

117TH CONGRESS
1ST SESSION

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Agency Cli-
5 mate Planning, Resilience, and Enhanced Preparedness

1 Act of 2021” or the “Federal Agency Climate PREP
2 Act”.

3 **SEC. 2. CLIMATE ACTION PLANS.**

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

7 “SUBCHAPTER III—GOVERNMENT-WIDE
8 COORDINATION ON CLIMATE CHANGE

9 “§ 321. Definitions

10 “In this subchapter:

11 “(1) ADAPTATION.—The term ‘adaptation’
12 means adjustment to natural or human systems in
13 response to actual or expected climate change, in-
14 cluding both sudden-onset and slow-onset climate
15 change-related risks or events assessed through his-
16 torical data, recent climate conditions and risks, and
17 climate change projections, to minimize negative im-
18 pacts on human health and safety, equity, eco-
19 systems, and the environment.

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

24 “(3) CLIMATE CHANGE.—The term ‘climate
25 change’ means the long-term change in the average

1 weather patterns influencing local, regional, and
2 global climates, that are primarily driven by human-
3 produced greenhouse gas emissions, and observed
4 through key indicators including global land and
5 ocean temperature increases, rising sea levels, loss of
6 polar and mountain glacier ice, cloud and vegetation
7 cover changes, and increases in extreme weather
8 such as hurricanes, heatwaves, wildfires, droughts,
9 floods, and precipitation.

10 “(4) DIRECTOR.—The term ‘Director’ means
11 the Director of the Office of Management and Budg-
12 et.

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

17 “(A) has a high concentration of low-in-
18 come and low-wealth households, including
19 households comprised primarily of members of
20 groups that have historically experienced dis-
21 crimination on the basis of race, gender, na-
22 tional origin, or ethnicity (including Black, In-
23 digenous, Latinx, Arab, Asian, and Pacific Is-
24 lander communities);

1 “(B) faces economic transition, deindustri-
2 alization, historic underinvestment, or poverty;
3 or

4 “(C) is an environmental justice commu-
5 nity.

6 “(6) ENVIRONMENTAL JUSTICE COMMUNITY.—

7 The term ‘environmental justice community’ means
8 a low-income or low-wealth community facing envi-
9 ronmental injustice, including any community that—

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

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

14 “(C) includes one or more sites of—

15 “(i) a facility that is a part of a pol-
16 luting industry;

17 “(ii) a waste dump; or

18 “(iii) a facility for resource extraction;

19 “(D) experiences a high incidence of cli-
20 mate change impacts and disasters;

21 “(E) has been excluded or harmed by rac-
22 ist or discriminatory policies that have resulted
23 in economic or health disparities;

1 “(F) has a land-based or food subsistence
2 culture that is experiencing ecosystem disrup-
3 tion and devastation;

4 “(G) faces relocation and resettlement re-
5 sulting from—

6 “(i) climate change;

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

9 “(iii) impacts associated with eco-
10 nomic inequities; or

11 “(H) is an Indigenous community.

12 “(7) IMPACT.—The term ‘impact’ means con-
13 sequences, both realized and expected, for natural
14 and human systems.

15 “(8) PREPAREDNESS.—The term ‘preparedness’
16 means actions taken to plan, organize, equip, train,
17 and exercise to build, apply, and sustain the capa-
18 bilities necessary to prevent, protect against, amelio-
19 rate the effects of, respond to, and recover from cli-
20 mate change-related damages to life, health, prop-
21 erty, livelihoods, ecosystems, and national security.

22 “(9) RESILIENCE.—The term ‘resilience’ means
23 the ability to anticipate, prepare for, and adapt to
24 changing conditions and withstand, respond to, and

1 recover rapidly from disruptions while ensuring the
2 sustainment of mission-critical operations.

3 “(10) RISK.—The term ‘risk’ means an assess-
4 ment based on formal analysis of the consequences,
5 likelihoods, and responses to the impacts of climate
6 change and how societal constraints shape adapta-
7 tion options.

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

12 “(12) VULNERABLE POPULATION.—The term
13 ‘vulnerable population’ means groups of individuals,
14 including those with underlying health conditions,
15 subject to greater climate change exposure, or ad-
16 versely impacted by social determinants of health,
17 who experience heightened sensitivity to climate-re-
18 lated health and economic impacts.

