

117TH CONGRESS
2D SESSION

H. R. 6548

To establish new Federal renewable energy use requirements, support the equitable transition to clean energy power generation, and require cumulative impact assessments for fossil fuel-fired power plant permitting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2022

Mrs. CAROLYN B. MALONEY of New York (for herself, Ms. OCASIO-CORTEZ, Mr. BOWMAN, Ms. CLARKE of New York, Mr. CARSON, Mr. TORRES of New York, Ms. NORTON, Mr. JONES, Mr. LYNCH, Ms. MOORE of Wisconsin, Ms. VELÁZQUEZ, Ms. LEE of California, Mr. QUIGLEY, and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Oversight and Reform, 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 establish new Federal renewable energy use requirements, support the equitable transition to clean energy power generation, and require cumulative impact assessments for fossil fuel-fired power plant permitting, 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,*

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;

18 (B) decrease electricity costs;

19 (C) reduce environmental burdens;

20 (D) improve public health; or

21 (E) otherwise advocate to benefit such
22 communities.

23 (2) **CRITICAL FACILITY.**—The term “critical fa-
24 cility” means any facility critical to public health in-
25 frastructure, including health care, water and waste-
26 water systems, and emergency services.

1 (3) CUMULATIVE IMPACTS.—The term “cumulative impacts” means any exposure to a public
2 health, environmental, or climate risk, or other effect
3 occurring in a specific geographical area, including
4 from an emission, discharge, or release—

5 (A) including—

6 (i) environmental pollution released—

7 (I) routinely, accidentally, or otherwise; and
8 (II) from any source, whether
9 single or multiple; and

10 (ii) as assessed based on the combined
11 past, present, and reasonably foreseeable
12 emissions and discharges affecting the geographical area; and
13 (B) evaluated taking into account sensitive
14 populations and other factors that may heighten
15 vulnerability to environmental pollution and
16 associated health risks, including socioeconomic
17 characteristics.

18 (4) ENVIRONMENTAL JUSTICE.—The term “environmental justice” means the fair treatment and
19 meaningful involvement of all people regardless of
20 race, color, culture, national origin, linguistic isolation, or income, with respect to the development, im-

1 plementation, and enforcement of environmental
2 laws, regulations, and policies to ensure that each
3 person enjoys—

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

6 (B) equal access to any Federal agency ac-
7 tion on environmental justice issues in order to
8 have a healthy environment in which to live,
9 learn, work, and recreate.

10 (5) ENVIRONMENTAL JUSTICE COMMUNITY.—

11 The term “environmental justice community” means
12 a community with significant representation of com-
13 munities of color, low-income communities, or Tribal
14 and Indigenous communities, that bears burdens of
15 negative public health effects, environmental pollu-
16 tion, and the impacts of climate change, and pos-
17 sesses certain socioeconomic criteria, which may be
18 identified based on geographic, public health, envi-
19 ronmental hazard, and socioeconomic criteria, in-
20 cluding, but not limited to—

21 (A) areas burdened by cumulative environ-
22 mental pollution and other hazards that can
23 lead to negative public health effects;

24 (B) areas with concentrations of people—

1 (i) experiencing high unemployment
2 rates, high rent burdens, low homeowner-
3 ship rates, or low levels of educational at-
4 tainment; or

5 (ii) who have historically experienced
6 discrimination on the basis of race, eth-
7 nicity, ancestry, or place of origin; or

8 (C) vulnerability to the impacts of climate
9 change.

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

12 (A) a powerplant or electric generating
13 unit that combusts fossil fuel or a fossil fuel by-
14 product or derivative for the production of elec-
15 tricity in part or in full; and

16 (B) any boiler or generator that combusts
17 fossil fuel and is—

18 (i) in a census tract or adjacent to a
19 census tract with one or more power plants
20 or electric generating units that combust
21 fossil fuel; or

22 (ii) in a census tract or adjacent to
23 census tracts with stationary and mobile
24 sources of air pollution that have combined
25 annual emissions of more than—

1 (I) 10 tons per year of any single
2 hazardous air pollutant;

3 (II) 25 tons per year for any
4 combination of hazardous air pollut-
5 ants;

6 (III) 100 tons per year of any
7 single air pollutant; or

8 (IV) the lower major source
9 threshold in non-attainment areas for
10 the air pollutant in non-attainment.

