

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. ____

To speed up the deployment of electricity transmission and clean energy,
with proper input from affected communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CASTEN (for himself and Mr. LEVIN) introduced the following bill; which was referred to the Committee
on _____

A BILL

To speed up the deployment of electricity transmission and clean energy,
with proper input from affected communities, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Clean Electricity and
Transmission Acceleration Act of 2023”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING INTERREGIONAL AND INTERSTATE
ELECTRICITY TRANSMISSION CAPACITY

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- Sec. 101. Giving FERC transmission siting authority.
- Sec. 102. Allocating the costs of electricity transmission lines to all beneficiaries.
- Sec. 103. Protecting electricity reliability by improving interregional transfer capacity.

TITLE II—IMPROVING ELECTRICITY TRANSMISSION PLANNING AND GOVERNANCE

- Sec. 201. FERC Office of Electricity Transmission.
- Sec. 202. Improving interregional electricity transmission planning.
- Sec. 203. Allocating the costs of electricity interconnection to all beneficiaries.
- Sec. 204. Independent transmission monitor.
- Sec. 205. Interoperability of offshore transmission infrastructure.

TITLE III—ALLEVIATING PRESSURE ON THE ELECTRIC GRID

Subtitle A—Improving grid flexibility with existing wires

- Sec. 311. Improving grid flexibility with existing wires.
- Sec. 312. Deployment of grid enhancing technologies.

Subtitle B—Aggregating electricity demand response by individual electricity users

- Sec. 321. Aggregator bidding into organized power markets.

Subtitle C—Facilitating community and residential solar power

- Sec. 331. Community solar consumer choice program; Federal Government participation in community solar.
- Sec. 332. Establishment of community solar programs.
- Sec. 333. Federal contracts for public utility services.
- Sec. 334. Facilitating distributed energy resources

Subtitle D—Addressing the shortage of electricity transformers

- Sec. 341. Addressing the shortage of electricity transformers.

TITLE IV—MODERNIZING ELECTRICITY RATEMAKING

- Sec. 401. Accounting for the External Cost of Greenhouse Gas Emissions.
- Sec. 402. Facilitating Performance-Based Ratemaking.

TITLE V—FACILITATING CLEAN ENERGY DEPLOYMENT ON PUBLIC LAND

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- Sec. 501. Definitions.
- Sec. 502. Land use planning; updates to programmatic environmental impact statements.
- Sec. 503. Limited exemptions from new requirements.
- Sec. 504. Disposition of revenues.
- Sec. 505. Savings.

TITLE VI—MODERNIZING OFFSHORE RENEWABLE ENERGY

- Sec. 601. Responsible development of offshore renewable energy projects.
- Sec. 602. Offshore Renewable Energy Compensation Fund.

TITLE VII—EMPOWERING COMMUNITIES

- Sec. 701. Environmental justice analysis in NEPA.
- Sec. 702. Avoiding cumulative impacts.
- Sec. 703. FERC Environmental Justice Liaison.
- Sec. 704. Intervenor funding at FERC Office of Public Participation.
- Sec. 705. Reforming RTO and ISO governance and participation.

TITLE VIII—CREATING COHERENCE IN ENVIRONMENTAL PERMITTING

- Sec. 801. Definitions.
- Sec. 802. Use of existing environmental review documents
- Sec. 803. Sponsor consultation
- Sec. 804. Greenhouse gas projections
- Sec. 805. Timely and unified federal environmental review for major projects
- Sec. 806. E-NEPA
- Sec. 807. Federal Energy Regulatory Commission staffing

TITLE I—IMPROVING INTERREGIONAL AND INTERSTATE ELECTRICITY TRANSMISSION CAPACITY

SEC. 101. GIVING FERC TRANSMISSION SITING AUTHORITY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

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“SEC. 224. SITING OF CERTAIN INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

“(a) DEFINITIONS.—In this section:

“(1) AFFECTED LANDOWNER.—

“(A) IN GENERAL.—The term ‘affected landowner’ includes each owner of a property interest in land or other property described in subparagraph (B), including—

“(i) the Federal Government;

“(ii) a State or local government; and

“(iii) each owner noted in the most recent county or city tax record as receiving the relevant tax notice with respect to that interest.

