

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5477
OFFERED BY MRS. CAROLYN B. MALONEY OF
NEW YORK**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Federal Agency Cli-
3 mate Planning, Resilience, and Enhanced Preparedness
4 Act of 2021” or the “Federal Agency Climate PREP
5 Act”.

6 SEC. 2. CLIMATE ACTION PLANS.

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

10 “SUBCHAPTER III—GOVERNMENT-WIDE
11 COORDINATION ON CLIMATE CHANGE

12 “§ 321. Definitions

13 “In this subchapter:

14 “(1) ADAPTATION.—The term ‘adaptation’
15 means adjustment to natural or human systems in
16 response to actual or expected change, including
17 both sudden-onset and slow-onset change-related

1 risks or events assessed through historical data, re-
2 cent conditions and risks, and change projections, to
3 minimize negative impacts on human health and
4 safety, equity, ecosystems, and the environment.

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

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

20 “(4) DIRECTOR.—The term ‘Director’ means
21 the Director of the Office of Management and Budg-
22 et.

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

1 economic injustice, and includes a community that is
2 determined by the Interagency Council on Climate
3 PREP, in consultation with the White House Envi-
4 ronmental Justice Advisory Council and the Na-
5 tional Environmental Justice Advisory Council, to—

6 “(A) have a high concentration of low-in-
7 come and low-wealth households, including
8 households comprised primarily of members of
9 groups that have historically experienced dis-
10 crimination on the basis of race, gender, na-
11 tional origin, or ethnicity (including Black, In-
12 digenous, Latinx, Arab, Asian, and Pacific Is-
13 lander communities);

14 “(B) face economic transition,
15 deindustrialization, historic underinvestment, or
16 poverty; or

17 “(C) be an environmental justice commu-
18 nity.

19 “(6) ENVIRONMENTAL JUSTICE COMMUNITY.—
20 The term ‘environmental justice community’ means
21 a low-income or low-wealth community facing envi-
22 ronmental injustice, including any community that is
23 determined by the Interagency Council on Climate
24 PREP, in consultation with the White House Envi-

1 ronmental Justice Advisory Council and the Na-
2 tional Environmental Justice Advisory Council, to—

3 “(A) be located nearest to an existing area
4 of grave environmental pollution or degradation,
5 including a brownfield site or Superfund site;

6 “(B) bear a burden of negative public
7 health effects of pollution;

8 “(C) include one or more sites of—

9 “(i) a facility that is a part of a pol-
10 luting industry, including fossil fuel power
11 plants and industrial sites;

12 “(ii) a waste dump; or

13 “(iii) a facility for resource extraction;

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

16 “(E) has been excluded or harmed by rac-
17 ist or discriminatory policies that have resulted
18 in economic or health disparities;

19 “(F) lacks access to healthy and affordable
20 food retailers;

21 “(G) has a land-based or food subsistence
22 culture that is experiencing ecosystem disrup-
23 tion and devastation;

24 “(H) faces relocation and resettlement re-
25 sulting from—

1 “(i) climate change;

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

4 “(iii) impacts associated with eco-
5 nomic inequities; or

6 “(I) is an Indigenous community.

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

10 “(8) MITIGATION.—The term ‘mitigation’
11 means measures and initiatives that limit or reduce
12 greenhouse gas emissions and reduce exposure to en-
13 vironmental hazards that are detrimental to human
14 health.

15 “(9) 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, infrastructure and public services, livelihoods,
22 ecosystems, and national security.

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

1 to, and recover rapidly from disruptions while ensur-
2 ing the sustainment of mission-critical operations.

3 “(11) 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 “(12) 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 Tribal government.

12 “(13) TRIBAL GOVERNMENT.—The term ‘Tribal
13 government’ means the recognized governing body of
14 any Indian or Alaska Native tribe, band, nation,
15 pueblo, village, community, component band, or com-
16 ponent reservation, individually identified (including
17 parenthetically) in the list published most recently as
18 of the date of enactment of this Act pursuant to sec-
19 tion 104 of the Federally Recognized Tribe List Act
20 of 1994 (25 U.S.C. 5130).

