116TH CONGRESS
2D Session

S.

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

IN THE SENATE OF THE UNITED STATES

Ms. HARRIS introduced the following bill; which was read twice and referred to the Committee on ______________________

A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Climate Equity Act of 2020”.

(b) Table of Contents.—The table of contents for this Act is as follows:

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

TITLE I—CONGRESSIONAL EQUITY SCORE

Sec. 101. Climate and Environmental Equity Office.
2

TITLE II—OFFICE OF CLIMATE AND ENVIRONMENTAL JUSTICE ACCOUNTABILITY

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

TITLE III—RULES AND REGULATIONS

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

TITLE IV—FEDERAL INVESTMENTS

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

TITLE V—SUBNATIONAL GUIDANCE

Sec. 501. Guidance for development of implementation plans.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1)(A) the people of the United States have a right to live in a clean, healthful, and sustainable environment and climate, with access to clean air and clean water;

4 (B) realizing the right described in subparagraph (A) will require addressing systemic environmental injustices and the growing inequities fueled by climate change;
(C) the Federal Government has the responsibility to ensure that the right described in subparagraph (A) is realized; and

(D) the Federal Government should be held accountable to protect the individuals most impacted by environmental degradation, climate change, and the fight to address climate change;

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

(A) Federal investment;

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

(C) international and intergovernmental cooperation; and

(3) any policy to address climate and environmental justice must acknowledge that—

(A) climate change is—

(i) an immediate crisis, the impacts of which the United States is already experiencing; and

(ii) a systemic injustice multiplier;

(B) low-income communities, indigenous communities, and communities of color across the United States disproportionately experience the cumulative impacts of multiple pollution
sources and the compounding impacts of a history of pollution exposure; and

(C) the impacts of climate change will—

(i) disproportionately affect the communities that are already facing environmental injustice; and

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

SEC. 3. DEFINITIONS.

In this Act:

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

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

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

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

(A) is intended to directly address or respond to the environment or climate change;
(B) has an indirect impact on the status or quality of the environment or climate, including the construction of infrastructure and the manufacturing of goods;

(C) has the potential to create or impact jobs relating to the transition to a clean economy; and

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

(5) FRONTLINE COMMUNITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “frontline community” has the meaning given the term by the Board of Advisors under section 205.

(B) INTERIM MEANING.—Until the date on which the Board of Advisors establishes a definition of “frontline community” under section 205, the term “frontline community” means a community or population described in section 205(b).

(6) INVESTMENT.—The term “investment” includes a grant, loan, rebate, or other similar program that is carried out by an agency.
(7) Office.—The term “Office” means the Office of Climate and Environmental Justice Accountability established by section 201.

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

TITLE I—CONGRESSIONAL EQUITY SCORE

SEC. 101. CLIMATE AND ENVIRONMENTAL EQUITY OFFICE.

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

“(h) Climate and Environmental Equity Office.—

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

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

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

“(4)(A) In this paragraph, the terms ‘environmental or climate change nexus’ and ‘frontline com-
munity’ have the meanings given those terms in section 3 of the Climate Equity Act of 2020.

“(B)(i) In addition to any analysis under section 402, the Climate and Environmental Equity Office shall, to the extent practicable, prepare for each bill or resolution with an environmental or climate change nexus that is reported by any committee of the House of Representatives or the Senate and submit to such committee a statement by the Climate and Environmental Equity Office analyzing the quantitative and qualitative impacts to frontline communities of the bill or resolution in conformance with the criteria developed under subparagraph (C).

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

“(C)(i) Not later than 1 year after the date of enactment of this paragraph, the Director of the Climate and Environmental Equity Office, in coordination with an advisory board composed of relevant experts and representatives from frontline communities identified in coordination with the Board of Advisors established under section 203(a) of the Climate Equity Act of 2020, shall develop and make publicly
available criteria for analyzing the quantitative and qualitative impacts of legislation under this paragraph.

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

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

“(E) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution with an environmental or climate change nexus that is reported by any committee of the House of Representatives or the Senate unless the Director of the Climate and Environmental Equity Office has published a statement on the quantitative and qualitative impacts to frontline communities of the legislation prepared under subparagraph (B).
“(F) Any action taken by the Director of the Climate and Environmental Equity Office shall be informed by the best available science.”.

**TITLE II—OFFICE OF CLIMATE AND ENVIRONMENTAL JUSTICE ACCOUNTABILITY**

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

(a) **IN GENERAL.**—There is established within the Office of Management and Budget an office, to be known as the “Office of Climate and Environmental Justice Accountability”.