“(B) LAND AND OTHER PROPERTY DESCRIBED.—The land or other property referred to in subparagraph (A) is any land or other property—

“(i) that is or will be crossed by the energy transmission facility proposed to be constructed or modified under the applicable certificate of public convenience and necessity;

“(ii) that is or will be used as a facility site with respect to the energy transmission facility proposed to be constructed or modified under the applicable certificate of public convenience and necessity;

“(iii) that abuts any boundary of an existing right-of-way or other facility site that—

“(I) is owned by an electric utility; and

“(II) is located not more than 500 feet from the energy transmission facility to be constructed or modified under the applicable certificate of public convenience and necessity;

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“(iv) that abuts the boundary of a proposed facility site for the energy transmission facility to be constructed or modified under the applicable certificate of public convenience and necessity;

“(v) that is crossed by, or abuts any boundary of, an existing or proposed right-of-way that—

“(I) will be used for the energy transmission facility to be constructed or modified under the applicable certificate of public convenience and necessity; and

“(II) is located not more than 500 feet from the proposed location of that energy transmission facility; or

“(vi) on which a residence is located not more than 500 feet from the boundary of any right-of-way for that energy transmission facility.

“(2) ALTERNATING CURRENT TRANSMISSION FACILITY.—The term ‘alternating current transmission facility’ means a transmission facility that uses alternating current for the bulk transmission of electric energy.

“(3) ENERGY TRANSMISSION FACILITY.—The term ‘energy transmission facility’ means, as applicable—

“(A) an alternating current transmission facility; or

“(B) a high-voltage, direct current transmission facility.

“(4) FACILITY SITE.—The term ‘facility site’ includes—

“(A) a right-of-way;

“(B) an access road;

“(C) a contractor yard; and

“(D) any temporary workspace.

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“(5) HIGH-VOLTAGE, DIRECT CURRENT TRANSMISSION FACILITY.—The term ‘high-voltage, direct current transmission facility’ means a transmission facility that uses direct current for the bulk transmission of electric energy.

“(6) TRIBAL LAND.—The term ‘Tribal land’ has the meaning given the term ‘Indian land’ in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501).

“(b) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—

“(1) IN GENERAL.—On receipt of an application under subsection (c)(1) relating to an energy transmission facility described in paragraph (2), the Commission, after making the finding described in paragraph (3) with respect to that energy transmission facility, shall issue to any person, by publication in the Federal Register, a certificate of public convenience and necessity for the construction, modification, operation, or abandonment of that energy transmission facility, subject to such reasonable terms and conditions as the Commission determines to be appropriate.

“(2) ENERGY TRANSMISSION FACILITY DESCRIBED.—An energy transmission facility referred to in paragraph (1) is an energy transmission facility that—

“(A) traverses or, on construction or modification in accordance with a certificate of public convenience and necessity issued under that paragraph, will traverse not fewer than 2 States; and

“(B) is not less than 1,000 megawatts or 1,000 megavolt-amperes in power capacity.

“(3) FINDING DESCRIBED.—The finding referred to in paragraph (1) is a finding that—

“(A) the applicant for a certificate of public convenience and necessity is able and willing—

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“(i) to carry out the activities and perform the services proposed in the application in a manner determined to be appropriate by the Commission; and

“(ii) to achieve compliance with the applicable requirements of—

“(I) this part; and

“(II) any rules and regulations promulgated by the Commission pursuant to this part;

“(B) the energy transmission facility to be constructed, modified, or operated under the certificate of public convenience and necessity will—

“(i) traverse not fewer than 2 States;

“(ii) be used for the transmission of electric energy in interstate commerce; and

“(iii) have a power capacity of not less than 1,000 megawatts or 1,000 megavolt-amperes; and

“(C) operation of the energy transmission facility as proposed in the application—

“(i) will—

“(I) enable the use of renewable energy;

“(II) reduce congestion; or

“(III) improve the reliability of the transmission system;

“(ii) will maximize, to the extent reasonable and economical, the use of—

“(I) existing facility sites; and

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“(II) the transmission capabilities of existing energy transmission facilities; and

“(iii) will, to the extent practicable, minimize the use of eminent domain.

“(4) RULEMAKING.—Not later than 18 months after the date of enactment of this section, the Commission shall issue rules specifying—

“(A) a pre-filing process during which a person described in subsection (c)(1) and the Commission shall consult with—

“(i) the appropriate State agencies, State public utility commissions, and State energy offices in each State the proposed project traverses;

“(ii) appropriate Federal agencies; and

“(iii) each Indian Tribe that may be affected by the proposed project;

“(B) the form of, and information to be contained in, an application submitted under subsection (c)(1);

“(C) requirements for determining whether the applicable energy transmission facility will be constructed or modified—

“(i) to traverse not fewer than 2 States;

“(ii) to be used for the transmission of electric energy in interstate commerce; and

“(iii) to have a power capacity of not less than 1,000 megawatts or 1,000 megavolt-amperes;

“(D) criteria for determining the reasonable and economical use of—

“(i) existing rights-of-way; and

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“(ii) the transmission capabilities of existing towers or structures;

“(E) the manner in which an application submitted under subsection (c)(1) and any proposal for the construction or modification of an energy transmission facility shall be considered, which, to the extent practicable, shall be consistent with State statutory and regulatory policies concerning generation and retail sales of electricity in the States in which the electric energy transmitted by the energy transmission facility will be generated or sold; and

“(F) the manner in which the Commission will consider the needs of communities that will be impacted directly by the proposed energy transmission facility, including how any impacts of the proposed energy transmission facility could be mitigated or offset.