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

14 (8) PERMITTING AUTHORITY.—The term “per-
15 mitting authority” has the meaning given such term
16 in section 501 of the Clean Air Act (42 U.S.C.
17 7661).

18 (9) SUSCEPTIBLE SUBPOPULATION.—The term
19 “susceptible subpopulation” means a group of indi-
20 viduals within the general population who, due to ei-
21 ther greater susceptibility or greater exposure, may
22 be at greater risk than the general population of ad-
23 verse health effects from exposure to air pollution,
24 such as infants, children, pregnant women, workers,
25 or the elderly.

1 (10) TRIBAL AND INDIGENOUS COMMUNITY.—

2 The term “Tribal and Indigenous community”

3 means a population of people who are members of—

4 (A) a federally recognized Indian Tribe;

5 (B) a State-recognized Indian Tribe;

6 (C) an Alaska Native or Native Hawaiian

7 community or organization; or

8 (D) any other community of Indigenous

9 people located in a State.

10 **SEC. 3. FEDERAL REQUIREMENT.**

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

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

16 “(1) 3 percent shall be renewable energy in fis-
17 cal years 2007 through 2009;

18 “(2) 5 percent shall be renewable energy in fis-
19 cal years 2010 through 2012;

20 “(3) 7.5 percent shall be renewable energy in
21 fiscal years 2013 through 2019; and

22 “(4) 100 percent shall be air pollution-free re-
23 newable energy, including battery storage charged
24 renewably, in fiscal year 2030 and each fiscal year
25 thereafter, with steady and incremental progress to-

1 ward this goal required in fiscal years 2020 through
2 2029.”; and

3 (2) by amending subsection (c) to read as fol-
4 lows:

5 “(c) PRIORITIZATION.—In meeting the requirement
6 of subsection (a), the President, acting through the Sec-
7 retary, shall prioritize the transition to consumption of air
8 pollution-free renewable energy, including renewable en-
9 ergy and battery storage charged by renewably generated
10 electricity, by any facility within the vicinity of a major
11 source (as that term is defined in section 112 of the Clean
12 Air Act (42 U.S.C. 7412)), or units of such major source,
13 run primarily to meet peak electricity demand.”.

14 (b) PUBLIC UTILITY CONTRACTS.—Section
15 501(b)(1)(B) of title 40, United States Code, is amended
16 to read as follows:

17 “(B) PUBLIC UTILITY CONTRACTS.—

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

22 “(ii) RENEWABLE ENERGY CON-
23 TRACTS.—A contract may be made for a
24 period of not more than 40 years for—

1 “(I) the acquisition of air pollu-
2 tion-free renewable energy or battery
3 storage powered by such energy; or

4 “(II) the provision and operation
5 of air pollution-free renewable energy
6 production facilities and the purchase
7 of air-pollution free renewable energy
8 from such facilities.”.

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

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated for fiscal year 2023,
12 \$10,000,000,000 for a Just Energy Transition Fund, to
13 be administered by the Administrator in consultation with
14 the Secretary and the Advisory Council, to remain avail-
15 able until expended, to award funds to States, territories,
16 and Tribal governments for projects described in sub-
17 section (b).