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

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

(a) **FUNCTIONS.**—The functions of the Office include—

(1) to represent the views of frontline communities in rulemaking;

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

(3) to measure the direct and indirect costs of environmental and climate regulations on frontline communities;
(4) to develop and coordinate relevant environmental justice definitions and nomenclature across the Executive Branch;

(5) to monitor compliance with the requirements of this Act; and

(6) to coordinate with other Federal efforts to address environmental justice, such as efforts through the Council on Environmental Quality and the National Environmental Justice Advisory Council.

(b) Personnel.—

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

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

(c) Directors of Climate and Environmental Justice.—

(1) In general.—The head of the Office shall work in coordination with the head of each agency
described in paragraph (2) to establish or designate within each agency a position, to be known as the “Director of Climate and Environmental Justice”.

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

(A) the Environmental Protection Agency;

(B) the Department of Agriculture;

(C) the Department of Commerce;

(D) the Department of Defense;

(E) the Department of Energy;

(F) the Department of Health and Human Services;

(G) the Department of Homeland Security;

(H) the Department of Housing and Urban Development;

(I) the Department of the Interior;

(J) the Department of Labor;

(K) the Department of Transportation;

(L) the Department of Education;

(M) the Department of Justice;

(N) the Department of the Treasury;

(O) the Department of Veterans Affairs;

(P) the Small Business Administration;

(Q) the Office of Science and Technology Policy;
(R) the Council on Environmental Quality;

and

(S) any other Federal department, agency, commission, or office that the head of the Office determines to be appropriate.

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

SEC. 203. BOARD OF ADVISORS.

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

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

(2) the head of the Office;

(3) a Director; or

(4) a member or committee of Congress.

(b) MEMBERS.—

(1) APPOINTMENT.—

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

(B) FUNDING.—
(i) **In General.**—There are authorized to be appropriated to the Office such sums as are necessary for the National Academy of Sciences to make recommendations under subparagraph (A).

(ii) **Transfer.**—The head of the Office shall transfer to the National Academy of Sciences any amounts appropriated under clause (i).

(2) **Size of Board.—**

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

(B) **Additional Members.**—At the discretion of the head of the Office, on the recommendation of the National Academy of Sciences, additional members representing frontline communities or allies of frontline communities may be added to the Board of Advisors on an interim or permanent basis.

(3) **Qualifications.**—Each member of the Board of Advisors shall be—
(A)(i) a representative of a frontline community; or
(ii) an ally of a frontline community; and
(B) qualified by education, training, and experience to evaluate information on matters referred to the Board of Advisors under this Act.

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

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

(d) PUBLIC PARTICIPATION AND TRANSPARENCY.—The Board of Advisors shall make every effort, consistent with applicable law, including section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”), and section 552a of title 5, United States Code (commonly known as the “Privacy Act of 1974”), to maximize public participation and transparency, including making the advice of the Board of Ad-
visors publicly available in electronic form, including video
streaming, on the website of the Office.

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

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

(b) Administrative Operations.—The Director of
the Office of Management and Budget shall provide the
Office with appropriate and adequate office space at cen-
tral and field office locations, together with such equip-
ment, operating budget, and communications facilities and
services as may be necessary, and shall provide necessary
maintenance services for those offices and the equipment
and facilities located in those offices.

(c) Authorization of Appropriations.—There
are authorized to be appropriated such sums as are nec-
essary to carry out this title, to remain available until ex-
pended.
SEC. 205. DEFINITION OF FRONTLINE COMMUNITY.

(a) In General.—The Board of Advisors shall establish a definition of “frontline community” for purposes of this Act.

(b) Inclusions.—The definition under subsection (a) shall include, at a minimum—

(1) a community or population that has experienced systemic socioeconomic disparities, environmental injustice, or another form of injustice, including—

(A) a low-income community;
(B) an indigenous community; and
(C) a community of color;

(2) a community or population that is the most vulnerable and will be the most adversely impacted by environmental and climate injustice and inequitable climate actions, including—

(A) a community or population described in paragraph (1);
(B) a deindustrialized community;
(C) a depopulated rural community;
(D) a vulnerable elderly population;
(E) an unhoused population;
(F) individuals with disabilities; and
(G) a community that is economically dependent on fossil fuel industries; and
(3) the women, the youth, and all of the descendants of women or youth that are part of a community or population described in paragraph (1) or (2).

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

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

(2) incorporate in the definition under subsection (a) the best available science and understanding of the impacts of environmental, climate, and public health hazards on the communities and populations described in subsection (b).

