

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6548
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 “Justice in Power Plant
3 Permitting Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) **COMMUNITY INTERVENOR.**—The term
7 “community intervenor” means an effective, quali-
8 fied, and compensated representative, or group of
9 representatives, that participates in public service
10 commission and permitting authority proceedings on
11 behalf of ratepayers in, and residents of, impacted
12 environmental justice communities and other im-
13 pacted communities to—

14 (A) propose independent analyses of, in-
15 cluding alternatives to, fossil fuel-fired power
16 plants and other polluting projects seeking ap-
17 provals, permits, or renewals;

- 1 (B) decrease electricity costs;
- 2 (C) reduce environmental burdens;
- 3 (D) improve public health; or
- 4 (E) otherwise advocate to benefit such
- 5 communities.

6 (2) CRITICAL FACILITY.—The term “critical fa-
7 cility” means any facility critical to public health in-
8 frastructure, including health care, water and waste-
9 water systems, and emergency services.

10 (3) CUMULATIVE IMPACTS.—The term “cumu-
11 lative impacts” means any exposure to a public
12 health, environmental, or climate risk, or other effect
13 occurring in a specific geographical area, including
14 from an emission, discharge, or release—

15 (A) including—

16 (i) environmental pollution released—

17 (I) routinely, accidentally, or oth-

18 erwise; and

19 (II) from any source, whether

20 single or multiple; and

21 (ii) as assessed based on the combined

22 past, present, and reasonably foreseeable

23 emissions and discharges affecting the geo-

24 graphical area; and

1 (B) evaluated taking into account sensitive
2 populations and other factors that may height-
3 en vulnerability to environmental pollution and
4 associated health risks, including socioeconomic
5 characteristics.

6 (4) ENVIRONMENTAL JUSTICE.—The term “en-
7 vironmental justice” means the fair treatment and
8 meaningful involvement of all people regardless of
9 race, color, culture, national origin, linguistic isola-
10 tion, or income, with respect to the development, im-
11 plementation, and enforcement of environmental
12 laws, regulations, and policies to ensure that each
13 person enjoys—

14 (A) the same degree of protection from en-
15 vironmental and health hazards; and

16 (B) equal access to any Federal agency ac-
17 tion on environmental justice issues in order to
18 have a healthy environment in which to live,
19 learn, work, and recreate.

20 (5) ENVIRONMENTAL JUSTICE COMMUNITY.—
21 The term “environmental justice community” means
22 a community with significant representation of com-
23 munities of color, low-income communities, or Tribal
24 and Indigenous communities, that bears burdens of
25 negative public health effects, environmental pollu-

1 tion, and the impacts of climate change, and pos-
2 sesses certain socioeconomic criteria, which may be
3 identified based on geographic, public health, envi-
4 ronmental hazard, and socioeconomic criteria, in-
5 cluding, but not limited to—

6 (A) areas burdened by cumulative environ-
7 mental pollution and other hazards that can
8 lead to negative public health effects;

9 (B) areas with concentrations of people—
10 (i) experiencing high unemployment
11 rates, high rent burdens, low homeowner-
12 ship rates, or low levels of educational at-
13 tainment; or

14 (ii) who have historically experienced
15 discrimination on the basis of race, eth-
16 nicity, ancestry, or place of origin; or

17 (C) vulnerability to the impacts of climate
18 change.

19 (6) FOSSIL FUEL-FIRED POWER PLANT.—The
20 term “fossil fuel-fired power plant” means—

21 (A) a powerplant or electric generating
22 unit that combusts fossil fuel or a fossil fuel by-
23 product or derivative for the production of elec-
24 tricity in part or in full; and

1 (B) any boiler or generator that combusts
2 fossil fuel and is—

3 (i) in a census tract or adjacent to a
4 census tract with one or more power plants
5 or electric generating units that combust
6 fossil fuel; or

7 (ii) in a census tract or adjacent to
8 census tracts with stationary and mobile
9 sources of air pollution that have combined
10 annual emissions of more than—

11 (I) 10 tons per year of any single
12 hazardous air pollutant;

13 (II) 25 tons per year for any
14 combination of hazardous air pollut-
15 ants;

16 (III) 100 tons per year of any
17 single air pollutant; or

18 (IV) the lower major source
19 threshold in non-attainment areas for
20 the air pollutant in non-attainment.