18 (b) **ELIGIBILITY.**—To be eligible for a grant under
19 this section, a State, territory, Tribal government, local
20 government, community-based organization, nongovern-
21 mental organization, or private sector organization may
22 submit an application, in such form and manner as the
23 Administrator may require, for—

24 (1) a project that—

1 (A) addresses energy needs resulting from
2 the denial of renewal, or anticipated denial of
3 renewal, of a permit for a fossil fuel-fired power
4 plant pursuant to section 165(f) or section
5 502(j) of the Clean Air Act;

6 (B) apportions sufficient project funds, as
7 determined by the Advisory Council, to income
8 support, health insurance, pension fund protec-
9 tion, job training, and job placement for work-
10 ers displaced or expected to be displaced due to
11 the denial of renewal, or anticipated denial of
12 renewal, of a permit for a major source or a
13 fossil fuel-fired power plant pursuant to section
14 165(f) or section 502(j) of the Clean Air Act;

15 (C) is supported by residents of impacted
16 environmental justice communities and other
17 impacted communities, as discerned through ac-
18 tive and inclusive solicitation and documenta-
19 tion of feedback and input from such residents
20 through a process established by the Advisory
21 Council;

22 (D) does not rely on fuels or technologies
23 that create environmental harm, including
24 greenhouse gas emissions and air pollution, or
25 contribute to health burdens on environmental

1 justice communities and impacted communities;
2 and

3 (E) results in a quantifiable improvement
4 to the health and well-being of residents of im-
5 pacted environmental justice communities and
6 other impacted communities as measured by the
7 Advisory Council; or

8 (2) a program supported by residents of im-
9 pacted environmental justice communities and other
10 impacted communities, as discerned through active
11 and inclusive solicitation and documentation of feed-
12 back and input from such residents through a proc-
13 ess established by the Advisory Council, that results
14 in a quantifiable improvement to the health and
15 well-being of residents of environmental justice com-
16 munities and other impacted communities, as meas-
17 ured by the Advisory Committee, including one
18 that—

19 (A) apportions funds to individuals who
20 face burdensome energy costs, including from
21 supply charges, delivery charges, capacity pay-
22 ments, and other costs that may or may not be
23 itemized in utility bills, or to individuals who
24 are expected to face burdensome costs due to
25 the denial of renewal, or anticipated denial of

1 renewal, of a permit for a fossil fuel-fired power
2 plant pursuant to section 165(f) or section
3 502(j) of the Clean Air Act, to reduce the cost
4 of—

5 (i) utility bills for ratepayers; or

6 (ii) the cost of rent for tenants in in-
7 stances in which utilities are included in
8 the tenant's rent; or

9 (B) supports intervenor compensation op-
10 portunities to lower energy costs and reduce
11 pollution faced by residents of impacted envi-
12 ronmental justice communities and other im-
13 pacted communities.

14 (c) PROCESS.—Not later than 60 days after the date
15 of enactment of this section, the Administrator, in coordi-
16 nation with the Secretary and the Advisory Committee,
17 shall establish a process of applying for funds allocated
18 under subsection (a).

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

23 (e) JUST ENERGY TRANSITION FUND ADVISORY
24 COUNCIL.—

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

4 (2) MEMBERSHIP.—The Advisory Council shall
5 be composed of 26 members who have knowledge of,
6 or experience relating to, the creation of, and transi-
7 tion of workers to, good-paying jobs to combat cli-
8 mate change and pollution, as well as the effect of
9 environmental conditions on environmental justice
10 communities, including—

11 (A) representatives of—

12 (i) community-based organizations
13 that carry out initiatives relating to envi-
14 ronmental justice and the just transition to
15 a clean energy economy, including grass-
16 roots organizations led by people of color;

17 (ii) labor unions;

18 (iii) State governments, Tribal govern-
19 ments, and local governments;

20 (iv) Indian Tribes and other Indige-
21 nous groups;

22 (v) nongovernmental and environ-
23 mental organizations; and

1 (vi) private sector organizations (in-
2 cluding representatives of industries and
3 businesses); and

4 (B) experts in the field of—

5 (i) socioeconomic analysis;

6 (ii) health and environmental effects;

7 (iii) exposure evaluation;

8 (iv) environmental law and civil rights
9 law;

10 (v) environmental health science re-
11 search; or

12 (vi) energy systems.

