may be led by the members of the Commis-  
14 sion.

15 (ii) PARTICIPATION.—The Commis-  
16 sion may invite to participate in a technical  
17 conference convened under subparagraph  
18 (A) representatives of residential rate-  
19 payers, transmission providers, environ-  
20 mental justice and equity groups, Tribal  
21 communities, Independent System Opera-  
22 tors, Regional Transmission Organizations,  
23 consumer protection groups, renewable en-  
24 ergy advocates, State utility commission



1 and energy offices, and such other entities  
2 as the Commission determines appropriate.

3 (iii) **TIMELINE.**—The Commission  
4 may establish and enforce a timeline for a  
5 technical conference convened under sub-  
6 paragraph (A) that discourages actions by  
7 participants that may unnecessarily delay  
8 the conference.

9 (C) **PUBLIC COMMENT.**—The Commission  
10 may provide an opportunity for public comment  
11 on the topics considered by a technical con-  
12 ference convened under subparagraph (A).

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

17 (A) guidance on public participation re-  
18 quirements;

19 (B) communications with the public con-  
20 cerning transmission planning that may impact  
21 local communities and land owners, including  
22 Tribal, indigenous, and environmental justice  
23 communities; and

24 (C) minimum data transparency and ac-  
25 cess requirements.

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

5 (A) involve shared Federal and State regu-  
6 latory authority and processes; or

7 (B) would benefit from a combined Federal  
8 and State perspective.

9 (d) INTERREGIONAL MINIMUM TRANSFER REQUIRE-  
10 MENTS.—

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

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

18 (A) shall govern minimum transfer re-  
19 quirements between transmission planning re-  
20 gions;

21 (B) achieves reliability and resilience  
22 standards during plausible extreme weather sce-  
23 narios;

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

1 (D) incorporates the best available science  
2 relating to energy transmission, climatological  
3 patterns, climate change causes and impacts,  
4 grid reliability, and grid resiliency, including  
5 study results from the Department of Energy  
6 or National Laboratories (as defined in section  
7 2 of the Energy Policy Act of 2005 (42 U.S.C.  
8 15801)).

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

12 **“SEC. 224. DATA TRANSPARENCY.**

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

17 “(1) as original source data posted in a timely  
18 manner; and

19 “(2) through coordination with an online data-  
20 base operated by the Administrator of the Energy  
21 Information Administration.

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

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

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

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

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

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

7 “(6) include average and hourly, or more fre-  
8 quent if technologically feasible, marginal green-  
9 house gas emissions per megawatt hour of electricity  
10 generated within the metered boundaries of each en-  
11 tity and for each pricing node.

12 “(c) COMMERCIAL PRODUCTS.—The Commission  
13 may identify and reduce regulatory barriers to the devel-  
14 opment of commercial products that use the data made  
15 publicly available under subsection (a) in order to provide  
16 verifiable emissions reductions, including short- and long-  
17 term nodal congestion products.

18 “(d) APPROPRIATION.—In addition to amounts oth-  
19 erwise made available to the Administrator of the Energy  
20 Information Administration, there is appropriated to the  
21 Administrator of the Energy Information Administration  
22 for fiscal year 2023, out of any funds in the Treasury not  
23 otherwise appropriated, \$10,000,000 to develop and oper-  
24 ate the database described in subsection (a)(2), to remain  
25 available until expended.”.

1 (f) PROMOTING COMPETITION FOR GENERATION.—  
2 Part II of the Federal Power Act (16 U.S.C. 824 et seq.)  
3 (as amended by subsection (e)) is amended by adding at  
4 the end the following:

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

6 “(a) IN GENERAL.—In order to effectively protect  
7 against the exercise of market power through affiliate  
8 abuse, the Commission shall require that any new genera-  
9 tion described in subsection (b) is procured through a  
10 competitive process and without any right of first refusal  
11 for an incumbent utility, subject to subsection (c).

12 “(b) NEW GENERATION DESCRIBED.—The new gen-  
13 eration referred to in subsection (a) is new generation that  
14 is—

15 “(1) above a Commission-determined size  
16 threshold;

17 “(2) above a Commission-determined cost mate-  
18 riality threshold; and

19 “(3) ultimately used to sell power in interstate  
20 commerce.

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

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

4 **“SEC. 226. STATE SUBSIDIES.**

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

9 (h) OFFICE OF TRANSMISSION.—Part III of the Fed-  
10 eral Power Act is amended by inserting after section 317  
11 (16 U.S.C. 825p) the following:

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

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

16 “(b) DIRECTOR.—The Office shall be administered  
17 by a Director, who shall be appointed by the Chairman  
18 of the Commission.

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

20 “(1) review transmission plans submitted by  
21 public utilities in accordance with the regional and  
22 interregional transmission planning processes, in-  
23 cluding the processes established pursuant to section  
24 206;

1 “(2) coordinate transmission-related matters of  
2 the Commission, as the Commission determines ap-  
3 propriate;

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

7 “(4) review opportunities for innovation in  
8 transmission planning and operation, including de-  
9 ployment of grid-enhancing technologies, advanced  
10 conductors, and other approaches; and

11 “(5) provide oversight of interregional trans-  
12 mission planning activities.”

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

16 (1) to prohibit a public utility from requiring an  
17 interconnection customer to exclusively or dispropor-  
18 tionately fund, without reimbursement, the costs of  
19 any network upgrade identified as necessary for the  
20 interconnect request of the interconnection customer;

21 (2) to encourage cost-sharing models that re-  
22 flect the broad set of benefits and beneficiaries for  
23 any network upgrades identified as needed in an  
24 interconnection or affected system study, subject to

1 the requirement that the model adheres to any re-  
2 quirements established under paragraph (1); and

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

6 (A) the establishment of an interconnection  
7 analysis center within the Office of Trans-  
8 mission established under section 318 of the  
9 Federal Power Act; and

10 (B) consultation with staff and the use of  
11 other resources of the Department of Energy.

12 (j) INDEPENDENT TRANSMISSION MONITOR.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, for the purpose  
15 of monitoring the planning and operation of trans-  
16 mission facilities in transmission planning regions,  
17 the Commission shall—

18 (A)(i) require each transmission planning  
19 region to establish an independent entity to  
20 monitor the planning and operation of trans-  
21 mission facilities in the transmission planning  
22 region; and

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



1 (I) to provide oversight of each inde-  
2 pendent entity established pursuant to  
3 clause (i); and

4 (II) to ensure interregional collabora-  
5 tion and consistency; or

6 (B) establish an independent entity to  
7 monitor the planning and operation of trans-  
8 mission facilities in all transmission planning  
9 regions.