21 (7) IMPACTED.—The term “impacted” means
22 the condition of being affected by one or more fossil
23 fuel-fired power plants.

24 (8) PERMITTING AUTHORITY.—The term “per-
25 mitting authority” has the meaning given such term

1 in section 501 of the Clean Air Act (42 U.S.C.
2 7661).

3 (9) SUSCEPTIBLE SUBPOPULATION.—The term
4 “susceptible subpopulation” means a group of indi-
5 viduals within the general population who, due to ei-
6 ther greater susceptibility or greater exposure, may
7 be at greater risk than the general population of ad-
8 verse health effects from exposure to air pollution,
9 such as infants, children, pregnant women, workers,
10 or the elderly.

11 (10) TRIBAL AND INDIGENOUS COMMUNITY.—
12 The term “Tribal and Indigenous community”
13 means a population of people who are members of—

14 (A) a federally recognized Indian Tribe;

15 (B) a State-recognized Indian Tribe;

16 (C) an Alaska Native or Native Hawaiian
17 community or organization; or

18 (D) any other community of Indigenous
19 people located in a State.

20 **SEC. 3. FEDERAL REQUIREMENT.**

21 (a) REQUIREMENT.—Section 203 of the Energy Pol-
22 icy Act of 2005 (42 U.S.C. 15852) is amended—

23 (1) in subsection (a), by striking “the following
24 amounts shall be” and all that follows and inserting
25 the following: “not less than—

1 “(1) 3 percent shall be renewable energy in fis-
2 cal years 2007 through 2009;

3 “(2) 5 percent shall be renewable energy in fis-
4 cal years 2010 through 2012;

5 “(3) 7.5 percent shall be renewable energy in
6 fiscal years 2013 through 2022; and

7 “(4) 100 percent shall be air pollution-free re-
8 newable energy, including battery storage charged
9 renewably, in fiscal year 2030, and each fiscal year
10 thereafter, with steady and incremental progress to-
11 ward this goal required in fiscal years 2023 through
12 2029.”.

13 (2) in subsection (b), by inserting the following
14 after paragraph (2):

15 “(3) AIR POLLUTION-FREE RENEWABLE EN-
16 ERGY.—The term ‘air pollution-free renewable en-
17 ergy’ means renewable energy from sources that
18 generate no criteria or hazardous air pollutants.”;
19 and

20 (3) by amending subsection (c) to read as fol-
21 lows:

22 “(c) PRIORITIZATION.—In meeting the requirement
23 of subsection (a), the President, acting through the Sec-
24 retary, shall prioritize the transition to consumption of air
25 pollution-free renewable energy, including renewable en-

1 ergy and battery storage charged by renewably generated
2 electricity, by any facility within the vicinity of an im-
3 pacted environmental justice community.”.

4 (b) PUBLIC UTILITY CONTRACTS.—Section
5 501(b)(1)(B) of title 40, United States Code, is amended
6 to read as follows:

7 “(B) PUBLIC UTILITY CONTRACTS.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), a contract for public
10 utility services may be made for a period
11 of not more than 10 years.