13 (3) SUBCOMMITTEES; WORKGROUPS.—

14 (A) ESTABLISHMENT.—The Advisory
15 Council may establish any subcommittee or
16 workgroup to assist the Advisory Council in
17 carrying out any duty of the Advisory Council
18 described in paragraph (4).

19 (B) REPORT.—Upon the request of the
20 Advisory Council, each subcommittee or
21 workgroup established by the Advisory Council
22 under subparagraph (A) shall submit to the Ad-
23 visory Council a report that contains—

1 (i) a description of each recommenda-
2 tion of the subcommittee or workgroup;
3 and

4 (ii) any advice requested by the Advi-
5 sory Council with respect to any duty of
6 the Advisory Council.

7 (4) DUTIES.—The Advisory Council shall pro-
8 vide independent advice and recommendations to the
9 Administrator and the Secretary with respect to—

10 (A) awarding grants through the Just En-
11 ergy Transition Fund to maximize progress to-
12 ward a transition to a clean energy economy
13 while maximizing benefits for environmental
14 justice communities, including by prioritizing
15 applications that will direct funds to support
16 entities that have urgently and expeditiously
17 pursued priorities that are aligned with the
18 projects and programs described in subsection
19 (b)(1) and (2); and

20 (B) measuring and evaluating the success
21 of grants and subgrants awarded through the
22 Just Energy Transition Fund.

23 (5) MEETINGS.—

24 (A) FREQUENCY.—

1 (i) IN GENERAL.—Subject to clause
2 (ii), the Advisory Council shall meet bian-
3 nually.

4 (ii) AUTHORITY OF ADMINIS-
5 TRATOR.—The Administrator may require
6 the Advisory Council to conduct additional
7 meetings if the Administrator determines
8 that the conduct of any additional meet-
9 ings is necessary.

10 (B) PUBLIC PARTICIPATION.—

11 (i) IN GENERAL.—Subject to clause
12 (ii), each meeting of the Advisory Council
13 shall be open to the public to provide the
14 public an opportunity—

15 (I) to submit comments to the
16 Advisory Council; and

17 (II) to appear before the Advi-
18 sory Council.

19 (ii) AUTHORITY OF ADMINIS-
20 TRATOR.—The Administrator may close
21 any meeting, or portion of any meeting, of
22 the Advisory Council to the public.

23 (6) FACA.—The Federal Advisory Committee
24 Act (5 U.S.C. App.) shall apply to the Advisory
25 Council.

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

9 (f) DEFINITIONS.—In this section:

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

13 (2) ADVISORY COUNCIL.—The term “Advisory
14 Council” means the Just Energy Transition Fund
15 Advisory Council established under subsection (e) of
16 this section.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of Labor.

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

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

1 (6) TRIBAL GOVERNMENT.—The term “Tribal
2 government” means the recognized governing body
3 of any Indian or Alaska Native Tribe, band, nation,
4 pueblo, village, community, component band, or com-
5 ponent reservation, individually identified (including
6 parenthetically) in the list published most recently as
7 of the date of enactment of this Act pursuant to sec-
8 tion 104 of the Federally Recognized Indian Tribe
9 List Act of 1994 (25 U.S.C. 5131).

10 **SEC. 5. CONSIDERATION OF CUMULATIVE IMPACTS IN**
11 **POWER PLANT PERMITTING.**

12 (a) PERMITS GENERALLY.—

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

16 “(11) A requirement for performing cumulative
17 impacts analysis in accordance with subsection (j), if
18 applicable.”.