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

13 (A) review the operation of applicable  
14 transmission planning regions for inefficiency  
15 and practices that may lead to unjust and un-  
16 reasonable rates;

17 (B) review transmission planning proc-  
18 esses;

19 (C) review costs of transmission facilities,  
20 including identifying inefficiencies among local,  
21 regional, and interregional planning;

22 (D) provide examples and advice to trans-  
23 mission providers on appropriate regional trans-  
24 mission operations, planning, and cost-alloca-  
25 tion processes; and

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

3 (i) nonwire alternatives may be more  
4 cost-effective than transmission;

5 (ii) grid-enhancing technologies may  
6 be appropriate; or

7 (iii) high-capacity, interregional lines  
8 may be—

9 (I) more cost-effective; or

10 (II) a more appropriate reliability  
11 and resilience alternative.

12 (k) ADVISORY COMMITTEE.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, the Commission  
15 shall establish an advisory committee (referred to in  
16 this subsection as the “committee”) to make rec-  
17 ommendations on—

18 (A) oversight and governance of Inde-  
19 pendent System Operators or Regional Trans-  
20 mission Organizations;

21 (B) stakeholder participation best prac-  
22 tices—

23 (i) that ensure transparency, account-  
24 ability, independence, oversight, and fair  
25 representation; and

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

4 (C) enhancing transparency and open deci-  
5 sionmaking in regions not classified as Inde-  
6 pendent System Operators or Regional Trans-  
7 mission Organizations; and

8 (D) the requirements of governing boards  
9 within Independent System Operators or Re-  
10 gional Transmission Organizations.

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

13 (A) at least 2 representatives of end-use  
14 customers;

15 (B) at least 1 representative of trans-  
16 mission providers;

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

19 (D) at least 1 representative of Tribal  
20 communities;

21 (E) at least 1 representative of Inde-  
22 pendent System Operators;

23 (F) at least 1 representative of Regional  
24 Transmission Organizations;

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

3 (H) at least 2 representatives of renewable  
4 energy advocates;

5 (I) at least 1 representative of State com-  
6 missions;

7 (J) at least 1 representative of public  
8 power entities;

9 (K) at least 1 representative of marketers;  
10 and

11 (L) at least 1 representative of generators.

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

14 (1) APPROPRIATIONS.—In addition to amounts other-  
15 wise available, there is appropriated to the Commission  
16 for fiscal year 2023, out of any funds in the Treasury not  
17 otherwise appropriated, \$200,000,000, to remain available  
18 until expended, to carry out—

19 (1) subsections (c), (d), and (i); and

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

21 **SEC. 404. STREAMLINING INTERSTATE TRANSMISSION OF**  
22 **ELECTRICITY.**

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

1 **"SEC. 227. SITING OF CERTAIN INTERSTATE ELECTRIC**  
2 **TRANSMISSION FACILITIES.**

3 **"(a) DEFINITIONS.—**In this section:

4 **"(1) AFFECTED LANDOWNER.—**

5 **"(A) IN GENERAL.—**The term 'affected  
6 landowner' includes each owner of a property  
7 interest in land or other property described in  
8 subparagraph (B), including—

9 **"(i)** the Federal Government;

10 **"(ii)** a State or local government; and

11 **"(iii)** each owner noted in the most  
12 recent county or city tax record as receiv-  
13 ing the relevant tax notice with respect to  
14 that interest.

15 **"(B) LAND AND OTHER PROPERTY DE-**  
16 **SCRIBED.—**The land or other property referred  
17 to in subparagraph (A) is any land or other  
18 property—

19 **"(i)** that is or will be crossed by the  
20 energy transmission facility proposed to be  
21 constructed or modified under the applica-  
22 ble certificate of public convenience and  
23 necessity;

24 **"(ii)** that is or will be used as a facil-  
25 ity site with respect to the energy trans-  
26 mission facility proposed to be constructed

1 or modified under the applicable certificate  
2 of public convenience and necessity;

3 “(iii) that abuts any boundary of an  
4 existing right-of-way or other facility site  
5 that—

6 “(I) is owned by an electric util-  
7 ity; and

8 “(II) is located not more than  
9 500 feet from the energy transmission  
10 facility to be constructed or modified  
11 under the applicable certificate of  
12 public convenience and necessity;

13 “(iv) that abuts the boundary of a  
14 proposed facility site for the energy trans-  
15 mission facility to be constructed or modi-  
16 fied under the applicable certificate of pub-  
17 lic convenience and necessity;

18 “(v) that is crossed by, or abuts any  
19 boundary of, an existing or proposed right-  
20 of-way that—

21 “(I) will be used for the energy  
22 transmission facility to be constructed  
23 or modified under the applicable cer-  
24 tificate of public convenience and ne-  
25 cessity; and

1                   “(II) is located not more than  
2                   500 feet from the proposed location of  
3                   that energy transmission facility; or

4                   “(vi) on which a residence is located  
5                   not more than 500 feet from the boundary  
6                   of any right-of-way for that energy trans-  
7                   mission facility.

8                   “(2) ALTERNATING CURRENT TRANSMISSION  
9                   FACILITY.—The term ‘alternating current trans-  
10                  mission facility’ means a transmission facility that  
11                  uses alternating current for the bulk transmission of  
12                  electric energy.

13                  “(3) ENERGY TRANSMISSION FACILITY.—The  
14                  term ‘energy transmission facility’ means, as appli-  
15                  cable—

16                  “(A) an alternating current transmission  
17                  facility; or

18                  “(B) a high-voltage, direct current trans-  
19                  mission facility.

20                  “(4) FACILITY SITE.—The term ‘facility site’  
21                  includes—

22                  “(A) a right-of-way;

23                  “(B) an access road;

24                  “(C) a contractor yard; and

25                  “(D) any temporary workspace.

1           “(5) HIGH-VOLTAGE, DIRECT CURRENT TRANS-  
2           MISSION FACILITY.—The term ‘high-voltage, direct  
3           current transmission facility’ means a transmission  
4           facility that uses direct current for the bulk trans-  
5           mission of electric energy.

6           “(6) TRIBAL LAND.—The term ‘Tribal land’  
7           has the meaning given the term ‘Indian land’ in sec-  
8           tion 2601 of the Energy Policy Act of 1992 (25  
9           U.S.C. 3501).

10          “(b) CERTIFICATE OF PUBLIC CONVENIENCE AND  
11          NECESSITY.—

12               “(1) IN GENERAL.—On receipt of an applica-  
13               tion under subsection (c)(1) relating to an energy  
14               transmission facility described in paragraph (2), the  
15               Commission, after making the finding described in  
16               paragraph (3) with respect to that energy trans-  
17               mission facility, shall issue to any person, by publi-  
18               cation in the Federal Register, a certificate of public  
19               convenience and necessity for the construction,  
20               modification, operation, or abandonment of that en-  
21               ergy transmission facility, subject to such reasonable  
22               terms and conditions as the Commission determines  
23               to be appropriate.

24               “(2) ENERGY TRANSMISSION FACILITY DE-  
25               SCRIBED.—An energy transmission facility referred



1 to in paragraph (1) is an energy transmission facil-  
2 ity that—

3 “(A) traverses or, on construction or modi-  
4 fication in accordance with a certificate of pub-  
5 lic convenience and necessity issued under that  
6 paragraph, will traverse not fewer than 2  
7 States; and

8 “(B) is not less than 1,000 megawatts or  
9 1,000 megavolt-amperes in power capacity.