21 “(14) INDIGENOUS COMMUNITY.—The term ‘in-
22 digenous community’ means—

23 “(A) a Tribal government;

24 “(B) a Native Hawaiian organization;

1 “(C) a State-recognized Tribal govern-
2 ment;

3 “(D) any reservation-based, urban Indige-
4 nous, or intertribal community, group, organi-
5 zation, or coalition; or

6 “(E) an Alaska Native village.

7 “(15) VULNERABLE POPULATION.—The term
8 ‘vulnerable population’ means a group of individuals
9 who experience heightened sensitivity to climate-re-
10 lated health and economic impacts, including individ-
11 uals—

12 “(A) with underlying health conditions;

13 “(B) subject to greater climate change ex-
14 posure; or

15 “(C) adversely impacted by social deter-
16 minants of health (such as access to and quality
17 of healthcare, education, housing, transpor-
18 tation, food and environment).

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 adaption,
3 resilience, and mitigation 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 building operations and maintenance, relocation
13 of existing facilities and equipment, and con-
14 struction of new facilities.

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

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

1 “(A) opportunities identified to reverse
2 such impacts;

3 “(B) progress made in reversing such im-
4 pacts;

5 “(C) the methodology used by the agency
6 for actively and widely soliciting and receiving
7 input and feedback directly from such commu-
8 nities and populations regarding such opportu-
9 nities and progress;

10 “(D) how the input and feedback received
11 under subparagraph (C) was integrated into
12 agency priorities and activities; and

13 “(E) the methodology used by the agency
14 to coordinate and streamline programs with
15 other agencies, including through the Council
16 on Federal Agency Climate Planning, Resil-
17 ience, and Enhanced Preparedness.

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

21 “(9) A description of how the agency will con-
22 tribute to coordinated interagency efforts to support
23 climate change mitigation, preparedness, and resil-
24 ience at all levels of government, including collabo-
25 rative work across regional offices of agencies and

1 through coordinated development of information,
2 data, and tools (such as tools designed to identify
3 disadvantaged communities and tools related to flood
4 insurance).

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

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

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

18 “(b) LEADERSHIP.—The Director shall serve as the
19 Chair of the Council (in this section referred to as the
20 ‘Chair’) and shall be guided by a steering committee,
21 which shall determine priorities and strategic direction for
22 the Council in accordance with subsection (g), made up
23 of the National Climate Advisor, the Chair of the Council
24 on Environmental Quality, and the Director of the Office
25 of Science and Technology Policy.

1 “(c) MEMBERS.—In addition to the Chair of the
2 Council and the members of the steering committee, the
3 Council shall be composed of the following members who
4 are senior officials (Deputy Secretary or equivalent offi-
5 cer) from the following:

6 “(1) The Department of State.

7 “(2) The Department of the Treasury.

8 “(3) The Department of Defense.

9 “(4) The Department of Justice.

10 “(5) The Department of the Interior.

11 “(6) The Department of Agriculture.

12 “(7) The Department of Commerce.

13 “(8) The Department of Labor.

14 “(9) The Department of Health and Human
15 Services.

16 “(10) The Department of Housing and Urban
17 Development.

18 “(11) The Department of Transportation.

19 “(12) The Department of Energy.

20 “(13) The Department of Education.

21 “(14) The Department of Veterans Affairs.

22 “(15) The Department of Homeland Security.

23 “(16) The United States Agency for Inter-
24 national Development.

25 “(17) The Army Corps of Engineers.

1 “(18) The Environmental Protection Agency.

2 “(19) The Federal Emergency Management
3 Agency.

4 “(20) The General Services Administration.

5 “(21) The Millennium Challenge Corporation.

6 “(22) The National Aeronautics and Space Ad-
7 ministration.

8 “(23) The U.S. Small Business Administration.

9 “(24) The Corporation for National and Com-
10 munity Service.

11 “(25) The Office of Personnel Management.