12 “(ii) RENEWABLE ENERGY CON-
13 TRACTS.—A contract may be made for a
14 period of not more than 40 years for con-
15 tracts that—

16 “(I) require the use of project
17 labor agreements and the payment of
18 prevailing wages;

19 “(II) promote opportunities to
20 small, minority-owned businesses in
21 impacted environmental justice com-
22 munities; and

23 “(III) advance the employment of
24 dislocated energy workers, members of
25 impacted susceptible subpopulations,

1 and residents of impacted environ-
2 mental justice communities, and, in
3 any hiring of employees not currently
4 or previously employed by the con-
5 tractor, give priority to dislocated en-
6 ergy workers, members of impacted
7 susceptible subpopulations, and resi-
8 dents of impacted environmental jus-
9 tice communities who have been tradi-
10 tionally underrepresented in manufac-
11 turing or construction employment,
12 which may include producer, devel-
13 oper, or contractor-committed invest-
14 ments in apprenticeship and renew-
15 able energy careers in impacted envi-
16 ronmental justice communities; and

17 “(IV) are for—

18 “(aa) the acquisition of air
19 pollution-free renewable energy
20 or battery storage powered by
21 such energy; or

22 “(bb) the provision and op-
23 eration of air pollution-free re-
24 newable energy production facili-
25 ties and the purchase of air-pol-

1 lution free renewable energy from
2 such facilities.”.

3 **SEC. 4. JUST ENERGY TRANSITION FUND.**

4 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
5 authorized to be appropriated for fiscal year 2023,
6 \$10,000,000,000 for a Just Energy Transition Fund, to
7 be administered by the Administrator in consultation with
8 the Secretary and the Advisory Council, to remain avail-
9 able until expended, to award funds to States, territories,
10 and Tribal governments for projects described in sub-
11 section (b).

12 (b) **ELIGIBILITY.**—To be eligible for a grant under
13 this section, a State, territory, Tribal government, local
14 government, community-based organization, nongovern-
15 mental organization, or private sector organization may
16 submit an application, in such form and manner as the
17 Administrator may require, for—

18 (1) a project that—

19 (A) addresses energy needs resulting from
20 the denial of renewal, or anticipated denial of
21 renewal, of a permit for a fossil fuel-fired power
22 plant pursuant to section 165(f) or section
23 502(j) of the Clean Air Act;

24 (B) apportions sufficient project funds, as
25 determined by the Advisory Council, to income

1 support, health insurance, pension fund protec-
2 tion, job training, and job placement for work-
3 ers displaced or expected to be displaced due to
4 the denial of renewal, or anticipated denial of
5 renewal, of a permit for a major source or a
6 fossil fuel-fired power plant pursuant to section
7 165(f) or section 502(j) of the Clean Air Act;

8 (C) is supported by residents of impacted
9 environmental justice communities and other
10 impacted communities, as discerned through ac-
11 tive and inclusive solicitation and documenta-
12 tion of feedback and input from such residents
13 through a process established by the Advisory
14 Council;

15 (D) does not rely on fuels or technologies
16 that create environmental harm, including
17 greenhouse gas emissions and air pollution, or
18 contribute to health burdens on environmental
19 justice communities and impacted communities;
20 and

21 (E) results in a quantifiable improvement
22 to the health and well-being of residents of im-
23 pacted environmental justice communities and
24 other impacted communities as measured by the
25 Advisory Council; or

1 (2) a program supported by residents of im-
2 pacted environmental justice communities and other
3 impacted communities, as discerned through active
4 and inclusive solicitation and documentation of feed-
5 back and input from such residents through a proce-
6 ss established by the Advisory Council, that results
7 in a quantifiable improvement to the health and
8 well-being of residents of environmental justice com-
9 munities and other impacted communities, as meas-
10 ured by the Advisory Committee, including one
11 that—

12 (A) apportions funds to individuals who
13 face burdensome energy costs, including from
14 supply charges, delivery charges, capacity pay-
15 ments, and other costs that may or may not be
16 itemized in utility bills, or to individuals who
17 are expected to face burdensome costs due to
18 the denial of renewal, or anticipated denial of
19 renewal, of a permit for a fossil fuel-fired power
20 plant pursuant to section 165(f) or section
21 502(j) of the Clean Air Act, to reduce the cost
22 of—

23 (i) utility bills for ratepayers; or

1 (ii) the cost of rent for tenants in in-
2 stances in which utilities are included in
3 the tenant’s rent; or

4 (B) supports intervenor compensation op-
5 portunities to lower energy costs and reduce
6 pollution faced by residents of impacted envi-
7 ronmental justice communities and other im-
8 pacted communities.