10 “(3) FINDING DESCRIBED.—The finding re-  
11 ferred to in paragraph (1) is a finding that—

12 “(A) the applicant for a certificate of pub-  
13 lic convenience and necessity is able and will-  
14 ing—

15 “(i) to carry out the activities and  
16 perform the services proposed in the appli-  
17 cation in a manner determined to be ap-  
18 propriate by the Commission; and

19 “(ii) to achieve compliance with the  
20 applicable requirements of—

21 “(I) this part; and

22 “(II) any rules and regulations  
23 promulgated by the Commission pur-  
24 suant to this part;

1           “(B) the energy transmission facility to be  
2           constructed, modified, or operated under the  
3           certificate of public convenience and necessity  
4           will—

5                     “(i) traverse not fewer than 2 States;

6                     “(ii) be used for the transmission of  
7           electric energy in interstate commerce; and

8                     “(iii) have a power capacity of not less  
9           than 1,000 megawatts or 1,000 megavolt-  
10          amperes; and

11          “(C) operation of the energy transmission  
12          facility as proposed in the application—

13                     “(i) will—

14                         “(I) enable the use of renewable  
15           energy;

16                         “(II) reduce congestion; or

17                         “(III) improve the reliability of  
18           the transmission system;

19                     “(ii) will maximize, to the extent rea-  
20           sonable and economical, the use of—

21                         “(I) existing facility sites; and

22                         “(II) the transmission capabili-  
23           ties of existing energy transmission  
24           facilities; and

1                   “(iii) will, to the extent practicable,  
2                   minimize the use of eminent domain.

3                   “(4) RULEMAKING.—Not later than 18 months  
4                   after the date of enactment of this section, the Com-  
5                   mission shall issue rules specifying—

6                   “(A) a pre-filing process during which a  
7                   person described in subsection (c)(1) and the  
8                   Commission shall consult with—

9                   “(i) the appropriate State agencies,  
10                  State public utility commissions, and State  
11                  energy offices in each State the proposed  
12                  project traverses;

13                  “(ii) appropriate Federal agencies;  
14                  and

15                  “(iii) each Indian Tribe that may be  
16                  affected by the proposed project;

17                  “(B) the form of, and information to be  
18                  contained in, an application submitted under  
19                  subsection (c)(1);

20                  “(C) requirements for determining whether  
21                  the applicable energy transmission facility will  
22                  be constructed or modified—

23                  “(i) to traverse not fewer than 2  
24                  States;

1           “(ii) to be used for the transmission  
2           of electric energy in interstate commerce;  
3           and

4           “(iii) to have a power capacity of not  
5           less than 1,000 megawatts or 1,000 mega-  
6           volt-amperes;

7           “(D) criteria for determining the reason-  
8           able and economical use of—

9           “(i) existing rights-of-way; and

10          “(ii) the transmission capabilities of  
11          existing towers or structures;

12          “(E) the manner in which an application  
13          submitted under subsection (c)(1) and any pro-  
14          posal for the construction or modification of an  
15          energy transmission facility shall be considered,  
16          which, to the extent practicable, shall be con-  
17          sistent with State statutory and regulatory poli-  
18          cies concerning generation and retail sales of  
19          electricity in the States in which the electric en-  
20          ergy transmitted by the energy transmission fa-  
21          cility will be generated or sold; and

22          “(F) the manner in which the Commission  
23          will consider the needs of communities that will  
24          be impacted directly by the proposed energy  
25          transmission facility, including how any impacts

1 of the proposed energy transmission facility  
2 could be mitigated or offset.

3 “(5) PUBLIC NOTICE, COMMENT, AND OPPOR-  
4 TUNITY FOR A HEARING ON CERTAIN DRAFT DOCU-  
5 MENTS.—

6 “(A) IN GENERAL.—The Commission shall  
7 provide not less than 90 days for public com-  
8 ment on any initial scoping document or draft  
9 environmental impact statement prepared for  
10 an energy transmission facility with respect to  
11 which an application for a certificate of public  
12 convenience and necessity has been submitted  
13 under subsection (c)(1).

14 “(B) NOTICE AND OPPORTUNITY FOR  
15 HEARING.—The Commission shall—

16 “(i) publish in the Federal Register a  
17 notice of the filing of each draft scoping  
18 document or draft environmental impact  
19 statement described in clause (i); and

20 “(ii) provide to the individuals and en-  
21 tities described in paragraph (6)(B) notice  
22 and reasonable opportunity for the presen-  
23 tation of any views and recommendations  
24 with respect to the initial scoping docu-

1                   ment or draft environmental impact state-  
2                   ment.

3                   “(C) TRIBAL CONSENT.—With respect to  
4                   an Indian Tribe that may be affected by a po-  
5                   tential project, the Commission—

6                   “(i) shall provide notice to the appro-  
7                   priate Tribal officials and an opportunity  
8                   of public comment in accordance with sub-  
9                   paragraph (A); and

10                  “(ii) shall not approve a scoping docu-  
11                  ment or draft environmental impact state-  
12                  ment unless consent has been obtained  
13                  from the proper Tribal officials in a man-  
14                  ner consistent with the requirements of  
15                  section 2 of the Act of February 5, 1948  
16                  (62 Stat. 18, chapter 45; 25 U.S.C. 324).

17                  “(6) NOTICE AND OPPORTUNITY FOR A HEAR-  
18                  ING ON APPLICATIONS.—

19                  “(A) IN GENERAL.—In any proceeding be-  
20                  fore the Commission to consider an application  
21                  for a certificate of public convenience and ne-  
22                  cessity under this section, the Commission  
23                  shall—

24                  “(i) publish a notice of the application  
25                  in the Federal Register; and

1           “(ii) provide to the individuals and en-  
2           tities described in subparagraph (B) a no-  
3           tice and reasonable opportunity for the  
4           presentation of any views and rec-  
5           ommendations with respect to the need for,  
6           and impact of, the construction or modi-  
7           fication of the energy transmission facility  
8           proposed to be constructed or modified  
9           under the certificate.

10           “(B) INDIVIDUALS AND ENTITIES DE-  
11           SCRIBED.—The individuals and entities referred  
12           to in subparagraph (A) are—

13           “(i) an agency, selected by the Gov-  
14           ernor (or equivalent official) of the applica-  
15           ble State, of each State in which the en-  
16           ergy transmission facility proposed to be  
17           constructed or modified under the applica-  
18           ble certificate of public convenience and  
19           necessity is or will be located;

20           “(ii) each affected landowner; and

21           “(iii) as determined by the Commis-  
22           sion—

23           “(I) each affected Federal agen-  
24           cy; and

1                   “(II) each Indian Tribe that may  
2                   be affected by the proposed construc-  
3                   tion or modification.