19 **“§ 322. Agency climate action plans required**

20 “(a) AGENCY CLIMATE ACTION PLANS REQUIRED.—
21 Not later than 1 year after the date of the enactment of
22 this section, the head of each agency shall submit to the
23 Director and the steering committee of the Council on
24 Federal Agency Climate PREP an agency climate action
25 plan.

1 “(b) CONTENTS OF PLAN.—Each agency climate ac-
2 tion plan submitted pursuant to subsection (a) shall in-
3 clude the following:

4 “(1) An identification and assessment of cli-
5 mate change-related impacts on and risks to the
6 ability of the agency to accomplish its missions, op-
7 erations, and programs.

8 “(2) A description of programs, policies, and
9 plans the agency has in place and any additional ac-
10 tion the agency plans to take to mitigate and man-
11 age the impacts and risks identified in paragraph
12 (1) and build resilience, both immediately and at
13 milestones that are 2, 5, 10, and 20 years after the
14 date of the enactment of this section.

15 “(3) A description of how any climate change-
16 related impact and risk identified under paragraph
17 (1) that is determined by the agency to be so signifi-
18 cant that it impairs the statutory mission or oper-
19 ation of the agency will be addressed.

20 “(4) An assessment of whether implementation
21 of any of the programs, policies, or plans of the
22 agency exacerbates climate change-related impacts
23 and risks.

1 “(5) A description of how the agency will con-
2 sider the need to improve climate change adaptation
3 and resilience, including—

4 “(A) an assessment that monetizes the
5 costs and benefits of such improvement, includ-
6 ing the value of climate change adaptation, re-
7 silience, and mitigation; and

8 “(B) with respect to agency suppliers, sup-
9 ply chains, real property investments, and cap-
10 ital equipment purchases such as updating
11 agency policies for leasing, building upgrades,
12 relocation of existing facilities and equipment,
13 and construction of new facilities.

14 “(6) In the case of the implementation of a pro-
15 gram that uses cost-benefit analyses, a description of
16 any additional methodologies used by the agency to
17 incorporate climate change risks into the cost-benefit
18 analyses, including the metrics and methodologies
19 used.

20 “(7) An assessment of the efforts of the agency
21 to reverse the disproportionate impacts of climate
22 change on disadvantaged communities and vulner-
23 able populations, including—

24 “(A) a description of opportunities identi-
25 fied to reverse such impacts;

1 “(B) a description of progress made in re-
2 versing such impacts; and

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

8 “(8) A description of how the agency will pro-
9 mote the preparedness and resilience of the Federal
10 workforce with respect to climate change.

11 “(9) A description of how the agency will con-
12 tribute to coordinated interagency efforts to support
13 climate change mitigation preparedness, and resil-
14 ience at all levels of government, including collabo-
15 rative work across regional offices of agencies and
16 through coordinated development of information,
17 data, and tools.

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

1 **“§ 323. Council on Federal Agency Climate PREP**

2 “(a) ESTABLISHMENT.—There is established an
3 interagency council, to be known as the Council on Fed-
4 eral Agency Climate Planning, Resilience, and Enhanced
5 Preparedness, or the Council on Federal Agency Climate
6 PREP (in this section referred to as the ‘Council’).

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

15 “(c) MEMBERS.—In addition to the Chair and steer-
16 ing committee, the Council shall be composed of the fol-
17 lowing members who are senior officials (Deputy Secretary
18 or equivalent officer) from the following:

19 “(1) The Department of State.

20 “(2) The Department of the Treasury.

21 “(3) The Department of Defense.

22 “(4) The Department of Justice.

23 “(5) The Department of the Interior.

24 “(6) The Department of Agriculture.

25 “(7) The Department of Commerce.

26 “(8) The Department of Labor.

1 “(9) The Department of Health and Human
2 Services.

3 “(10) The Department of Housing and Urban
4 Development.

5 “(11) The Department of Transportation.

6 “(12) The Department of Energy.

7 “(13) The Department of Education.

8 “(14) The Department of Veterans Affairs.

9 “(15) The Department of Homeland Security.

10 “(16) The United States Agency for Inter-
11 national Development.

12 “(17) The Army Corps of Engineers.

13 “(18) The Environmental Protection Agency.

14 “(19) The General Services Administration.

15 “(20) The Millennium Challenge Corporation.

16 “(21) The National Aeronautics and Space Ad-
17 ministration.