“(5) PUBLIC NOTICE, COMMENT, AND OPPORTUNITY FOR A HEARING ON CERTAIN DRAFT DOCUMENTS.—

“(A) IN GENERAL.—The Commission shall provide not less than 90 days for public comment on any initial scoping document or draft environmental impact statement prepared for an energy transmission facility with respect to which an application for a certificate of public convenience and necessity has been submitted under subsection (c)(1).

“(B) NOTICE AND OPPORTUNITY FOR HEARING.—The Commission shall—

“(i) publish in the Federal Register a notice of the filing of each draft scoping document or draft environmental impact statement described in clause (i); and

“(ii) provide to the individuals and entities described in paragraph (6)(B) notice and reasonable opportunity for the presentation of any views and recommendations with respect to the initial scoping document or draft environmental impact statement.

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“(C) TRIBAL CONSENT.—With respect to an Indian Tribe that may be affected by a potential project, the Commission—

“(i) shall provide notice to the appropriate Tribal officials and an opportunity of public comment in accordance with subparagraph (A); and

“(ii) shall not approve a scoping document or draft environmental impact statement unless consent has been obtained from the proper Tribal officials in a manner consistent with the requirements of section 2 of the Act of February 5, 1948 (62 Stat. 18, chapter 45; 25 U.S.C. 324).

“(6) NOTICE AND OPPORTUNITY FOR A HEARING ON APPLICATIONS.—

“(A) IN GENERAL.—In any proceeding before the Commission to consider an application for a certificate of public convenience and necessity under this section, the Commission shall—

“(i) publish a notice of the application in the Federal Register; and

“(ii) provide to the individuals and entities described in subparagraph (B) a notice and reasonable opportunity for the presentation of any views and recommendations with respect to the need for, and impact of, the construction or modification of the energy transmission facility proposed to be constructed or modified under the certificate.

“(B) INDIVIDUALS AND ENTITIES DESCRIBED.—The individuals and entities referred to in subparagraph (A) are—

“(i) an agency, selected by the Governor (or equivalent official) of the applicable State, of each State in which the energy transmission facility proposed to be constructed or modified under the applicable certificate of public convenience and necessity is or will be located;

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“(ii) each affected landowner; and

“(iii) as determined by the Commission—

 “(I) each affected Federal agency; and

 “(II) each Indian Tribe that may be affected by the proposed construction or modification.

“(C) PROHIBITION.—The Commission may not—

 “(i) require an applicant for a certificate of public convenience and necessity under this section to provide any notice required under this section; or

 “(ii) enter into a contract to provide any notice required under this section with—

 “(I) the applicant for the applicable certificate of public convenience and necessity; or

 “(II) any other person that has a financial interest in the project proposed in the application for that certificate.

“(c) APPLICATIONS.—

 “(1) IN GENERAL.—A person desiring a certificate of public convenience and necessity under this section shall submit to the Commission an application at such time, in such manner, and containing such information as the Commission may require.

 “(2) REQUIREMENT.—An application submitted to the Commission under paragraph (1) shall include all information necessary for the Commission to make the finding described in subsection (b)(3).

“(d) NOTICE TO AFFECTED LANDOWNERS.—

 “(1) IN GENERAL.—The Commission shall provide written notice of an application submitted under subsection (c)(1) to all affected landowners in accordance with this subsection.

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“(2) REQUIREMENTS.—Any notice provided to an affected landowner under paragraph (1) shall include the following:

“(A) The following statement in 14-point bold typeface:

“The [name of applicant] has proposed building power lines that will cross your property, and may also require building transmission towers on your property. If the Federal Energy Regulatory Commission approves [applicant]’s proposed project, then [applicant] may have the right to build transmission towers on, and power lines over, your property, or use your property to construct the proposed project, subject to paying you just compensation for the loss of your property.

“If you want to raise objections to this, or otherwise comment on this project, you can do so by submitting written comments to the Federal Energy Regulatory Commission Docket No. [____]. You can do this electronically or by mail. To do so electronically [to be inserted by the Commission]. To do so by mail [to be inserted by the Commission].’.

“(B) A description of the proposed project, including—

“(i) the location of the proposed project (including a general location map);

“(ii) the purpose of the proposed project; and

“(iii) the timing of the proposed project.

“(C) The name of, and the location in the docket of the Commission at which may be found, each submission by the applicant to the Commission relating to the proposed project.