4                   “(C) PROHIBITION.—The Commission may  
5                   not—

6                   “(i) require an applicant for a certifi-  
7                   cate of public convenience and necessity  
8                   under this section to provide any notice re-  
9                   quired under this section; or

10                  “(ii) enter into a contract to provide  
11                  any notice required under this section  
12                  with—

13                  “(I) the applicant for the applica-  
14                  ble certificate of public convenience  
15                  and necessity; or

16                  “(II) any other person that has a  
17                  financial interest in the project pro-  
18                  posed in the application for that cer-  
19                  tificate.

20                  “(c) APPLICATIONS.—

21                  “(1) IN GENERAL.—A person desiring a certifi-  
22                  cate of public convenience and necessity under this  
23                  section shall submit to the Commission an applica-  
24                  tion at such time, in such manner, and containing  
25                  such information as the Commission may require.



1           “(2) REQUIREMENT.—An application submitted  
2           to the Commission under paragraph (1) shall include  
3           all information necessary for the Commission to  
4           make the finding described in subsection (b)(3).

5           “(d) NOTICE TO AFFECTED LANDOWNERS.—

6           “(1) IN GENERAL.—The Commission shall pro-  
7           vide written notice of an application submitted under  
8           subsection (c)(1) to all affected landowners in ac-  
9           cordance with this subsection.

10           “(2) REQUIREMENTS.—Any notice provided to  
11           an affected landowner under paragraph (1) shall in-  
12           clude the following:

13                   “(A) The following statement in 14-point  
14                   bold typeface:

15                   ““The [name of applicant] has proposed build-  
16                   ing power lines that will cross your property,  
17                   and may also require building transmission tow-  
18                   ers on your property. If the Federal Energy  
19                   Regulatory Commission approves [applicant]’s  
20                   proposed project, then [applicant] may have the  
21                   right to build transmission towers on, and  
22                   power lines over, your property, or use your  
23                   property to construct the proposed project, sub-  
24                   ject to paying you just compensation for the  
25                   loss of your property.

1 “If you want to raise objections to this, or oth-  
2 erwise comment on this project, you can do so  
3 by submitting written comments to the Federal  
4 Energy Regulatory Commission Docket No.  
5 [\_\_\_\_\_]. You can do this electronically or by  
6 mail. To do so electronically [to be inserted by  
7 the Commission]. To do so by mail [to be in-  
8 serted by the Commission].’.

9 “(B) A description of the proposed project,  
10 including—

11 “(i) the location of the proposed  
12 project (including a general location map);

13 “(ii) the purpose of the proposed  
14 project; and

15 “(iii) the timing of the proposed  
16 project.

17 “(C) The name of, and the location in the  
18 docket of the Commission at which may be  
19 found, each submission by the applicant to the  
20 Commission relating to the proposed project.

21 “(D) A general description of what the ap-  
22 plicant will need from the landowner if the pro-  
23 posed project is approved, including the activi-  
24 ties the applicant may undertake and the facili-

1           ties that the applicant may seek to construct on  
2           the property of the landowner.

3           “(E) A description of how the landowner  
4           may contact the applicant, including—

5                   “(i) a website; and

6                   “(ii) a local or toll-free telephone  
7           number and the name of a specific person  
8           to contact who is knowledgeable about the  
9           proposed project.

10          “(F) A description of how the landowner  
11          may contact the Commission, including—

12                   “(i) a website; and

13                   “(ii) a local or toll-free telephone  
14          number and the name of a specific person  
15          to contact who is knowledgeable about the  
16          proposed project.

17          “(G) A summary of the rights that the  
18          landowner has—

19                   “(i) before the Commission; and

20                   “(ii) in other proceedings under—

21                           “(I) the Federal Rules of Civil  
22                           Procedure; and

23                           “(II) the eminent domain rules of  
24                           the relevant State.

1           “(H) Any other information that the Com-  
2           mission determines to be appropriate.

3           “(3) OBLIGATION OF APPLICANT.—An appli-  
4           cant for a certificate of public convenience and ne-  
5           cessity under this section shall submit to the Com-  
6           mission, together with the application for the certifi-  
7           cate, the name and address of each affected land-  
8           owner.

9           “(e) REGULATORY JURISDICTION.—

10           “(1) IN GENERAL.—Except as provided in para-  
11           graph (2), the Commission shall have exclusive juris-  
12           diction over, and no State shall regulate any aspect  
13           of, the siting or permitting of an energy trans-  
14           mission facility constructed, modified, or operated  
15           under a certificate of public convenience and neces-  
16           sity issued under this section.

17           “(2) SAVINGS CLAUSE.—Nothing in this section  
18           affects the rights of States under—

19           “(A) the Coastal Zone Management Act of  
20           1972 (16 U.S.C. 1451 et seq.);

21           “(B) the Federal Water Pollution Control  
22           Act (33 U.S.C. 1251 et seq.);

23           “(C) the Clean Air Act (42 U.S.C. 7401 et  
24           seq.); or

1           “(D) division A of subtitle III of title 54,  
2           United States Code (formerly known as the  
3           ‘National Historic Preservation Act’).

4           “(f) JUDICIAL REVIEW.—

5           “(1) IN GENERAL.—Any person aggrieved by  
6           an order issued by the Commission under this sec-  
7           tion may obtain review of the order in—

8           “(A) the court of appeals of the United  
9           States for any judicial circuit in which the en-  
10          ergy transmission facility to be constructed or  
11          modified under the applicable certificate of pub-  
12          lic convenience and necessity is or will be lo-  
13          cated; or

14          “(B) the United States Court of Appeals  
15          for the District of Columbia Circuit.

16          “(2) PETITION FOR REVIEW.—

17          “(A) IN GENERAL.—A person may obtain  
18          review under paragraph (1) by filing in the ap-  
19          plicable court a written petition praying that  
20          the order of the Commission be modified or set  
21          aside in whole or in part.

22          “(B) TIMING.—A petition under subpara-  
23          graph (A) shall be filed by not later than 60  
24          days after the date on which the applicable

1           order of the Commission is published in the  
2           Federal Register.

3           “(3) PERSON AGGRIEVED.—Notwithstanding  
4           any other provision of this Act, a person aggrieved  
5           by an order of the Commission issued under this  
6           section need not—

7                     “(A) have been a party to the proceedings  
8                     before the Commission in which that order was  
9                     issued in order to obtain judicial review of the  
10                    order under this subsection; or

11                   “(B) have requested rehearing before the  
12                   Commission prior to seeking judicial review.

13           “(g) RIGHT OF EMINENT DOMAIN FOR ENERGY  
14 TRANSMISSION FACILITIES.—

15                   “(1) IN GENERAL.—The holder of a certificate  
16                   of public convenience and necessity may acquire  
17                   through the exercise of the right of eminent domain  
18                   in a court described in paragraph (2) any right-of-  
19                   way, land, or other property that is necessary to  
20                   construct, modify, operate, or maintain an energy  
21                   transmission facility in accordance with that certifi-  
22                   cate if the holder—

23                   “(A) cannot acquire the necessary right-of-  
24                   way, land, or other property by contract;

1           “(B) is unable to agree with the owner of  
2           the right-of-way, land, or other property with  
3           respect to the compensation to be paid for that  
4           right-of-way, land, or other property; or

5           “(C) cannot clear defective title with re-  
6           spect to the right-of-way, land, or other prop-  
7           erty.