18 “(22) The U.S. Small Business Administration.

19 “(23) The Corporation for National and Com-
20 munity Service.

21 “(24) The Office of Personnel Management.

22 “(25) The Nuclear Regulatory Commission.

23 “(26) The Office of the Director of National In-
24 telligence.

25 “(27) The Council of Economic Advisers.

1 “(28) The National Economic Council.

2 “(29) The Domestic Policy Council.

3 “(30) The Office of Management and Budget.

4 “(31) The White House Office of Public En-
5 gagement and Intergovernmental Affairs.

6 “(32) The United States Trade Representative.

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

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

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

20 “(f) MISSION AND FUNCTION OF THE COUNCIL.—
21 The Council shall coordinate across Federal agencies and
22 offices, and in partnership with State and local govern-
23 ments, academic and research institutions, and the private
24 and nonprofit sectors to do the following:

1 “(1) Facilitate the organization and deployment
2 of a government-wide approach to combat the cli-
3 mate crisis.

4 “(2) Develop, recommend, coordinate inter-
5 agency efforts on, and track implementation of Fed-
6 eral Government actions to—

7 “(A) reduce climate pollution;

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

10 “(C) protect public health;

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

13 “(E) deliver environmental justice; and

14 “(F) spur well-paying union jobs and eco-
15 nomic growth.

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

18 “(A) reduce climate pollution;

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

21 “(C) protect public health;

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

24 “(E) deliver environmental justice; and

1 “(F) spur well-paying union jobs and eco-
 2 nomic growth.

3 “(4) Integrate climate change science in policies
 4 and planning, where appropriate, of agencies and
 5 the private sector, including by developing and de-
 6 ploying of innovative, actionable, and accessible Fed-
 7 eral climate change-related information, data, and
 8 tools.

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

14 “(6) Carry out such other functions as the Di-
 15 rector may determine necessary.”.

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

 “SUBCHAPTER III—GOVERNMENT-WIDE COORDINATION ON CLIMATE CHANGE

 “321. Definitions.

 “322. Agency climate action plans required.

 “323. Council on Federal Agency Climate PREP.”.

20 **SEC. 3. WHITE HOUSE OFFICE OF DOMESTIC CLIMATE POL-**
 21 **ICY.**

22 (a) **ESTABLISHMENT.**—There is established, within
 23 the Executive Office of the President, the Office of Domes-

1 tie Climate Policy (in this section referred to as the “Of-
2 fice”).

3 (b) NATIONAL CLIMATE ADVISOR.—

4 (1) IN GENERAL.—The Office shall be headed
5 by the National Climate Advisor (in this section re-
6 ferred to as the “Advisor”) who shall be appointed
7 by the President.

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

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

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

17 (1) coordinate the policymaking process with re-
18 spect to domestic climate policy issues;

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

21 (3) ensure that domestic climate policy deci-
22 sions and programs are consistent with the stated
23 goals of the President and that those goals are being
24 effectively pursued; and

1 (4) monitor implementation of the domestic cli-
2 mate policy agenda of the President.

3 (d) POWERS OF THE ADVISOR.—The Advisor may,
4 for the purposes of carrying out the functions of the Advi-
5 sor under this section—

6 (1) subject to the civil service and classification
7 laws, select, appoint, employ, and fix the compensa-
8 tion of such officers and employees as are necessary
9 and prescribe their duties;

10 (2) employ experts and consultants in accord-
11 ance with section 3109 of title 5, United States,
12 Code, and compensate individuals so employed for
13 each day (including travel time) at rates not in ex-
14 cess of the maximum rate of basic pay for grade
15 GS–15 as provided in section 5332 of such title, and
16 while such experts and consultants are so serving
17 away from their homes or regular place of business,
18 to pay such employees travel expenses and per diem
19 in lieu of subsistence at rates authorized by section
20 5703 of such title 5 for persons in Federal Govern-
21 ment service employed intermittently;

22 (3) promulgate such rules and regulations as
23 may be necessary to carry out the functions, powers,
24 and duties vested in the Advisor;

1 (4) utilize, with their consent, the services, per-
2 sonnel, and facilities of other Federal agencies;

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

9 (6) accept voluntary and uncompensated serv-
10 ices, notwithstanding the provisions of section 1342
11 of title 31, United States Code;

12 (7) adopt an official seal, which shall be judi-
13 cially noticed; and

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

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