9 (c) PROCESS.—Not later than 60 days after the date
10 of enactment of this section, the Administrator, in coordi-
11 nation with the Secretary and the Advisory Committee,
12 shall establish a process of applying for funds allocated
13 under subsection (a).

14 (d) SUBGRANTS AND CONTRACTS.—A recipient of
15 funds under this section may award such funds to commu-
16 nity groups and other entities as subgrants or contracts
17 in furtherance of a project described in subsection (b).

18 (e) JUST ENERGY TRANSITION FUND ADVISORY
19 COUNCIL.—

20 (1) ESTABLISHMENT.—The President shall es-
21 tablish an advisory council, to be known as the
22 “Just Energy Transition Fund Advisory Council”.

23 (2) MEMBERSHIP.—The Advisory Council shall
24 be composed of 26 members who have knowledge of,
25 or experience relating to, the creation of, and transi-

1 tion of workers to, good-paying jobs to combat cli-
2 mate change and pollution, as well as the effect of
3 environmental conditions on environmental justice
4 communities, including—

5 (A) representatives of—

6 (i) community-based organizations
7 that carry out initiatives relating to envi-
8 ronmental justice and the just transition to
9 a clean energy economy, including grass-
10 roots organizations led by people of color;

11 (ii) labor unions;

12 (iii) State governments, Tribal govern-
13 ments, and local governments;

14 (iv) Indian Tribes and other Indige-
15 nous groups;

16 (v) nongovernmental and environ-
17 mental organizations; and

18 (vi) private sector organizations (in-
19 cluding representatives of industries and
20 businesses); and

21 (B) experts in the field of—

22 (i) socioeconomic analysis;

23 (ii) health and environmental effects;

24 (iii) exposure evaluation;

- 1 (iv) environmental law and civil rights
2 law;
3 (v) environmental health science re-
4 search; or
5 (vi) energy systems.

6 (3) SUBCOMMITTEES; WORKGROUPS.—

7 (A) ESTABLISHMENT.—The Advisory
8 Council may establish any subcommittee or
9 workgroup to assist the Advisory Council in
10 carrying out any duty of the Advisory Council
11 described in paragraph (4).

12 (B) REPORT.—Upon the request of the
13 Advisory Council, each subcommittee or
14 workgroup established by the Advisory Council
15 under subparagraph (A) shall submit to the Ad-
16 visory Council a report that contains—

- 17 (i) a description of each recommenda-
18 tion of the subcommittee or workgroup;
19 and
20 (ii) any advice requested by the Advi-
21 sory Council with respect to any duty of
22 the Advisory Council.

23 (4) DUTIES.—The Advisory Council shall pro-
24 vide independent advice and recommendations to the
25 Administrator and the Secretary with respect to—

1 (A) awarding grants through the Just En-
2 ergy Transition Fund to maximize progress to-
3 ward a transition to a clean energy economy
4 while maximizing benefits for environmental
5 justice communities, including by prioritizing
6 applications that will direct funds to support
7 entities that have urgently and expeditiously
8 pursued priorities that are aligned with the
9 projects and programs described in subsection
10 (b)(1) and (2); and

11 (B) measuring and evaluating the success
12 of grants and subgrants awarded through the
13 Just Energy Transition Fund.

14 (5) MEETINGS.—

15 (A) FREQUENCY.—

16 (i) IN GENERAL.—Subject to clause
17 (ii), the Advisory Council shall meet bian-
18 nually.

19 (ii) AUTHORITY OF ADMINIS-
20 TRATOR.—The Administrator may require
21 the Advisory Council to conduct additional
22 meetings if the Administrator determines
23 that the conduct of any additional meet-
24 ings is necessary.

25 (B) PUBLIC PARTICIPATION.—

1 (i) IN GENERAL.—Subject to clause
2 (ii), each meeting of the Advisory Council
3 shall be open to the public to provide the
4 public an opportunity—

5 (I) to submit comments to the
6 Advisory Council; and

7 (II) to appear before the Advi-
8 sory Council.