8           “(2) COURT DESCRIBED.—A court referred to  
9           in paragraph (1) is—

10           “(A) the district court of the United States  
11           for the district in which the applicable land or  
12           other property is located; or

13           “(B) the appropriate State court.

14           “(3) NOTICE OF DECISION TO ISSUE CERTIFI-  
15           CATE.—The holder of a certificate of public conven-  
16           ience and necessity may not exercise the right of  
17           eminent domain under this subsection with respect  
18           to any property covered by the certificate unless the  
19           Commission has first, in addition to publishing the  
20           notice of certificate of public convenience and neces-  
21           sity in the Federal Register, provided all affected  
22           landowners with notice of—

23           “(A) the decision of the Commission to  
24           grant the certificate; and

1           “(B) the procedures for obtaining judicial  
2           review of that decision under subsection (f), in-  
3           cluding a description of the time period for  
4           seeking judicial review under that subsection.

5           “(h) CONDEMNATION PROCEDURES.—

6           “(1) APPRAISALS.—

7           “(A) IN GENERAL.—A holder of, or appli-  
8           cant for, a certificate of public convenience and  
9           necessity shall have any property that the hold-  
10          er or applicant seeks to acquire through the ex-  
11          ercise of the right of eminent domain under  
12          subsection (g) appraised in accordance with  
13          generally accepted appraisal standards by an  
14          appraiser selected by the owner of the property,  
15          subject to subparagraph (D).

16          “(B) REQUIREMENTS.—

17          “(i) COSTS.—The applicable holder of,  
18          or applicant for, a certificate of public con-  
19          venience and necessity shall pay for each  
20          appraisal carried out under subparagraph  
21          (A).

22          “(ii) INSPECTIONS.—The owner of the  
23          applicable property (or a designated rep-  
24          resentative of the owner) shall be given the  
25          opportunity to accompany the appraiser



1 during any inspection of the property that  
2 is part of an appraisal under subparagraph  
3 (A).

4 “(C) TIMING.—An appraisal under sub-  
5 paragraph (A) shall be carried out before the  
6 holder of, or applicant for, the certificate of  
7 public convenience and necessity—

8 “(i) makes an offer of just compensa-  
9 tion under paragraph (2); or

10 “(ii) commences an action or pro-  
11 ceeding to exercise the right of eminent do-  
12 main under subsection (g).

13 “(D) SELECTION OF APPRAISER.—If the  
14 owner of the applicable property does not select  
15 an appraiser under subparagraph (A) by the  
16 date that is 60 days after the date on which the  
17 holder of, or applicant for, the applicable certifi-  
18 cate of public convenience and necessity re-  
19 quests that the owner do so, the holder or ap-  
20 plicant shall have the right to select the ap-  
21 praiser.

22 “(2) OFFERS OF JUST COMPENSATION.—

23 “(A) IN GENERAL.—Any offer of just com-  
24 pensation made to an affected landowner of

1 property that is covered by a certificate of pub-  
2 lic convenience and necessity—

3 “(i) shall be made in writing;

4 “(ii) may not be for an amount less  
5 than the fair market value of the property,  
6 as determined by an appraisal carried out  
7 under paragraph (1); and

8 “(iii) shall include compensation for—

9 “(I) any lost income from the  
10 property; and

11 “(II) any damages to any other  
12 property of the owner.

13 “(B) TIMING.—The holder of, or applicant  
14 for, a certificate of public convenience and ne-  
15 cessity may not make an offer of just com-  
16 pensation to an affected landowner until the  
17 date that is 30 days after the date on which the  
18 Commission provides a notice to the affected  
19 landowner under subsection (g)(3).

20 “(3) JURISDICTIONAL LIMITATIONS.—

21 “(A) MINIMUM JURISDICTIONAL  
22 AMOUNT.—A district court of the United States  
23 shall only have jurisdiction of an action or pro-  
24 ceeding to exercise the right of eminent domain  
25 under subsection (g) if the amount claimed by

1 the owner of the property to be condemned ex-  
2 ceeds \$3,000.

3 “(B) STATE OWNERSHIP INTERESTS.—

4 “(i) IN GENERAL.—Except as pro-  
5 vided in clause (ii), a district court of the  
6 United States shall have no jurisdiction to  
7 condemn any interest owned by a State.

8 “(ii) EXCEPTION.—Notwithstanding  
9 clause (i), a district court of the United  
10 States shall have jurisdiction—

11 “(I) to condemn any existing util-  
12 ity or transportation easement or  
13 right-of-way that—

14 “(aa) is on State property;  
15 or

16 “(bb) is on private property  
17 and is owned by a State; and

18 “(II) to condemn any real prop-  
19 erty conveyed to a State for the pur-  
20 pose of obstructing the construction,  
21 modification, or operation of an en-  
22 ergy transmission facility in accord-  
23 ance with a certificate of public con-  
24 venience and necessity issued under  
25 this section.

1           “(C) TRIBAL LAND.—A district court of  
2           the United States shall have no jurisdiction to  
3           condemn any interest in Tribal land.

4           “(4) LIMITATION ON CONDEMNATION.—In any  
5           action or proceeding to exercise the right of eminent  
6           domain under subsection (g), a court—

7           “(A) may condemn an interest in property  
8           only to the extent necessary for the specific fa-  
9           cilities described in the applicable certificate of  
10          public convenience and necessity; and

11          “(B) may not—

12                  “(i) condemn any other interest; or

13                  “(ii) condemn an interest for any pur-  
14          pose not described in that certificate.

15          “(5) RIGHT OF POSSESSION.—With respect to  
16          any action or proceeding to exercise the right of emi-  
17          nent domain under subsection (g), an owner of prop-  
18          erty covered by the applicable certificate of public  
19          convenience and necessity shall not be required to  
20          surrender possession of that property unless the  
21          holder of the certificate—

22                  “(A) has paid to the owner the award of  
23          compensation in the action or proceeding; or

24                  “(B) has deposited the amount of that  
25          award with the court.

1 “(6) LITIGATION COSTS.—

2 “(A) IN GENERAL.—A holder of a certifi-  
3 cate of public convenience and necessity that  
4 commences an action or proceeding to exercise  
5 the right of eminent domain under subsection  
6 (g) shall be liable to the owner of any property  
7 condemned in that proceeding for the costs de-  
8 scribed in subparagraph (B) if the amount  
9 awarded to that owner for the property con-  
10 demned is more than 125 percent of the  
11 amount offered to the owner by the holder be-  
12 fore the commencement of that action or pro-  
13 ceeding.

14 “(B) COSTS DESCRIBED.—The costs re-  
15 ferred to in subparagraph (A) are litigation  
16 costs incurred for the action or proceeding de-  
17 scribed in that subparagraph by the owner of  
18 the property condemned, including—

19 “(i) reasonable attorney fees; and

20 “(ii) expert witness fees and costs.

