H. R. 5477

To amend chapter 3 of title 5, United States Code, to require Federal agencies to maintain plans for responding to, mitigating, and adapting to climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2021

MRS. CAROLYN B. MALONEY of New York (for herself, MS. NORTON, MR. MFUME, MS. WASSERMAN SCHULTZ, MR. CONNOLLY, and MR. RASKIN) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend chapter 3 of title 5, United States Code, to require Federal agencies to maintain plans for responding to, mitigating, and adapting to climate change, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Federal Agency Climate Planning, Resilience, and Enhanced Preparedness
SEC. 2. CLIMATE ACTION PLANS.

(a) AMENDMENT.—Chapter 3 of title 5, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER III—GOVERNMENT-WIDE COORDINATION ON CLIMATE CHANGE

§321. Definitions

“In this subchapter:

“(1) ADAPTATION.—The term ‘adaptation’ means adjustment to natural or human systems in response to actual or expected climate change, including both sudden-onset and slow-onset climate change-related risks or events assessed through historical data, recent climate conditions and risks, and climate change projections, to minimize negative impacts on human health and safety, equity, ecosystems, and the environment.

“(2) AGENCY.—The term ‘agency’ has the meaning given the term ‘Executive agency’ under section 105, but does not include the Government Accountability Office.

“(3) CLIMATE CHANGE.—The term ‘climate change’ means the long-term change in the average...
weather patterns influencing local, regional, and global climates, that are primarily driven by human-produced greenhouse gas emissions, and observed through key indicators including global land and ocean temperature increases, rising sea levels, loss of polar and mountain glacier ice, cloud and vegetation cover changes, and increases in extreme weather such as hurricanes, heatwaves, wildfires, droughts, floods, and precipitation.

“(4) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(5) DISADVANTAGED COMMUNITY.—The term ‘disadvantaged community’ means a community that is harmed by environmental, economic, or socio-economic injustice, and includes a community that—

“(A) has a high concentration of low-income and low-wealth households, including households comprised primarily of members of groups that have historically experienced discrimination on the basis of race, gender, national origin, or ethnicity (including Black, Indigenous, Latinx, Arab, Asian, and Pacific Islander communities);
“(B) faces economic transition, deindustrialization, historic underinvestment, or poverty; or

“(C) is an environmental justice community.

“(6) ENVIRONMENTAL JUSTICE COMMUNITY.—The term ‘environmental justice community’ means a low-income or low-wealth community facing environmental injustice, including any community that—

“(A) is located nearest to an existing area of grave environmental pollution or degradation;

“(B) bears a burden of negative public health effects of pollution;

“(C) includes one or more sites of—

“(i) a facility that is a part of a polluting industry;

“(ii) a waste dump; or

“(iii) a facility for resource extraction;

“(D) experiences a high incidence of climate change impacts and disasters;

“(E) has been excluded or harmed by racist or discriminatory policies that have resulted in economic or health disparities;
“(F) has a land-based or food subsistence culture that is experiencing ecosystem disruption and devastation;

“(G) faces relocation and resettlement resulting from—

“(i) climate change;

“(ii) impacts to the environment and ecosystems; or

“(iii) impacts associated with economic inequities; or

“(H) is an Indigenous community.

“(7) IMPACT.—The term ‘impact’ means consequences, both realized and expected, for natural and human systems.

“(8) PREPAREDNESS.—The term ‘preparedness’ means actions taken to plan, organize, equip, train, and exercise to build, apply, and sustain the capabilities necessary to prevent, protect against, ameliorate the effects of, respond to, and recover from climate change-related damages to life, health, property, livelihoods, ecosystems, and national security.

“(9) RESILIENCE.—The term ‘resilience’ means the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and
recover rapidly from disruptions while ensuring the sustainment of mission-critical operations.

“(10) Risk.—The term ‘risk’ means an assessment based on formal analysis of the consequences, likelihoods, and responses to the impacts of climate change and how societal constraints shape adaptation options.

“(11) State.—The term ‘State’ means each of the several States, the District of Columbia, each commonwealth, territory, or possession of the United States, and each federally recognized Indian Tribe.