9 (ii) AUTHORITY OF ADMINIS-
10 TRATOR.—The Administrator may close
11 any meeting, or portion of any meeting, of
12 the Advisory Council to the public.

13 (6) FACAs.—The Federal Advisory Committee
14 Act (5 U.S.C. App.) shall apply to the Advisory
15 Council.

16 (7) TRAVEL EXPENSES.—The Administrator
17 may provide to any member of the Advisory Council
18 travel expenses, including per diem in lieu of subsist-
19 ence, at rates authorized for an employee of an
20 agency under subchapter I of chapter 57 of title 5,
21 United States Code, while away from the home or
22 regular place of business of the member in the per-
23 formance of the duties of the Advisory Council.

24 (f) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) ADVISORY COUNCIL.—The term “Advisory
5 Council” means the Just Energy Transition Fund
6 Advisory Council established under subsection (e) of
7 this section.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (4) STATE.—The term “State” means each of
11 the 50 States and the District of Columbia.

12 (5) TERRITORY.—The term “territory” means
13 the United States Virgin Islands, Guam, the Com-
14 monwealth of the Northern Mariana Islands, Amer-
15 ican Samoa, and the Commonwealth of Puerto Rico.

16 (6) TRIBAL GOVERNMENT.—The term “Tribal
17 government” means the recognized governing body
18 of any Indian or Alaska Native Tribe, band, nation,
19 pueblo, village, community, component band, or com-
20 ponent reservation, individually identified (including
21 parenthetically) in the list published most recently as
22 of the date of enactment of this Act pursuant to sec-
23 tion 104 of the Federally Recognized Indian Tribe
24 List Act of 1994 (25 U.S.C. 5131).

1 **SEC. 5. CONSIDERATION OF CUMULATIVE IMPACTS IN**
2 **POWER PLANT PERMITTING.**

3 (a) PERMITS GENERALLY.—

4 (1) REGULATIONS.—Section 502(b) of the
5 Clean Air Act (42 U.S.C. 7661a(b)) is amended by
6 adding after paragraph (10) the following:

7 “(11) A requirement for performing cumulative
8 impacts analysis in accordance with subsection (j), if
9 applicable.”.

10 (2) CUMULATIVE IMPACTS ANALYSIS.—Section
11 502 of the Clean Air Act (42 U.S.C. 7661a) is
12 amended by adding at the end the following:

13 “(j) CUMULATIVE IMPACTS ANALYSIS.—

14 “(1) IN GENERAL.—

15 “(A) PERMIT REQUIREMENT.—Whenever
16 an applicant seeks a permit or renewal of a per-
17 mit for a fossil fuel-fired power plant, the per-
18 mitting authority shall require such applicant to
19 utilize a neutral third-party assessor to per-
20 form, in consultation with a community inter-
21 venor, an analysis of—

22 “(i) the cumulative impacts of pollu-
23 tion, including the combined past, present,
24 and reasonably anticipated future emis-
25 sions, from all stationary or mobile
26 sources, affecting the area within five miles

1 of the fossil fuel-fired power plant pro-
2 posed to be permitted;

3 “(ii) for each census block group or
4 Tribal census block group (as those terms
5 are defined by the Director of the Bureau
6 of the Census) located in, or adjacent to,
7 such area, the cumulative impacts of pollu-
8 tion, including the combined past, present,
9 and reasonably anticipated future emis-
10 sions, from all stationary or mobile
11 sources; and

12 “(iii) alternative projects sourced with
13 air pollution-free renewable energy.

14 “(B) ADDITIONAL REQUIREMENT.—One
15 year after this section takes effect and at least
16 every five years thereafter, the permitting au-
17 thority must ensure that a fossil fuel-fired
18 power plant undergoes a cumulative impacts
19 analysis as described by this subsection if the
20 fossil fuel-fired power plant is—

21 “(i) located, or proposed to be located,
22 within one mile of a major source; and

23 “(ii) not subject to permitting require-
24 ments pursuant to this title.