19 (2) CUMULATIVE IMPACTS ANALYSIS.—Section
20 502 of the Clean Air Act (42 U.S.C. 7661a) is
21 amended by adding at the end the following:

22 “(j) CUMULATIVE IMPACTS ANALYSIS.—

23 “(1) IN GENERAL.—

24 “(A) PERMIT REQUIREMENT.—Whenever
25 an applicant seeks a permit or renewal of a per-

1 mit for a fossil fuel-fired power plant, the per-
2 mitting authority shall require such applicant to
3 utilize a neutral third-party assessor to per-
4 form, in consultation with a community inter-
5 venor, an analysis of—

6 “(i) the cumulative impacts of pollu-
7 tion, including the combined past, present,
8 and reasonably anticipated future emis-
9 sions, from all stationary or mobile
10 sources, affecting the area within five miles
11 of the fossil fuel-fired power plant pro-
12 posed to be permitted;

13 “(ii) for each census block group or
14 Tribal census block group (as those terms
15 are defined by the Director of the Bureau
16 of the Census) located in, or adjacent to,
17 such area, the cumulative impacts of pollu-
18 tion, including the combined past, present,
19 and reasonably anticipated future emis-
20 sions, from all stationary or mobile
21 sources; and

22 “(iii) alternative projects sourced with
23 air pollution-free renewable energy.

24 “(B) ADDITIONAL REQUIREMENT.—One
25 year after this section takes effect and at least

1 every five years thereafter, the permitting au-
2 thority must ensure that a fossil fuel-fired
3 power plant undergoes a cumulative impacts
4 analysis as described by this subsection if the
5 fossil fuel-fired power plant is—

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

8 “(ii) not subject to permitting require-
9 ments pursuant to this title.

10 “(C) CONSIDERATIONS.—A cumulative im-
11 pacts analysis under subparagraph (A) shall in-
12 clude consideration of—

13 “(i) community demographics and lo-
14 cations of community exposure points, in-
15 cluding schools, day care centers, nursing
16 homes, hospitals, health clinics, places of
17 religious worship, parks, playgrounds, and
18 community centers;

19 “(ii) air quality and any potential ef-
20 fects on that air quality of emissions of air
21 pollutants from the fossil fuel-fired power
22 plant proposed to be permitted, including
23 in combination with existing sources of pol-
24 lutants;

1 “(iii) the potential effects on soil qual-
2 ity and water quality of emissions of lead
3 and other air pollutants that could con-
4 tamine soil or water from the fossil fuel-
5 fired power plant proposed to be permitted,
6 including in combination with existing
7 sources of pollutants;

8 “(iv) public health and any potential
9 effects on public health from the emissions
10 of pollutants from the fossil fuel-fired
11 power plant proposed to be permitted, in-
12 cluding in combination with existing
13 sources of pollutants;

14 “(v) the potential adverse impacts on
15 health and well-being of residents of im-
16 pacted environmental justice communities
17 and populations with heightened vulner-
18 ability to pollution and associated health
19 risks, which may be due to socioeconomic
20 characteristics including housing insecu-
21 rity, barriers to receive quality healthcare
22 or afford health insurance, energy cost
23 burdens that limit use of heat and air con-
24 ditioning, long-term impacts of siting pol-
25 luting sources in environmental justice

1 communities, and public disinvestment and
2 redlining;

3 “(vi) the potential effects of any pro-
4 posed action on environmental justice com-
5 munities, including if the action causes or
6 exacerbates a disproportionate or inequi-
7 table burden on the environmental justice
8 community; and

9 “(vii) shall be based on an analysis of
10 data that accurately describes the potential
11 cumulative impacts of the proposed action,
12 and may include a supplemental qualitative
13 analysis.

14 “(D) PUBLIC ENGAGEMENT AND PROCE-
15 DURAL JUSTICE PROCESS.—The cumulative im-
16 pacts analysis under subparagraph (A) shall in-
17 clude a public engagement and procedural jus-
18 tice process, to include—

19 “(i) the active and inclusive sollicita-
20 tion and receipt of, and to the greatest ex-
21 tent practicable, action to address, input
22 and feedback from residents of impacted
23 environmental justice communities and
24 other impacted communities, to be docu-
25 mented and provided to the permitting au-

1 thority in the final cumulative impacts
2 analysis;