21 “(i) ENFORCEMENT OF CONDITIONS.—

22 “(1) IN GENERAL.—An affected landowner the  
23 property of which has been acquired by eminent do-  
24 main under subsection (g) shall have the right—

1           “(A) to enforce any condition in the appli-  
2           cable certificate of public convenience and ne-  
3           cessity; and

4           “(B) to seek damages for a violation of  
5           any condition described in subparagraph (A).

6           “(2) JURISDICTION.—The district courts of the  
7           United States shall have jurisdiction over any action  
8           arising under paragraph (1).

9           “(j) OTHER LANDOWNER RIGHTS AND PROTEC-  
10          TIONS.—

11           “(1) FAILURE TO TIMELY COMPLETE  
12          PROJECTS.—

13           “(A) SURRENDER OF CONDEMNED PROP-  
14          ERTY.—

15           “(i) IN GENERAL.—An individual or  
16           entity from which an interest in property is  
17           acquired through the exercise of the right  
18           of eminent domain under subsection (g) by  
19           the holder of a certificate of public conven-  
20           ience and necessity that is issued for the  
21           construction, modification, or operation of  
22           an energy transmission facility may de-  
23           mand that the holder of the certificate sur-  
24           render that interest to that individual or  
25           entity if—

1           “(I)(aa) the energy transmission  
2           facility is not in operation (as modi-  
3           fied, in the case of a modification of  
4           an energy transmission facility) by the  
5           date specified in the certificate (in-  
6           cluding any modification of the certifi-  
7           cate by the Commission); and

8           “(bb) there is no request for the  
9           extension of that date pending before  
10          the Commission; or

11          “(II) subject to clause (ii), the  
12          holder of the certificate, with the ap-  
13          proval of the Commission, abandons  
14          the portion of the energy transmission  
15          facility that is located on the applica-  
16          ble property relating to that interest.

17          “(ii) REQUIREMENT.—The Commis-  
18          sion may not approve in a certificate of  
19          public convenience and necessity issued  
20          under this section or in any subsequent  
21          proceeding the abandonment of all or any  
22          part of an energy transmission facility un-  
23          less the Commission requires the holder of  
24          the applicable certificate of public conven-  
25          ience and necessity to offer to each indi-

vidual or entity described in clause (i) the option of having the property acquired from that individual or entity as described in that clause restored to the condition that the property was in prior to the issuance of the certificate.

“(B) REPAYMENT OF CONDEMNATION AWARD.—If an individual or entity described in subparagraph (A)(i) demands the surrender of an interest under that subparagraph, the holder of the applicable certificate of public convenience and necessity shall be entitled to repayment of an amount equal to not more than 50 percent of the condemnation award relating to the interest.

“(C) JURISDICTION.—The district courts of the United States shall have jurisdiction over any action arising under this paragraph.

“(2) MATERIAL MISREPRESENTATIONS.—

“(A) RESCISSION OF TRANSACTION.—

“(i) IN GENERAL.—An affected landowner that proves, by a preponderance of the evidence, that the affected landowner has granted a right-of-way or any other interest based on a material misrepresenta-



tion made by or on behalf of an applicant for, or holder of, a certificate of public convenience and necessity under this section shall have the right to rescind the transaction.

“(ii) JURISDICTION.—The district courts of the United States shall have jurisdiction over any action arising under clause (i).

“(B) CIVIL PENALTIES.—

“(i) IN GENERAL.—If an applicant for, or holder of, a certificate of public convenience and necessity makes a material misrepresentation, or if a material misrepresentation is made on behalf of such an applicant or holder, to an affected landowner concerning the energy transmission facility to be constructed or modified under the certificate, the applicant or holder shall be subject to a civil penalty, to be assessed by the Commission, in an amount not to exceed \$10,000 per affected landowner to which the misrepresentation was made.

“(ii) PROCEDURE.—The penalty described in clause (i) shall be assessed by

1 the Commission after providing notice and  
2 an opportunity for a public hearing.

3 “(iii) REQUIREMENT.—In determining  
4 the amount of a penalty under clause (i),  
5 the Commission shall take into consider-  
6 ation the nature and seriousness of the vio-  
7 lation.”.

8 **SEC. 405. COST ALLOCATION.**

9 (a) DEFINITION OF COVERED TRANSMISSION FACIL-  
10 ITY.—In this section, the term “covered transmission fa-  
11 cility” means a transmission facility that—

12 (1)(A) traverses not fewer than 2 States; or  
13 (B) is located on the outer Continental shelf;  
14 and  
15 (2) has a power capacity of not less than 1,000  
16 megawatts or 1,000 megavolt-amperes.

17 (b) COST ALLOCATION PROPOSAL.—A transmitting  
18 utility that owns or operates a covered transmission facil-  
19 ity shall be responsible for developing and filing a cost al-  
20 location proposal with the Federal Energy Regulatory  
21 Commission pursuant to section 205 of the Federal Power  
22 Act (16 U.S.C. 824d), in which, consistent with the re-  
23 quirements under subparagraphs (A)(vi), (F), and (G) of  
24 section 403(c)(1), the derived benefits of the construction  
25 and operation of the covered transmission facility are iden-

1 tified and allocated among beneficiaries in a manner that  
2 is approximately commensurate to the derived benefits.

3 (c) EFFECTIVENESS.—This section shall remain in  
4 effect with respect to a covered transmission facility until  
5 the final rule under section 403(c)(1) is promulgated and  
6 fully implemented by all transmission providers for the re-  
7 gion or regions in which the covered transmission facility  
8 is located.

9 **TITLE V—FACILITATING DEVELOPMENT OF ZERO-EMISSION**  
10 **TECHNOLOGY AT**  
11 **BROWNFIELD SITES**

12 **SEC. 501. DEFINITIONS.**

13 In this title:

14 (1) APPROPRIATE COMMITTEES OF CON-  
15 GRESS.—The term “appropriate committees of Con-  
16 gress” means—

17 (A) the Committee on Environment and  
18 Public Works of the Senate; and

19 (B) the Committee on Energy and Com-  
20 merce of the House of Representatives.

21 (2) BROWNFIELD SITE.—The term “brownfield  
22 site” has the meaning given the term in section 101  
23 of the Comprehensive Environmental Response,  
24

1 Compensation, and Liability Act of 1980 (42 U.S.C.  
2 9601).

3 (3) REGIONAL COMMISSION.—The term “re-  
4 gional commission” means—

5 (A) the Delta Regional Authority estab-  
6 lished by section 382B(a)(1) of the Consoli-  
7 dated Farm and Rural Development Act (7  
8 U.S.C. 2009aa-1(a)(1));

9 (B) the Appalachian Regional Commission  
10 established by section 14301(a) of title 40,  
11 United States Code;

12 (C) the Southeast Crescent Regional Com-  
13 mission established by section 15301(a)(1) of  
14 that title;

15 (D) the Southwest Border Regional Com-  
16 mission established by section 15301(a)(2) of  
17 that title;

18 (E) the Northern Border Regional Com-  
19 mission established by section 15301(a)(3) of  
20 that title;

21 (F) the Great Lakes Authority established  
22 by section 15301(a)(4) of that title; and

23 (G) the Denali Commission established by  
24 section 303(a) of the Denali Commission Act of

1 1998 (42 U.S.C. 3121 note; Public Law 105-  
2 277).