(d) UPDATES.—The Board of Advisors shall iteratively reexamine the definition of “frontline community” established under subsection (a) and update that definition, as the Board of Advisors determines to be appropriate.

TITLE III—RULES AND REGULATIONS

SEC. 301. CLIMATE AND ENVIRONMENTAL JUSTICE ACCOUNTABILITY AGENDA.

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

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

(2) a summary of—

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

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

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

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

(b) SUBMISSION.—Each agenda shall be transmitted to the head of the Office for comment, if any.
(c) **Frontline Communities.**—Each agency shall—

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

(A) direct notification of frontline communities; or

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

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

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

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

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

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

(a) **Determination of Potential Significant Impact.**—

(1) In general. —Whenever an agency is required by section 553 of title 5, United States Code, or any other law, to publish a general notice of pro-
posed rulemaking for a proposed rule, or publishes
a notice of proposed rulemaking for an interpretative
rule involving the internal revenue laws of the
United States, the Board of Advisors, in coordina-
tion with the Director of the agency, shall determine
whether the proposed rule may have a significant
impact on 1 or more frontline communities.

(2) **Determination of No Potential Significant Impact.**—If the Board of Advisors deter-
mines under paragraph (1) that a proposed rule will
not have a significant impact on 1 or more frontline
communities, the Board of Advisors shall make pub-
licly available on the website of the Office and pub-
lish in the Federal Register a statement of the ra-
tionale for that determination.

(b) **Initial Regulatory Analysis.**—

(1) **In General.**—Subject to section 305(b), in
the case of a proposed rule that the Board of Advi-
sors determines may have a significant impact on 1
or more frontline communities under subsection
(a)(1), the applicable agency shall—

(A) in coordination with the Director of
the agency, prepare an initial climate and envi-
ronmental justice analysis; and
(B) make available for public comment the initial climate and environmental justice analysis under subparagraph (A).

(2) Requirements.—

(A) Impact on frontline communities.—An initial climate and environmental justice analysis under paragraph (1)(A) shall describe the quantitative and qualitative impacts of the proposed rule on frontline communities, including cultural impacts.

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

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

(c) Requirements.—Each initial climate and environmental justice analysis under subsection (b)(1)(A) shall contain—

(1) a description of the reasons why action by the agency is being considered;
(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) a description of and, where feasible, an estimate of the number of residents of frontline communities on which the proposed rule will have a significant impact;

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

(5) a description of input and comments from coordination with frontline communities under section 305;

(6) a justification for the incorporation or rejection of any comments from coordination with frontline communities under section 305;

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

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

(d) SIGNIFICANT ALTERNATIVES.—An initial climate and environmental justice analysis under subsection (b)(1)(A) shall contain a description of any significant alternatives to the proposed rule that—
(1) accomplish the stated objectives of applicable statutes; and

(2)(A) minimize any significant negative economic, environmental, or public health impact of the proposed rule on frontline communities; or

(B) maximize any significant positive economic, environmental, or public health impact of the proposed rule on frontline communities.

(e) PROJECTED IMPACTS.—An initial climate and environmental justice analysis under subsection (b)(1)(A) shall include a description of—

(1) any projected economic, environmental, or public health impacts, positive or negative, on frontline communities as a result of the proposed rule;

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

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

(A) accomplish the stated objectives of applicable statutes; and

(B)(i) minimize any significant negative economic, environmental, or public health impact of the proposed rule on frontline communities; or
(ii) maximize any significant positive economic, environmental, or public health impact of the proposed rule on frontline communities; and

(4) the advice and recommendations of representatives of frontline communities under section 305(c)(1) relating to issues described in paragraphs (1), (2), and (3).

SEC. 303. FINAL CLIMATE AND ENVIRONMENTAL JUSTICE ANALYSIS.

(a) Final Analysis.—

(1) In general.—When an agency promulgates a final rule under section 553 of title 5, United States Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 302(a), and the agency was required to prepare an initial climate and environmental justice analysis for the applicable proposed rule under section 302(b)(1)(A), the agency shall prepare a final climate and environmental justice analysis.
(2) REQUIREMENTS.—Each final climate and environmental justice analysis under paragraph (1) shall contain—

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

(B) a statement of—

(i) the issues raised by frontline communities through consultation under section 305 in preparing the initial climate and environmental justice analysis under section 302(b)(1)(A);

(ii) an assessment of the issues described in clause (i); and

(iii) any modification to the proposed rule as a result of the assessment described in clause (ii);

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

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

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

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

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

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

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

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

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

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

(b) **EXCEPTIONS.**—

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

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

(B) the head of the Office, in consultation with the Board of Advisors, approves of the certification under subparagraph (A).
(2) Certification.—If the head of the agency makes a certification under paragraph (1)(A), the agency shall—

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

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

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

Sec. 305. Procedures for Gathering Comments.