12 “(26) The U.S. Securities and Exchange Com-
13 mission.

14 “(27) The Nuclear Regulatory Commission.

15 “(28) The Office of the Director of National In-
16 telligence.

17 “(29) The Council of Economic Advisers.

18 “(30) The National Economic Council.

19 “(31) The Domestic Policy Council.

20 “(32) The Office of Management and Budget.

21 “(33) The White House Office of Public En-
22 gagement and Intergovernmental Affairs.

23 “(34) The United States Trade Representative.

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

1 “(d) ADMINISTRATION.—The Director shall provide
2 administrative support and additional resources, as appro-
3 priate, to the Council. Agencies shall assist and provide
4 information to the Council deemed necessary by the Chair
5 or the steering committee to carry out its functions. Each
6 such agency shall pay its own expenses related to partici-
7 pating as members of the Council.

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

11 “(f) ENVIRONMENTAL JUSTICE ADVISORY COUN-
12 CIL.—The Council shall consult with the following in car-
13 rying out the missions and functions of the Council:

14 “(1) The White House Environmental Justice
15 Advisory Council established by Executive Order
16 14008 (86 Fed. Reg. 7619; related to tackling the
17 climate crisis at home and abroad).

18 “(2) The National Environmental Justice Advi-
19 sory Council.

20 “(3) Leaders representing environmental justice
21 communities and disadvantaged communities.

22 “(g) MISSION AND FUNCTION OF THE COUNCIL.—
23 The Council shall coordinate across Federal agencies and
24 offices, and in partnership with State governments, local
25 governments, academic and research institutions, labor or-

1 ganizations, and the private and nonprofit sectors to do
2 the following:

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

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

9 “(A) reduce climate pollution;

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

12 “(C) protect public health;

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

15 “(E) deliver environmental justice; and

16 “(F) spur well-paying union jobs and eco-
17 nomic growth.

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

20 “(A) reduce climate pollution;

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

23 “(C) protect public health;

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

1 “(E) deliver environmental justice; and

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

4 “(4) Integrate climate change science in policies
5 and planning, where appropriate, of agencies and
6 the private sector, including by promoting the adop-
7 tion of latest published editions of relevant building
8 codes, and by developing and deploying of innova-
9 tive, actionable, and accessible Federal climate
10 change-related information, data, and tools.

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

16 “(6) Carry out such other functions as the
17 steering committee may determine necessary.”.

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

“SUBCHAPTER III—GOVERNMENT-WIDE COORDINATION ON CLIMATE CHANGE

“321. Definitions.

“322. Agency climate action plans required.

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

1 **SEC. 3. WHITE HOUSE OFFICE OF DOMESTIC CLIMATE POL-**
2 **ICY.**

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

7 (b) **NATIONAL CLIMATE ADVISOR.**—

8 (1) **IN GENERAL.**—The Office shall be headed
9 by the National Climate Advisor (in this section re-
10 ferred to as the “Advisor”) who shall be appointed
11 by the President.

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

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

18 (c) **DUTIES OF THE NATIONAL CLIMATE ADVISOR.**—
19 Subject to the authority, direction, and control of the
20 President, the Advisor shall—

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

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

25 (3) ensure that domestic climate policy deci-
26 sions and programs are consistent with the stated

1 goals of the President and that those goals are being
2 effectively pursued; and

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

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

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

12 (2) employ experts and consultants in accord-
13 ance with section 3109 of title 5, United States,
14 Code, and compensate individuals so employed for
15 each day (including travel time) at rates not in ex-
16 cess of the maximum rate of basic pay for grade
17 GS–15 as provided in section 5332 of such title, and
18 while such experts and consultants are so serving
19 away from their homes or regular place of business,
20 to pay such employees travel expenses and per diem
21 in lieu of subsistence at rates authorized by section
22 5703 of such title 5 for persons in Federal Govern-
23 ment service employed intermittently;

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

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

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

12 (6) accept voluntary and uncompensated serv-
13 ices, notwithstanding the provisions of section 1342
14 of title 31, United States Code;

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

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