1 “(C) CONSIDERATIONS.—A cumulative im-
2 pacts analysis under subparagraph (A) shall in-
3 clude consideration of—

4 “(i) community demographics and lo-
5 cations of community exposure points, in-
6 cluding schools, day care centers, nursing
7 homes, hospitals, health clinics, places of
8 religious worship, parks, playgrounds, and
9 community centers;

10 “(ii) air quality and any potential ef-
11 fects on that air quality of emissions of air
12 pollutants from the fossil fuel-fired power
13 plant proposed to be permitted, including
14 in combination with existing sources of pol-
15 lutants;

16 “(iii) the potential effects on soil qual-
17 ity and water quality of emissions of lead
18 and other air pollutants that could con-
19 taminates soil or water from the fossil fuel-
20 fired power plant proposed to be permitted,
21 including in combination with existing
22 sources of pollutants;

23 “(iv) public health and any potential
24 effects on public health from the emissions
25 of pollutants from the fossil fuel-fired

1 power plant proposed to be permitted, in-
2 cluding in combination with existing
3 sources of pollutants;

4 “(v) the potential adverse impacts on
5 health and well-being of residents of im-
6 pacted environmental justice communities
7 and populations with heightened vulner-
8 ability to pollution and associated health
9 risks, which may be due to socioeconomic
10 characteristics including housing insecu-
11 rity, barriers to receive quality healthcare
12 or afford health insurance, energy cost
13 burdens that limit use of heat and air con-
14 ditioning, long-term impacts of siting pol-
15 luting sources in environmental justice
16 communities, and public disinvestment and
17 redlining;

18 “(vi) the potential effects of any pro-
19 posed action on environmental justice com-
20 munities, including if the action causes or
21 exacerbates a disproportionate or inequi-
22 table burden on the environmental justice
23 community; and

24 “(vii) shall be based on an analysis of
25 data that accurately describes the potential

1 cumulative impacts of the proposed action,
2 and may include a supplemental qualitative
3 analysis.

4 “(D) PUBLIC ENGAGEMENT AND PROCE-
5 DURAL JUSTICE PROCESS.—The cumulative im-
6 pacts analysis under subparagraph (A) shall in-
7 clude a public engagement and procedural jus-
8 tice process, to include—

9 “(i) the active and inclusive sollicita-
10 tion and receipt of, and to the greatest ex-
11 tent practicable, action to address, input
12 and feedback from residents of impacted
13 environmental justice communities and
14 other impacted communities, to be docu-
15 mented and provided to the permitting au-
16 thority in the final cumulative impacts
17 analysis;

18 “(ii) documentation and investigation
19 of claims brought by residents of impacted
20 environmental justice communities and im-
21 pacted communities, including the appli-
22 cant’s proposed or agreed-upon mitiga-
23 tions, whether and how each claim was ad-
24 dressed, and documentation of the satisfac-
25 tion or dissatisfaction of such residents

1 with the investigation of claims and cor-
2 responding responses, if any;

3 “(iii) advanced notification to resi-
4 dents of impacted environmental justice
5 communities and other impacted commu-
6 nities through various means including but
7 not limited to written notification, local
8 news advertisements, and canvassers;

9 “(iv) multiple opportunities for resi-
10 dents of impacted environmental justice
11 communities and other impacted commu-
12 nities to participate;

13 “(v) multiple media and formats for
14 participation, including in-person and re-
15 mote options, which shall include large and
16 small group settings, mail-in feedback op-
17 portunities, and other such avenues to en-
18 sure that health, socioeconomics, lack of
19 technological resources, and settings that
20 are unwelcoming or unfamiliar to residents
21 of impacted environmental justice commu-
22 nities are not barriers to participation;

23 “(vi) transmission of a preliminary
24 cumulative impacts analysis at least 30

1 days in advance of any public comment pe-
2 riod or public comment event to—

3 “(I) the permitting authority for
4 online publication;

5 “(II) community groups and
6 community representatives of im-
7 pacted environmental justice commu-
8 nities and other impacted commu-
9 nities; and

10 “(III) to a reasonable extent, the
11 residents of impacted environmental
12 justice communities and other im-
13 pacted communities; and

14 “(vii) in instances in which a resident
15 participating in the process outlined in this
16 paragraph stands to benefit, financially or
17 otherwise, from the permit under consider-
18 ation, disclosure of such benefit in the final
19 cumulative impacts analysis.