“(D) A general description of what the applicant will need from the landowner if the proposed project is approved, including the activities the applicant may undertake and the facilities that the applicant may seek to construct on the property of the landowner.

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“(E) A description of how the landowner may contact the applicant, including—

“(i) a website; and

“(ii) a local or toll-free telephone number and the name of a specific person to contact who is knowledgeable about the proposed project.

“(F) A description of how the landowner may contact the Commission, including—

“(i) a website; and

“(ii) a local or toll-free telephone number and the name of a specific person to contact who is knowledgeable about the proposed project.

“(G) A summary of the rights that the landowner has—

“(i) before the Commission; and

“(ii) in other proceedings under—

“(I) the Federal Rules of Civil Procedure; and

“(II) the eminent domain rules of the relevant State.

“(H) Any other information that the Commission determines to be appropriate.

“(3) OBLIGATION OF APPLICANT.—An applicant for a certificate of public convenience and necessity under this section shall submit to the Commission, together with the application for the certificate, the name and address of each affected landowner.

“(e) REGULATORY JURISDICTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Commission shall have exclusive jurisdiction over, and no State shall regulate any aspect of, the siting or permitting of an energy

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transmission facility constructed, modified, or operated under a certificate of public convenience and necessity issued under this section.

“(2) SAVINGS CLAUSE.—Nothing in this section affects the rights of States under—

“(A) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

“(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(C) the Clean Air Act (42 U.S.C. 7401 et seq.); or

“(D) division A of subtitle III of title 54, United States Code (formerly known as the ‘National Historic Preservation Act’).

“(f) JUDICIAL REVIEW.—

“(1) IN GENERAL.—Any person aggrieved by an order issued by the Commission under this section may obtain review of the order in—

“(A) the court of appeals of the United States for any judicial circuit in which the energy transmission facility to be constructed or modified under the applicable certificate of public convenience and necessity is or will be located; or

“(B) the United States Court of Appeals for the District of Columbia Circuit.

“(2) PETITION FOR REVIEW.—

“(A) IN GENERAL.—A person may obtain review under paragraph (1) by filing in the applicable court a written petition praying that the order of the Commission be modified or set aside in whole or in part.

“(B) TIMING.—A petition under subparagraph (A) shall be filed by not later than 60 days after the date on which the

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applicable order of the Commission is published in the Federal Register.

“(3) PERSON AGGRIEVED.—Notwithstanding any other provision of this Act, a person aggrieved by an order of the Commission issued under this section need not—

“(A) have been a party to the proceedings before the Commission in which that order was issued in order to obtain judicial review of the order under this subsection; or

“(B) have requested rehearing before the Commission prior to seeking judicial review.

“(g) RIGHT OF EMINENT DOMAIN FOR ENERGY TRANSMISSION FACILITIES.—

“(1) IN GENERAL.—The holder of a certificate of public convenience and necessity may acquire through the exercise of the right of eminent domain in a court described in paragraph (2) any right-of-way, land, or other property that is necessary to construct, modify, operate, or maintain an energy transmission facility in accordance with that certificate if the holder—

“(A) cannot acquire the necessary right-of-way, land, or other property by contract;

“(B) is unable to agree with the owner of the right-of-way, land, or other property with respect to the compensation to be paid for that right-of-way, land, or other property; or

“(C) cannot clear defective title with respect to the right-of-way, land, or other property.

“(2) COURT DESCRIBED.—A court referred to in paragraph (1) is—

“(A) the district court of the United States for the district in which the applicable land or other property is located; or

“(B) the appropriate State court.

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“(3) NOTICE OF DECISION TO ISSUE CERTIFICATE.—The holder of a certificate of public convenience and necessity may not exercise the right of eminent domain under this subsection with respect to any property covered by the certificate unless the Commission has first, in addition to publishing the notice of certificate of public convenience and necessity in the Federal Register, provided all affected landowners with notice of—

“(A) the decision of the Commission to grant the certificate;
and

“(B) the procedures for obtaining judicial review of that decision under subsection (f), including a description of the time period for seeking judicial review under that subsection.

“(h) CONDEMNATION PROCEDURES.—

“(1) APPRAISALS.—

“(A) IN GENERAL.—A holder of, or applicant for, a certificate of public convenience and necessity shall have any property that the holder or applicant seeks to acquire through the exercise of the right of eminent domain under subsection (g) appraised in accordance with generally accepted appraisal standards by an appraiser selected by the owner of the property, subject to subparagraph (D).

“(B) REQUIREMENTS.—

“(i) COSTS.—The applicable holder of, or applicant for, a certificate of public convenience and necessity shall pay for each appraisal carried out under subparagraph (A).