(a) In General.—When a rule is promulgated that will have a significant economic, environmental, or public health impact on a substantial number of members of 1 or more frontline communities, the head of the agency promulgating the rule shall ensure that frontline communities have been given an opportunity to participate in the rule-making for the rule through, at a minimum—
(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic, environmental, or public health effect on a substantial number of members of 1 or more frontline communities;

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

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

(4) the conduct of open conferences or public hearings concerning the rule for frontline communities, including soliciting and receiving comments over computer networks; and

(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by frontline communities.

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

(1) an agency shall notify the head of the Office of the initial climate and environmental justice anal-
ysis and provide the head of the Office with information on—

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

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

(2) the agency shall ensure that frontline communities have been given an opportunity to participate through public comment in accordance with subsection (a);

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

(4) the agency shall—

(A) incorporate comments, advice, and recommendations from frontline communities; and

(B) where appropriate, modify—

(i) the proposed rule; or

(ii) the initial climate and environmental justice analysis.

(c) Review Panels.—

(1) Frontline Community Representative Advisory Committees.—

(A) Identification of Representatives.—Not later than 30 days after the date
on which the head of the Office receives the materials described in subsection (b)(1) for a proposed rule, the head of the Office, in coordination with the Board of Advisors, shall—

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

(ii) appoint those individuals to an advisory committee established for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.

(B) NUMBER OF REPRESENTATIVES.—

(i) IN GENERAL.—Subject to clause (ii), the number of individuals appointed to an advisory committee under subparagraph (A)(ii) shall be determined by the head of the Office, in coordination with the Board of Advisors, based on the scope of the proposed rule described in that paragraph.

(ii) MINIMUM.—Not fewer than 2 individuals shall be appointed under subparagraph (A)(ii) with respect to each proposed rule described in that subparagraph.

(C) COMPENSATION.—A representative on an advisory committee who is not an officer or
employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, for each day (including travel time) during which the representative is engaged in the performance of the duties of the advisory committee.

(D) TRAVEL EXPENSES.—A representative on an advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the advisory committee.

(E) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an advisory committee established under subparagraph (A)(ii).

(2) CONVENTION OF REVIEW PANELS.—

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

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

(ii) the Director of the agency;

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

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

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

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

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

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

(ii) collect advice and recommendations of the advisory committee of frontline community representatives established under paragraph (1)(A)(ii) on—
(I) issues relating to the frontline community that are described in sub-sections (b), (c), (d), and (e) of section 302; and

(II) any other relevant information relating to the potential impact of the proposed rule on the frontline community.

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

(i) the comments and recommendations of the advisory committee of frontline community representatives established under paragraph (1)(A)(ii); and

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

(d) AGENCY DISCRETION.—The head of an agency may apply subsection (b) to rules that the head of the agency intends to certify under section 304(b), but that the head of the agency believes may have a greater than
35
dele minimis impact on a substantial number of members
of 1 or more frontline communities.

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

(a) **Periodic Review.**—

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

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

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

(A) continued without change; or

(B) amended, consistent with the statutes
under which the rules were issued, to minimize
any significant economic, environmental, or
public health impact of the rules on a substan-
tial number of members of 1 or more frontline
communities.
(4) Review of existing rules.—The plan under paragraph (1) shall provide for the review of rules of the agency under that paragraph to be completed—

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

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

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

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

(2) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed that are relevant to the rule.
(c) ANNUAL LIST.—

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

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

(A) include—

(i) a brief description of each rule; and

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

(B) invite public comment on each rule.

(d) EXCEPTIONS.—

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

(A) the head of the agency certifies that the rule does not or will not have a significant economic, environmental, or public health impact on a substantial number of members of 1 or more frontline communities; and
(B) the head of the Office, in consultation with the Board of Advisors, approves of the certification under subparagraph (A).

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

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

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

SEC. 307. JUDICIAL REVIEW.

(a) JUDICIAL REVIEW.—

(1) FINAL AGENCY ACTION.—

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

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

(2) **JURISDICTION.**—

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

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

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

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

(B) ending on the later of—

(i) the date required by the statute under which the applicable rule was issued; and
(ii) 1 year after the date described in subparagraph (A).

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

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

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

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

(b) RECORD.—In an action for the judicial review of a rule, the climate and environmental justice analysis for that rule, including an initial climate and environmental justice analysis prepared or corrected pursuant to subsection (a)(4)(A), shall constitute part of the entire record of agency action in connection with such review.
(c) COMPLIANCE.—Compliance or noncompliance by an agency with the provisions of this title shall be subject to judicial review only in accordance with this section.