20 “(2) PROHIBITION.—Except as provided in
21 paragraph (3), a permitting authority shall not
22 grant a permit or renewal or allow operation of a
23 fossil fuel-fired power plant unless the cumulative
24 impacts analysis under paragraph (1) indicates a
25 reasonable certainty that such permit, renewal, or

1 operation will result in no harm to the health of the
2 general population, or to any potentially exposed or
3 susceptible subpopulation, including environmental
4 justice communities, of a census block group or
5 Tribal census block group described in paragraph
6 (1)(A), and the public engagement and procedural
7 justice process described in paragraph (1)(C) is ful-
8 filled.

9 “(3) CRITICAL FACILITIES EXEMPTION.—A fos-
10 sil fuel-fired power plant that is a boiler serving a
11 critical facility may only be denied a permit or be
12 otherwise prohibited from operation if the cumu-
13 lative impact analysis under paragraph (1) indicates
14 a certainty that the permit or renewal will result in
15 harm to the health of the general population, or to
16 any potentially exposed or susceptible subpopulation,
17 including environmental justice communities, of a
18 census block group or Tribal census block group de-
19 scribed in paragraph (1)(A), and the alternative is
20 deemed to be of reasonable cost.”.

21 (b) PRECONSTRUCTION PERMITS.—Section 165 of
22 the Clean Air Act (42 U.S.C. 7475) is amended by adding
23 at the end the following:

24 “(f) CUMULATIVE IMPACTS.—

25 “(1) IN GENERAL.—

1 “(A) REQUIREMENT.—Whenever an appli-
2 cant seeks a permit under this section or re-
3 newal of such a permit for a fossil fuel-fired
4 power plant within one mile of a fossil fuel-fired
5 power plant or a major source (as defined in
6 section 112), the permitting authority shall re-
7 quire such applicant to perform an analysis of
8 the cumulative impacts for each census block
9 group or Tribal census block group (as those
10 terms are defined by the Director of the Bureau
11 of the Census) located in, or immediately adja-
12 cent to, the area in which the fossil fuel-fired
13 power plant to be permitted is, or is proposed
14 to be, located.

15 “(B) APPLICABILITY OF CERTAIN PROVI-
16 SIONS.—The provisions of subparagraphs (B)
17 and (C) of section 502(j)(1) shall apply to any
18 cumulative impacts analysis performed under
19 this subsection to the same extent and in the
20 same manner as such provisions apply to a cu-
21 mulative impacts analysis performed under such
22 section 502(j)(1).

23 “(2) PROHIBITION.—A permitting authority
24 shall not grant a permit or renewal described in
25 paragraph (1)(A) unless the cumulative impacts

1 analysis under paragraph (1) indicates a reasonable
2 certainty that the permit or renewal will result in no
3 harm to the health of the general population, or to
4 any potentially exposed or susceptible subpopulation,
5 including environmental justice communities, of a
6 census block group or Tribal census block group de-
7 scribed in paragraph (1)(A).”.

8 (c) TRANSITIONAL PROVISION.—Section 165(f) and
9 section 502(j) of the Clean Air Act (as added by this sec-
10 tion) shall apply with respect to a fossil fuel-fired power
11 plant for which, on or before the date of enactment of this
12 Act, a permit has been issued pursuant to section 165 or
13 title V of the Clean Air Act (42 U.S.C. 7475, 7661 et
14 seq.), but for which construction has not commenced as
15 of such date.