“(ii) INSPECTIONS.—The owner of the applicable property (or a designated representative of the owner) shall be given the opportunity to accompany the appraiser during any inspection of the property that is part of an appraisal under subparagraph (A).

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“(C) TIMING.—An appraisal under subparagraph (A) shall be carried out before the holder of, or applicant for, the certificate of public convenience and necessity—

“(i) makes an offer of just compensation under paragraph (2); or

“(ii) commences an action or proceeding to exercise the right of eminent domain under subsection (g).

“(D) SELECTION OF APPRAISER.—If the owner of the applicable property does not select an appraiser under subparagraph (A) by the date that is 60 days after the date on which the holder of, or applicant for, the applicable certificate of public convenience and necessity requests that the owner do so, the holder or applicant shall have the right to select the appraiser.

“(2) OFFERS OF JUST COMPENSATION.—

“(A) IN GENERAL.—Any offer of just compensation made to an affected landowner of property that is covered by a certificate of public convenience and necessity—

“(i) shall be made in writing;

“(ii) may not be for an amount less than the fair market value of the property, as determined by an appraisal carried out under paragraph (1); and

“(iii) shall include compensation for—

“(I) any lost income from the property; and

“(II) any damages to any other property of the owner.

“(B) TIMING.—The holder of, or applicant for, a certificate of public convenience and necessity may not make an offer of just compensation to an affected landowner until the date that is 30 days after the date on which the Commission provides a notice to the affected landowner under subsection (g)(3).

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“(3) JURISDICTIONAL LIMITATIONS.—

“(A) MINIMUM JURISDICTIONAL AMOUNT.—A district court of the United States shall only have jurisdiction of an action or proceeding to exercise the right of eminent domain under subsection (g) if the amount claimed by the owner of the property to be condemned exceeds \$3,000.

“(B) STATE OWNERSHIP INTERESTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a district court of the United States shall have no jurisdiction to condemn any interest owned by a State.

“(ii) EXCEPTION.—Notwithstanding clause (i), a district court of the United States shall have jurisdiction—

“(I) to condemn any existing utility or transportation easement or right-of-way that—

“(aa) is on State property; or

“(bb) is on private property and is owned by a State; and

“(II) to condemn any real property conveyed to a State for the purpose of obstructing the construction, modification, or operation of an energy transmission facility in accordance with a certificate of public convenience and necessity issued under this section.

“(C) TRIBAL LAND.—A district court of the United States shall have no jurisdiction to condemn any interest in Tribal land.

“(4) LIMITATION ON CONDEMNATION.—In any action or proceeding to exercise the right of eminent domain under subsection (g), a court—

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“(A) may condemn an interest in property only to the extent necessary for the specific facilities described in the applicable certificate of public convenience and necessity; and

“(B) may not—

“(i) condemn any other interest; or

“(ii) condemn an interest for any purpose not described in that certificate.

“(5) **RIGHT OF POSSESSION.**—With respect to any action or proceeding to exercise the right of eminent domain under subsection (g), an owner of property covered by the applicable certificate of public convenience and necessity shall not be required to surrender possession of that property unless the holder of the certificate—

“(A) has paid to the owner the award of compensation in the action or proceeding; or

“(B) has deposited the amount of that award with the court.

“(6) **LITIGATION COSTS.**—

“(A) **IN GENERAL.**—A holder of a certificate of public convenience and necessity that commences an action or proceeding to exercise the right of eminent domain under subsection (g) shall be liable to the owner of any property condemned in that proceeding for the costs described in subparagraph (B) if the amount awarded to that owner for the property condemned is more than 125 percent of the amount offered to the owner by the holder before the commencement of that action or proceeding.

“(B) **COSTS DESCRIBED.**—The costs referred to in subparagraph (A) are litigation costs incurred for the action or proceeding described in that subparagraph by the owner of the property condemned, including—

“(i) reasonable attorney fees; and

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“(ii) expert witness fees and costs.

“(i) ENFORCEMENT OF CONDITIONS.—

“(1) IN GENERAL.—An affected landowner the property of which has been acquired by eminent domain under subsection (g) shall have the right—

“(A) to enforce any condition in the applicable certificate of public convenience and necessity; and

“(B) to seek damages for a violation of any condition described in subparagraph (A).

“(2) JURISDICTION.—The district courts of the United States shall have jurisdiction over any action arising under paragraph (1).

“(j) OTHER LANDOWNER RIGHTS AND PROTECTIONS.—

“(1) FAILURE TO TIMELY COMPLETE PROJECTS.—

“(A) SURRENDER OF CONDEMNED PROPERTY.—

“(i) IN GENERAL.—An individual or entity from which an interest in property is acquired through the exercise of the right of eminent domain under subsection (g) by the holder of a certificate of public convenience and necessity that is issued for the construction, modification, or operation of an energy transmission facility may demand that the holder of the certificate surrender that interest to that individual or entity if—

“(I) (aa) the energy transmission facility is not in operation (as modified, in the case of a modification of an energy transmission facility) by the date specified in the certificate (including any modification of the certificate by the Commission); and

“(bb) there is no request for the extension of that date pending before the Commission; or

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“(II) subject to clause (ii), the holder of the certificate, with the approval of the Commission, abandons the portion of the energy transmission facility that is located on the applicable property relating to that interest.