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

SEC. 308. AVAILABILITY.

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

TITLE IV—FEDERAL INVESTMENTS

SEC. 401. REVIEW OF FEDERAL INVESTMENTS.

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

(b) REVIEW.—

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

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

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

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

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

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

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

(1) to the extent allowed by the laws governing the investment, frontline communities benefit from the investment;
(2) an examination of the eligibility requirements for the investment to ensure that frontline communities can compete to receive the investment;

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

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

(5) an examination of how to increase the diversity of recipients of the investment.

(d) Retrospective Review.—Not less frequently than once every 10 years, the head of the Office shall work with the head of each agency and the Director of that agency to review the application and administration of any investment of the agency with an environmental or climate change nexus to ensure that the investment is serving frontline communities.

(e) Final Report.—

(1) In General.—After an agency carries out a review under subsection (b), (c), or (d), the head of the agency shall, in coordination with a review panel under section 402(b), if any, prepare a final report describing the results of the review.
(2) REQUIREMENTS.—A final report under paragraph (1) shall contain—

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

(B) a statement of—

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

(ii) any changes made in the implementation of the investment as a result of the recommendations described in clause (i), if any; and

(C) a description of the steps the agency has taken to ensure that frontline communities benefit from the investment, including a description of the factual, policy, and legal reasons why each of the recommendations described in subparagraph (B)(i), if any, was rejected or adopted.

(3) CONSIDERATION.—In preparing a final report under paragraph (1), the head of the agency with jurisdiction over an investment subject to additional review under section 402, in coordination with the head of the Office, shall give strong consideration to the findings and recommendations described in the report under section 402(d).
(4) Publication.—The head of the agency preparing the final report under paragraph (1) shall publish in the Federal Register—

(A) the final report; or

(B) a summary of the final report.

SEC. 402. ADDITIONAL REVIEW.

(a) Identification.—If the head of the Office, in coordination with the Board of Advisors and the applicable Director, determines that an investment subject to a review under subsection (b), (c), or (d) of section 401 requires additional review, or the head of the Office directs the review of an investment in accordance with section 403, the head of the Office, in coordination with the Board of Advisors and the applicable Director, shall identify individuals representative of affected frontline communities and allies of frontline communities for the purpose of obtaining advice and recommendations from those individuals for changes to the administrative or substantive aspects of the investment that are not properly serving frontline communities.

(b) Review Panels.—If the head of the Office, in coordination with the Board of Advisors and the applicable Director, determines convening a review panel for an investment subject to a review under subsection (b), (c), or (d) of section 401 to be necessary, or the head of the Of-
office directs the review of an investment in accordance with section 403, the head of the Office shall convene such a review panel, consisting of—

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

(B) 1 or more employees of the Office;

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

(3) the Director of the agency; and

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

(e) FUNCTION.—A review panel convened under subsection (b) shall collect advice and recommendations of each individual frontline community representative and ally identified under subsection (a), after consultation with the head of the Office, on issues relating to the administrative or substantive aspects of the investment that are not properly serving frontline communities.

(d) REPORT.—Not later than 60 days after the head of the Office convenes a review panel under subsection (b), the review panel shall submit to the head of the Office and the agency with jurisdiction over the investment a report describing—
The comments of the review panel on the advice and recommendations of frontline communities and allies collected under subsection (c); and

(2) the findings and recommendations of the review panel.

(e) PUBLICATION.—The head of the agency with jurisdiction over an investment subject to additional review under this section shall publish in the Federal Register—

(1) the report of the review panel under subsection (d); or

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

SEC. 403. NONSCHEDULED REVIEW.

The head of the Office may direct a review under section 402 of an investment with respect to which sufficient complaints have been brought from 1 or more frontline communities or allies.

SEC. 404. AVAILABILITY.

Any review or analysis conducted, or other document prepared, under this title shall be made available to the public through the Office.
TITLE V—SUBNATIONAL GUIDANCE

SEC. 501. GUIDANCE FOR DEVELOPMENT OF IMPLEMENTATION PLANS.

(a) Definition of State Implementation Plan.—In this section, the term “State implementation plan” means a plan or a component of a plan established by a State to implement a Federal law or regulation with an environmental or climate change nexus.

(b) Guidance.—Not later than 180 days after the date of enactment of this Act, the head of the Office shall issue guidance for States for the consideration of, and consultation with, frontline communities in the process of developing a State implementation plan.