“(12) Vulnerable Population.—The term ‘vulnerable population’ means groups of individuals, including those with underlying health conditions, subject to greater climate change exposure, or adversely impacted by social determinants of health, who experience heightened sensitivity to climate-related health and economic impacts.

“§ 322. Agency climate action plans required

“(a) Agency Climate Action Plans Required.—Not later than 1 year after the date of the enactment of this section, the head of each agency shall submit to the Director and the steering committee of the Council on Federal Agency Climate PREP an agency climate action plan.
“(b) CONTENTS OF PLAN.—Each agency climate action plan submitted pursuant to subsection (a) shall include the following:

“(1) An identification and assessment of climate change-related impacts on and risks to the ability of the agency to accomplish its missions, operations, and programs.

“(2) A description of programs, policies, and plans the agency has in place and any additional action the agency plans to take to mitigate and manage the impacts and risks identified in paragraph (1) and build resilience, both immediately and at milestones that are 2, 5, 10, and 20 years after the date of the enactment of this section.

“(3) A description of how any climate change-related impact and risk identified under paragraph (1) that is determined by the agency to be so significant that it impairs the statutory mission or operation of the agency will be addressed.

“(4) An assessment of whether implementation of any of the programs, policies, or plans of the agency exacerbates climate change-related impacts and risks.
“(5) A description of how the agency will consider the need to improve climate change adaptation and resilience, including—

“(A) an assessment that monetizes the costs and benefits of such improvement, including the value of climate change adaptation, resilience, and mitigation; and

“(B) with respect to agency suppliers, supply chains, real property investments, and capital equipment purchases such as updating agency policies for leasing, building upgrades, relocation of existing facilities and equipment, and construction of new facilities.

“(6) In the case of the implementation of a program that uses cost-benefit analyses, a description of any additional methodologies used by the agency to incorporate climate change risks into the cost-benefit analyses, including the metrics and methodologies used.

“(7) An assessment of the efforts of the agency to reverse the disproportionate impacts of climate change on disadvantaged communities and vulnerable populations, including—

“(A) a description of opportunities identified to reverse such impacts;
“(B) a description of progress made in reversing such impacts; and

“(C) a description of the methodology used by the agency for actively and widely soliciting and receiving input and feedback directly from such communities and populations regarding such opportunities and progress.

“(8) A description of how the agency will promote the preparedness and resilience of the Federal workforce with respect to climate change.

“(9) A description of how the agency will contribute to coordinated interagency efforts to support climate change mitigation preparedness, and resilience at all levels of government, including collaborative work across regional offices of agencies and through coordinated development of information, data, and tools.

“(c) PROGRESS REPORTS.—The head of each agency shall submit to the Director and the steering committee of the Council on Federal Agency Climate PREP an annual progress report on the implementation of the plans required pursuant to subsection (a), including updated identification and assessments of climate change-related impacts and risks.
§ 323. Council on Federal Agency Climate PREP

(a) Establishment.—There is established an interagency council, to be known as the Council on Federal Agency Climate Planning, Resilience, and Enhanced Preparedness, or the Council on Federal Agency Climate PREP (in this section referred to as the ‘Council’).

(b) Leadership.—The Director shall serve as the Chair of the Council (in this section referred to as the ‘Chair’) and shall be guided by a steering committee, which shall determine priorities and strategic direction for the Council in accordance with subsection (f), made up of the National Climate Advisor, the Chair of the Council on Environmental Quality, and the Director of the Office of Science and Technology Policy.

(c) Members.—In addition to the Chair and steering committee, the Council shall be composed of the following members who are senior officials (Deputy Secretary or equivalent officer) from the following:

(1) The Department of State.

(2) The Department of the Treasury.

(3) The Department of Defense.

(4) The Department of Justice.

(5) The Department of the Interior.

(6) The Department of Agriculture.

(7) The Department of Commerce.

(8) The Department of Labor.
“(9) The Department of Health and Human Services.
“(10) The Department of Housing and Urban Development.
“(11) The Department of Transportation.
“(12) The Department of Energy.
“(13) The Department of Education.
“(14) The Department of Veterans Affairs.
“(16) The United States Agency for International Development.
“(17) The Army Corps of Engineers.
“(18) The Environmental Protection Agency.
“(19) The General Services Administration.
“(21) The National Aeronautics and Space Administration.
“(22) The U.S. Small Business Administration.
“(23) The Corporation for National and Community Service.
“(24) The Office of Personnel Management.
“(26) The Office of the Director of National Intelligence.
“(27) The Council of Economic Advisers.