“(ii) REQUIREMENT.—The Commission may not approve in a certificate of public convenience and necessity issued under this section or in any subsequent proceeding the abandonment of all or any part of an energy transmission facility unless the Commission requires the holder of the applicable certificate of public convenience and necessity to offer to each individual or entity described in clause (i) the option of having the property acquired from that individual or entity as described in that clause restored to the condition that the property was in prior to the issuance of the certificate.

“(B) REPAYMENT OF CONDEMNATION AWARD.—If an individual or entity described in subparagraph (A)(i) demands the surrender of an interest under that subparagraph, the holder of the applicable certificate of public convenience and necessity shall be entitled to repayment of an amount equal to not more than 50 percent of the condemnation award relating to the interest.

“(C) JURISDICTION.—The district courts of the United States shall have jurisdiction over any action arising under this paragraph.

“(2) MATERIAL MISREPRESENTATIONS.—

“(A) RESCISSION OF TRANSACTION.—

“(i) IN GENERAL.—An affected landowner that proves, by a preponderance of the evidence, that the affected landowner has granted a right-of-way or any other interest based on a material misrepresentation made by or on behalf of an applicant for, or holder of, a certificate of public convenience and necessity under this section shall have the right to rescind the transaction.

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“(ii) JURISDICTION.—The district courts of the United States shall have jurisdiction over any action arising under clause (i).

“(B) CIVIL PENALTIES.—

“(i) IN GENERAL.—If an applicant for, or holder of, a certificate of public convenience and necessity makes a material misrepresentation, or if a material misrepresentation is made on behalf of such an applicant or holder, to an affected landowner concerning the energy transmission facility to be constructed or modified under the certificate, the applicant or holder shall be subject to a civil penalty, to be assessed by the Commission, in an amount not to exceed \$10,000 per affected landowner to which the misrepresentation was made.

“(ii) PROCEDURE.—The penalty described in clause (i) shall be assessed by the Commission after providing notice and an opportunity for a public hearing.

“(iii) REQUIREMENT.—In determining the amount of a penalty under clause (i), the Commission shall take into consideration the nature and seriousness of the violation.”.

SEC. 102. ALLOCATING THE COSTS OF ELECTRICITY TRANSMISSION LINES TO ALL BENEFICIARIES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is further amended by adding at the end the following:

“SEC. 225. ALLOCATION OF COSTS OF CERTAIN TRANSMISSION FACILITIES.

“(a) ALLOCATION OF COSTS.—

“(1) IN GENERAL.—Any entity that proposes to own, control, or operate a transmission facility of national significance may file a tariff with the Commission in accordance with section 205 and the regulations of the Commission allocating the costs of such transmission facility of national significance.

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“(2) **COST CAUSATION PRINCIPLE.**—The Commission shall require that any tariff filed under paragraph (1) allocate the costs of a transmission facility of national significance to customers within the applicable transmission planning region or regions in a manner that is at least roughly commensurate with the estimated anticipated benefits described in paragraph (3).

“(3) **COST ALLOCATION PRINCIPLE.**—The Commission shall require that any tariff filed under paragraph (1) allocate costs based on the broad range of reliability, economic, public policy, resilience, and other reasonably anticipated benefits of the applicable transmission facility of national significance.

“(b) **TRANSMISSION FACILITY OF NATIONAL SIGNIFICANCE.**—In this section, the term ‘transmission facility of national significance’ means—

“(1) an interstate electric power transmission line (and any facilities necessary for the operation of such electric power transmission line) or an electric power transmission line that is located offshore (and any facilities necessary for the operation of such electric power transmission line)—

“(A) that has a transmission capacity of not less than 1,000 megawatts; and

“(B) the construction of which is completed on or after the date of enactment of this section; or

“(2) an expansion of, or upgrade to, an interstate electric power transmission line (and any facilities necessary for the operation of such electric power transmission line) or an electric power transmission line that is located offshore (and any facilities necessary for the operation of such electric power transmission line) that—

“(A) increases the transmission capacity of such electric power transmission line by at least 500 megawatts; and

“(B) is completed on or after the date of enactment of this section.

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“(c) SAVINGS PROVISION.—This section does not affect the authority of the Commission to approve the allocation of costs of transmission facilities other than transmission facilities of national significance.”.