3 (4) RETIRED FOSSIL FUEL SITE.—The term  
4 “retired fossil fuel site” means the site of 1 or more  
5 fossil fuel electric generation facilities that are re-  
6 tired or scheduled to retire, including multi-unit fa-  
7 cilities that are partially shut down.

8 (5) ZERO-EMISSION TECHNOLOGY.—The term  
9 “zero-emission technology” means any technology  
10 that—

11 (A) produces zero emissions of—

12 (i) any air pollutant that is listed pur-  
13 suant to section 108(a) of the Clean Air  
14 Act (42 U.S.C. 7408(a)) (or any precursor  
15 to such an air pollutant); and

16 (ii) any air pollutant that is a green-  
17 house gas; and

18 (B) assists in the efforts to reduce or avoid  
19 greenhouse gas emissions and other forms of  
20 air pollution.

21 **SEC. 502. REGIONAL COMMISSION SUPPORT FOR ZERO-**  
22 **EMISSION TECHNOLOGY DEVELOPMENT AT**  
23 **BROWNFIELD SITES.**

24 (a) AUTHORITY.—Each regional commission may  
25 provide technical assistance to, make grants to, enter into

1 contracts with, or otherwise provide amounts to individ-  
2 uals or entities in the applicable region for projects and  
3 activities—

4 (1) to conduct research and analysis regarding  
5 the economic impact of siting, permitting, con-  
6 structing, and operating zero-emission technology at  
7 a brownfield site, including a retired fossil fuel site;

8 (2) to provide meaningful community engage-  
9 ment in identifying and considering the potential en-  
10 vironmental effects, including cumulative effects, of  
11 zero-emission technology at a brownfield site, includ-  
12 ing a retired fossil fuel site;

13 (3) to assist with workforce training or retrain-  
14 ing to perform activities relating to the siting, per-  
15 mitting, and operation of zero-emission technology  
16 at a brownfield site, including a retired fossil fuel  
17 site; and

18 (4) to engage with the Environmental Protec-  
19 tion Agency, the Department of Energy, and other  
20 agencies with expertise in zero-emission technologies,  
21 brownfield sites, or the permitting process under  
22 NEPA.

23 (b) LIMITATION ON AVAILABLE AMOUNTS.—

24 (1) IN GENERAL.—Except as provided in para-  
25 graphs (2) and (3), not more than 50 percent of the

1 cost of any project or activity eligible for a grant  
2 under this section may be paid using amounts made  
3 available to carry out this section.

4 (2) DISTRESSED COUNTIES.—In the case of a  
5 project or activity to be carried out in a county for  
6 which a distressed county designation is in effect  
7 under section 14526 or 15702 of title 40, United  
8 States Code, not more than 80 percent of the cost  
9 of the project or activity may be paid using amounts  
10 made available to carry out this section.

11 (3) AT-RISK COUNTIES, TRANSITIONAL COUN-  
12 TIES, AND ISOLATED AREAS OF DISTRESS.—

13 (A) IN GENERAL.—In the case of a project  
14 or activity to be carried out in a county or area  
15 described in subparagraph (B), not more than  
16 70 percent of the cost of the project or activity  
17 may be paid using amounts made available to  
18 carry out this section.

19 (B) COUNTY OR AREA DESCRIBED.—A  
20 county or area referred to in subparagraph (A)  
21 is—

22 (i) a county for which an at-risk coun-  
23 ty designation is in effect under section  
24 14526 of title 40, United States Code;

1 (ii) a county for which a transitional  
2 county designation is in effect under sec-  
3 tion 15702 of that title; or

4 (iii) an area for which an isolated area  
5 of distress designation is in effect under  
6 section 15702 of that title.

7 (c) SOURCES OF ASSISTANCE.—Subject to subsection  
8 (b), a grant provided under this section may be provided  
9 from amounts made available to carry out this section, in  
10 combination with amounts made available—

11 (1) under any other Federal program; or

12 (2) from any other source.

13 (d) FEDERAL SHARE.—Notwithstanding any provi-  
14 sion of law limiting the Federal share under any other  
15 Federal program, amounts made available to carry out  
16 this section may be used to increase that Federal share,  
17 as the applicable regional commission determines to be ap-  
18 propriate.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out this section  
21 \$5,000,000 for each of fiscal years 2023 through 2028.



1 **SEC. 503. FEDERAL-STATE COORDINATION AND ASSIST-**  
2 **ANCE FOR DEVELOPMENT OF ZERO-EMIS-**  
3 **SION TECHNOLOGY AT BROWNFIELD SITES.**

4 (a) **PERMITTING COOPERATIVE AGREEMENTS AU-**  
5 **THORIZED.**—At the request of the Governor of a State,  
6 the Administrator may enter into a permitting cooperative  
7 agreement with the State under which each party to the  
8 agreement shall identify steps, including timelines, that  
9 the parties will take to streamline the consideration of  
10 Federal and State environmental permits for zero-emis-  
11 sion technology development on appropriate brownfield  
12 sites.

13 (b) **AUTHORITY UNDER AGREEMENT.**—In carrying  
14 out this section, the Administrator may—

15 (1) accept from an owner or developer of a  
16 zero-emission technology project on a brownfield site  
17 a consolidated application for all permits required by  
18 the Administrator, to the extent that such a consoli-  
19 dated application is consistent with other applicable  
20 law;

21 (2) enter into memoranda of agreement with  
22 other agencies to coordinate among agencies the con-  
23 sideration of applications and permits for the devel-  
24 opment of zero-emission technology on brownfield  
25 sites; and

1           (3) enter into memoranda of understanding  
2       with States under which, to the extent practicable,  
3       Federal and State review of applications and permits  
4       for the development of zero-emission technology on  
5       brownfield sites will be coordinated and concurrently  
6       considered.

7       (c) STATE ASSISTANCE.—The Administrator may  
8       provide financial assistance to State governments to facili-  
9       tate the hiring of additional personnel with expertise in  
10      fields relevant to the consideration of applications and en-  
11      vironmental permits for the development of zero-emission  
12      technology on brownfield sites.

13      (d) OTHER ASSISTANCE.—The Administrator may  
14      provide technical, legal, or other assistance to a State to  
15      facilitate the review by the State of applications and per-  
16      mits for the development of zero-emission technology on  
17      brownfield sites.

18      (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
19      authorized to be appropriated to carry out this section  
20      \$5,000,000 for each of fiscal years 2023 through 2028.