“(29) The Domestic Policy Council.

“(30) The Office of Management and Budget.


“(32) The United States Trade Representative.

“(33) Such agencies or offices as the President, Chair, or steering committee shall designate.

“(d) ADMINISTRATION.—The Director of the Office of Management and Budget shall provide administrative support and additional resources, as appropriate, to the Council. Agencies shall assist and provide information to the Council deemed necessary by the Chair or the steering committee to carry out its functions. Each such agency shall pay its own expenses related to participating as members of the Council.

“(e) COUNCIL STRUCTURE.—The Chair and steering committee may establish task forces and working groups as needed.

“(f) MISSION AND FUNCTION OF THE COUNCIL.—The Council shall coordinate across Federal agencies and offices, and in partnership with State and local governments, academic and research institutions, and the private and nonprofit sectors to do the following:
“(1) Facilitate the organization and deployment of a government-wide approach to combat the climate crisis.

“(2) Develop, recommend, coordinate inter-agency efforts on, and track implementation of Federal Government actions to—

“(A) reduce climate pollution;

“(B) increase resilience to the impacts of climate change;

“(C) protect public health;

“(D) conserve lands, waters, oceans, and biodiversity;

“(E) deliver environmental justice; and

“(F) spur well-paying union jobs and economic growth.

“(3) Provide expertise to assist regional, State, Tribal, territorial, and local action to—

“(A) reduce climate pollution;

“(B) increase resilience to the impacts of climate change;

“(C) protect public health;

“(D) conserve lands, waters, oceans, and biodiversity;

“(E) deliver environmental justice; and
“(F) spur well-paying union jobs and economic growth.

“(4) Integrate climate change science in policies and planning, where appropriate, of agencies and the private sector, including by developing and deploying of innovative, actionable, and accessible Federal climate change-related information, data, and tools.

“(5) To the extent permitted by law, prioritize action on climate change in their policy-making, budget processes, contracting and procurement, and engagement with governments, workers, communities, and the private sector.

“(6) Carry out such other functions as the Director may determine necessary.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 3 of title 5, United States Code, is amended by adding at the end the following new items:

“SUBCHAPTER III—GOVERNMENT-WIDE COORDINATION ON CLIMATE CHANGE

“322. Agency climate action plans required.
“323. Council on Federal Agency Climate PREP.”.

SEC. 3. WHITE HOUSE OFFICE OF DOMESTIC CLIMATE POLICY.

(a) ESTABLISHMENT.—There is established, within the Executive Office of the President, the Office of Domes-
tic Climate Policy (in this section referred to as the “Office”).

(b) NATIONAL CLIMATE ADVISOR.—

(1) IN GENERAL.—The Office shall be headed by the National Climate Advisor (in this section referred to as the “Advisor”) who shall be appointed by the President.

(2) POSITION.—The Advisor shall hold office at the pleasure of the President.

(3) PAY AND ALLOWANCES.—The Advisor shall be entitled to receive the same pay and allowances as are provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(e) DUTIES OF THE NATIONAL CLIMATE ADVISOR.—Subject to the authority, direction, and control of the President, the Advisor shall—

(1) coordinate the policymaking process with respect to domestic climate policy issues;

(2) coordinate domestic climate policy advice to the President;

(3) ensure that domestic climate policy decisions and programs are consistent with the stated goals of the President and that those goals are being effectively pursued; and
(4) monitor implementation of the domestic climate policy agenda of the President.

(d) POWERS OF THE ADVISOR.—The Advisor may, for the purposes of carrying out the functions of the Advisor under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including travel time) at rates not in excess of the maximum rate of basic pay for grade GS–15 as provided in section 5332 of such title, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of such title 5 for persons in Federal Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions, powers, and duties vested in the Advisor;
(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Advisor may determine appropriate, with any Federal agency, or with any public or private person or entity;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(7) adopt an official seal, which shall be judicially noticed; and

(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.