SEC. 103. PROTECTING ELECTRICITY RELIABILITY BY IMPROVING INTERREGIONAL TRANSFER CAPACITY.

(a) FINDING.—Congress finds that extreme weather is increasing in frequency and poses a significant risk to the reliability of the electric grid.

(b) RULEMAKING.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall, pursuant to section 206 of the Federal Power Act (16 U.S.C. 824e), promulgate a final rule that establishes minimum transfer capability requirements between transmission planning regions.

(c) ELECTRIC RELIABILITY.—Section 215 of the Federal Power Act (16 U.S.C. 824o) is amended—

(1) in subsection (a)(3)—

(A) by striking “to enlarge such facilities or”; and

(B) by striking “new transmission capacity or”; and

(2) in subsection (i)(2), by striking “or transmission”.

TITLE II—IMPROVING ELECTRICITY TRANSMISSION PLANNING AND GOVERNANCE

SEC. 201. FERC OFFICE OF ELECTRICITY TRANSMISSION.

Part III of the Federal Power Act (16 U.S.C. 825 et seq.) is amended by inserting after section 317 the following:

“SEC. 318. OFFICE OF TRANSMISSION.

“(a) ESTABLISHMENT.—There shall be established in the Commission an office to be known as the Office of Transmission.

[DISCUSSION DRAFT]

“(b) DIRECTOR.—The Office of Transmission shall be administered by a Director who shall be appointed by the Chairman of the Commission with approval by the Commission.

“(c) DUTIES.—The Director shall—

“(1) review transmission plans submitted by public utilities in accordance with the regional and interregional transmission planning processes established pursuant to section 206;

“(2) coordinate all transmission-related matters of the Commission, as the Commission determines appropriate; and

“(3) carry out the responsibilities of the Commission under section 216, in coordination with the Office of Energy Projects of the Commission.”.

SEC. 202. IMPROVING INTERREGIONAL ELECTRICITY TRANSMISSION PLANNING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Energy Regulatory Commission shall initiate a rulemaking addressing—

(1) the effectiveness of existing planning processes for identifying interregional transmission projects that provide economic, reliability, operational, public policy, and environmental benefits (including reductions in carbon emissions), taking into consideration the public interest, the integrity of markets, and the protection of consumers;

(2) changes to the processes described in paragraph (1) to ensure that efficient, cost-effective, and broadly beneficial interregional transmission solutions are selected for cost allocation, taking into consideration—

(A) the public interest;

(B) the integrity of markets;

(C) the protection of consumers;

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(D) the broad range of economic, reliability, operational, public policy, and environmental benefits that interregional transmission provides, including reductions in carbon emissions;

(E) the need for single projects to secure approvals based on a comprehensive assessment of the multiple benefits provided;

(F) that projects that meet interregional benefit criteria should not be subject to subsequent reassessment by transmission planning authorities;

(G) the importance of synchronization of planning processes in neighboring regions, such as using a joint model on a consistent timeline with a single set of needs, input assumptions, and benefit metrics;

(H) that evaluation of long-term scenarios should align with the expected life of a transmission asset;

(I) that transmission planning authorities should allow for the identification and joint evaluation of alternatives proposed by stakeholders;

(J) that interregional planning should be done regularly and not less frequently than once every 3 years; and

(K) the elimination of arbitrary project voltage, size, or cost requirements for interregional solutions; and

(3) cost allocation methodologies that reflect the multiple benefits provided by interregional transmission solutions, including economic, reliability, operational, public policy, and environmental benefits (including reductions in carbon emissions).

(b) TIMING.—Not later than 18 months after the date of enactment of this Act, the Federal Energy Regulatory Commission shall promulgate a final rule to complete the rulemaking initiated under subsection (a).

SEC. 203. ALLOCATING THE COSTS OF ELECTRICITY INTERCONNECTION TO ALL BENEFICIARIES.

[DISCUSSION DRAFT]

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commission shall issue a new regulation, or revise existing regulations, to prohibit the use of exclusive or disproportionate participant funding.

(b) **ALLOCATION OF COSTS.**—

(1) **IN GENERAL.**—In prohibiting the use of exclusive or disproportionate participant funding under subsection (a), the Commission shall, except as provided in paragraph (4), require that each public utility—

(A) may not allocate the costs of a network upgrade solely to the requesting interconnection customer; and

(B) shall reasonably allocate such costs to parties that—

(i) use the transmission facility or the transmission system;

(ii) take electricity from the transmission facility or the transmission system; or

(iii) otherwise benefit from a network upgrade of the transmission facility or the transmission system.