3 “(ii) documentation and investigation
4 of claims brought by residents of impacted
5 environmental justice communities and im-
6 pacted communities, including the appli-
7 cant’s proposed or agreed-upon mitiga-
8 tions, whether and how each claim was ad-
9 dressed, and documentation of the satisfac-
10 tion or dissatisfaction of such residents
11 with the investigation of claims and cor-
12 responding responses, if any;

13 “(iii) advanced notification to resi-
14 dents of impacted environmental justice
15 communities and other impacted commu-
16 nities through various means including but
17 not limited to written notification, local
18 news advertisements, and canvassers;

19 “(iv) multiple opportunities for resi-
20 dents of impacted environmental justice
21 communities and other impacted commu-
22 nities to participate;

23 “(v) multiple media and formats for
24 participation, including in-person and re-
25 mote options, which shall include large and

1 small group settings, mail-in feedback op-
2 portunities, and other such avenues to en-
3 sure that health, socioeconomics, lack of
4 technological resources, and settings that
5 are unwelcoming or unfamiliar to residents
6 of impacted environmental justice commu-
7 nities are not barriers to participation;

8 “(vi) transmission of a preliminary
9 cumulative impacts analysis at least 30
10 days in advance of any public comment pe-
11 riod or public comment event to—

12 “(I) the permitting authority for
13 online publication;

14 “(II) community groups and
15 community representatives of im-
16 pacted environmental justice commu-
17 nities and other impacted commu-
18 nities; and

19 “(III) to a reasonable extent, the
20 residents of impacted environmental
21 justice communities and other im-
22 pacted communities; and

23 “(vii) in instances in which a resident
24 participating in the process outlined in this
25 paragraph stands to benefit, financially or

1 otherwise, from the permit under consider-
2 ation, disclosure of such benefit in the final
3 cumulative impacts analysis.

4 “(2) PROHIBITION.—Except as provided in
5 paragraph (3), a permitting authority shall not
6 grant a permit or renewal or allow operation of a
7 fossil fuel-fired power plant unless the cumulative
8 impacts analysis under paragraph (1) indicates a
9 reasonable certainty that such permit, renewal, or
10 operation will result in no harm to the health of the
11 general population, or to any potentially exposed or
12 susceptible subpopulation, including environmental
13 justice communities, of a census block group or
14 Tribal census block group described in paragraph
15 (1)(A), and the public engagement and procedural
16 justice process described in paragraph (1)(C) is ful-
17 filled.

18 “(3) CRITICAL FACILITIES EXEMPTION.—A fos-
19 sil fuel-fired power plant that is a boiler serving a
20 critical facility may only be denied a permit or be
21 otherwise prohibited from operation if the cumu-
22 lative impact analysis under paragraph (1) indicates
23 a certainty that the permit or renewal will result in
24 harm to the health of the general population, or to
25 any potentially exposed or susceptible subpopulation,

1 including environmental justice communities, of a
2 census block group or Tribal census block group de-
3 scribed in paragraph (1)(A), and the alternative is
4 deemed to be of reasonable cost.”.

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

8 “(f) CUMULATIVE IMPACTS.—

9 “(1) IN GENERAL.—

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

24 “(B) APPLICABILITY OF CERTAIN PROVI-
25 SIONS.—The provisions of subparagraphs (B)

1 and (C) of section 502(j)(1) shall apply to any
2 cumulative impacts analysis performed under
3 this subsection to the same extent and in the
4 same manner as such provisions apply to a cu-
5 mulative impacts analysis performed under such
6 section 502(j)(1).

7 “(2) PROHIBITION.—A permitting authority
8 shall not grant a permit or renewal described in
9 paragraph (1)(A) unless the cumulative impacts
10 analysis under paragraph (1) indicates a reasonable
11 certainty that the permit or renewal will result in no
12 harm to the health of the general population, or to
13 any potentially exposed or susceptible subpopulation,
14 including environmental justice communities, of a
15 census block group or Tribal census block group de-
16 scribed in paragraph (1)(A).”.

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

○