21   **SEC. 504. RENEWABLE ENERGY AND STORAGE DEVELOP-**  
22                   **MENT AT BROWNFIELD SITES.**

23      (a) DEFINITION OF ELIGIBLE RESPONSE SITE.—  
24      Section 101 of the Comprehensive Environmental Re-

1 sponse, Compensation, and Liability Act of 1980 (42  
2 U.S.C. 9601) is amended—

3 (1) in paragraph (41)(B)—

4 (A) in clause (i), by striking “or” after the  
5 semicolon;

6 (B) in clause (ii)(II), by striking the period  
7 at the end and inserting “; or”; and

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

9 “(iii) a renewable brownfield site.”;

10 and

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

12 “(42) RENEWABLE BROWNFIELD SITE.—The  
13 term ‘renewable brownfield site’ means a facility—

14 “(A) that is—

15 “(i) a brownfield site; or

16 “(ii) an area of a brownfield site;

17 “(B) at which—

18 “(i) the primary use is the develop-  
19 ment of—

20 “(I) wind or solar energy re-  
21 sources;

22 “(II) storage resources for elec-  
23 tricity generated by wind or solar en-  
24 ergy resources; or

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1 “(III) other renewable energy re-  
2 sources with zero emissions of green-  
3 house gases or any air pollutant that  
4 is listed pursuant to section 108(a) of  
5 the Clean Air Act (42 U.S.C.  
6 7408(a)) (or any precursor to such an  
7 air pollutant) that are identified by  
8 the Administrator through rulemaking  
9 as appropriate for development on a  
10 brownfield site;

11 “(ii) the combined energy or storage  
12 resources described in clause (i) constitute  
13 at least 1 megawatt of production or stor-  
14 age capacity; and

15 “(iii) the use of the brownfield site or  
16 area, and any expansion, redevelopment, or  
17 reuse of the brownfield site or area, is lim-  
18 ited to that which is necessary for the de-  
19 velopment of the energy or storage re-  
20 sources described in clause (i); and

21 “(C) that is located not closer than 1000  
22 feet from a community with environmental jus-  
23 tice (as defined in section 2 of the Promoting  
24 Efficient and Engaged Reviews Act of 2023)  
25 concerns.

1           “(43) RENEWABLE BROWNFIELD DEVEL-  
2       OPER.—

3           “(A) IN GENERAL.—The term ‘renewable  
4       brownfield developer’, with respect to a renew-  
5       able brownfield site, means the following per-  
6       sons:

7           “(i) PERSON WITH AN OWNERSHIP IN-  
8       TEREST.—A person that—

9           “(I) acquires ownership of the re-  
10       newable brownfield site after the date  
11       of enactment of the Promoting Effi-  
12       cient and Engaged Reviews Act of  
13       2023;

14          “(II) establishes by a preponder-  
15       ance of the evidence each of the cri-  
16       teria described in clauses (i) and (iii)  
17       through (viii) of paragraph (40)(B);  
18       and

19          “(III) meets the criteria on in-  
20       quiries described in subparagraph (B).

21          “(ii) PERSON WITH A LEASEHOLD IN-  
22       TEREST.—

23          “(I) IN GENERAL.—A person—

24               “(aa) that acquires a lease-  
25       hold interest in the renewable

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1 brownfield site after the date of  
2 enactment of the Promoting Effi-  
3 cient and Engaged Reviews Act  
4 of 2023;

5 “(bb) that meets the condi-  
6 tion described in paragraph  
7 (40)(A)(ii)(II); and

8 “(cc) with respect to which  
9 any of the conditions described in  
10 subclause (II) apply.

11 “(II) CONDITIONS DESCRIBED.—

12 The conditions referred to in sub-  
13 clause (I)(cc) are the following:

14 “(aa) The conditions de-  
15 scribed in paragraph  
16 (40)(A)(ii)(III).

17 “(bb) The owner of the facil-  
18 ity that is subject to the lease-  
19 hold interest is—

20 “(AA) a person de-  
21 scribed in clause (i); or

22 “(BB) a bona fide pro-  
23 spective purchaser.

1           “(B) CRITERIA ON INQUIRIES.—The cri-  
2           teria referred to in subparagraph (A)(i)(III) are  
3           the following:

4                   “(i) The person has submitted to the  
5           President and the State or Tribal author-  
6           ity within which the renewable brownfield  
7           site is located—

8                   “(I) a redevelopment plan that  
9           details the plans of the person to re-  
10          develop the site as a renewable  
11          brownfield site; and

12                   “(II) a written report of findings,  
13          including supporting evidence, derived  
14          from all appropriate inquiries made by  
15          the person, according to the terms  
16          provided in subclauses (I) and (II) of  
17          paragraph (40)(B)(ii).

18                   “(ii) As of 180 days after the date on  
19          which the written report required under  
20          clause (i)(II) is submitted, the President or  
21          the State or Tribal authority has not pro-  
22          vided to the person a response that in-  
23          cludes a written notice of concern con-  
24          taining—

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1           “(I) a written assessment of the  
2           report submitted under that clause  
3           finding that—

4                   “(aa) the person’s proposed  
5           redevelopment of the site is not  
6           consistent with protecting human  
7           health and the environment from  
8           hazardous substances, pollutants,  
9           or contaminants at the facility;  
10          or

11                   “(bb) the report provides in-  
12          sufficient information to assess  
13          whether the proposed develop-  
14          ment is not consistent with pro-  
15          tecting human health and the en-  
16          vironment from hazardous sub-  
17          stances; and

18                   “(II) if applicable, specific in-  
19          structions for how the person may  
20          amend the report or redevelopment  
21          plan to address the issues raised in  
22          the written notice of concern provided  
23          by the President or State or Tribal  
24          authority.



1           “(C) EFFECT OF AMENDED FINDINGS RE-  
2           PORT.—If the person seeking to establish their  
3           status as a renewable brownfield developer has  
4           delivered to the President or State or Tribal au-  
5           thority an amended report of findings derived  
6           from all appropriate inquiries, as provided for in  
7           subclause (II) of subparagraph (B)(ii), and if  
8           the President or the State or Tribal authority  
9           has not provided the person with a subsequent  
10          notice of concern within 180 days of the deliv-  
11          ery of the amended report of findings, as pro-  
12          vided for in that subparagraph, the criteria de-  
13          scribed in subparagraph (B) are satisfied for  
14          purposes of subparagraph (A)(i)(III).”.

15          (b) LIABILITY.—Section 107 of the Comprehensive  
16          Environmental Response, Compensation, and Liability Act  
17          of 1980 (42 U.S.C. 9607) is amended by adding at the  
18          end the following:

19          “(s) RENEWABLE BROWNFIELD DEVELOPER EX-  
20          EMPTION.—Notwithstanding subsection (a)(1), a renew-  
21          able brownfield developer whose potential liability for a re-  
22          lease or threatened release is based solely on the renewable  
23          brownfield developer being considered to be an owner or  
24          operator of a facility shall not be liable, including liability  
25          for any claim for contribution under this Act, so long as

- 1 the renewable brownfield developer does not impede a re-
- 2 sponse action or natural resource restoration.”.

Embargoed until May 18