(2) **INTERCONNECTION TO MULTIPLE TRANSMISSION SYSTEMS.**—With respect to a network upgrade that is associated with a generation project or an energy storage project that has a significant impact on two or more transmission systems, the costs for such a network upgrade shall be allocated pursuant to a methodology designed jointly by the impacted transmission systems to ensure that all such costs are equitably shared by the parties that benefit from such network upgrade.

(3) **DETERMINATION OF BENEFITTING PARTIES.**—In determining which parties benefit for purposes of paragraph (1)(B)(iii) and paragraph (2), the Commission shall consider all material benefits of the network upgrade, including—

(A) those that cannot be directly quantified, including resilience benefits; and

[DISCUSSION DRAFT]

(B) environmental benefits, including reduced and avoided emissions of greenhouse gases and conventional air pollutants.

(4) **GENERATOR TIE LINES.**—A public utility may require an interconnection customer to pay for the costs of construction of any generator tie lines that will be used to transmit power from the interconnection customer’s generation project or energy storage project, as applicable, to the transmission facility or the transmission system.

(5) **VOLUNTARY PAYMENT.**—

(A) **IN GENERAL.**—An interconnection customer may pay upfront some or all of the costs of a network upgrade at the transmission facility or transmission system to which they plan to interconnect their generation project or energy storage project in accordance with subparagraph (B).

(B) **REPAYMENT.**—Any interconnection customer that pays costs under subparagraph (A) shall be refunded such costs allocable to other parties pursuant to the Commission’s regulations issued or revised under this section, over a period that is not longer than 10 years beginning on the date on which the interconnection customer’s interconnection is complete.

(6) **UPDATING PROCEDURES.**—Not later than the date that is 3 months after the date on which the Commission issues or revises regulations as required under subsection (a), each public utility shall make a filing pursuant to section 205 of the Federal Power Act (16 U.S.C. 824d) to amend their interconnection procedures to comply with such regulations.

(c) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Energy Regulatory Commission.

(2) **ENERGY STORAGE PROJECT.**—The term “energy storage project” means equipment which receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells,

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flywheels, capacitors, superconducting magnets, or other technologies identified by the Secretary of Energy, and which has a capacity of not less than 5 kilowatt hours.

(3) GENERATION PROJECT.—The term “generation project” means any facility—

(A) that generates electricity; and

(B) the interconnection request of which is subject to the jurisdiction of the Commission.

(4) GENERATOR TIE LINE.—The term “generator tie line” means a dedicated transmission line that is used to transmit power from a generation project or an energy storage project to a transmission facility or a transmission system.

(5) GRID ENHANCING TECHNOLOGY.—The term “grid enhancing technology” means any technology or equipment that increases the capacity, efficiency, or reliability of a transmission facility or transmission system, including—

(A) power flow control and transmission switching equipment;

(B) energy storage technology;

(C) topology optimization technology;

(D) dynamic line rating technology; and

(E) other advanced transmission technologies, such as composite reinforced aluminum conductors or high temperature superconductors.

(6) INTERCONNECTION CUSTOMER.—The term “interconnection customer” means a person or entity that has submitted a request to interconnect a generation project or an energy storage project that is subject to the jurisdiction of the Commission to the owner or operator of a transmission facility or a transmission system.

[DISCUSSION DRAFT]

(7) NETWORK UPGRADE.—The term “network upgrade” means—

(A) any modification of, addition to, or expansion of any transmission facility or transmission system;

(B) the construction of a new facility that will become part of a transmission system;

(C) the addition of an energy storage project to a transmission facility or a transmission system; and

(D) any construction, deployment, or addition of grid enhancing technology to a transmission facility or a transmission system that eliminates or reduces the need to carry out any of the activities described in subparagraphs (A) through (C).

(8) PARTICIPANT FUNDING.—The term “participant funding” means any cost allocation method under which an interconnection customer is required to pay, without reimbursement, all or a disproportionate amount of the costs of a network upgrade that is determined to be necessary to ensure the reliable interconnection of the interconnection customer’s generation project or energy storage project.

(9) PUBLIC UTILITY.—The term “public utility” has the meaning given such term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(10) TRANSMISSION SYSTEM.—The term “transmission system” means a network of transmission facilities used for the transmission of electric energy in interstate commerce.

SEC. 204. INDEPENDENT TRANSMISSION MONITOR.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall—

(1) require each transmission planning region to establish an independent entity to monitor the planning for, and operation of, transmission facilities in the transmission planning region; or

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(2) establish an independent entity to monitor the planning for, and operation of, transmission facilities in all transmission planning regions.

(b) **ROLE OF TRANSMISSION MONITOR.**—An independent entity described in subsection (a) shall, as applicable—

(1) review the operation and practices of transmission facilities in the applicable transmission planning region for inefficiency;

(2) determine whether any rate, charge, or classification for transmission facilities in the applicable transmission planning region, or any rule, regulation, practice, or contract affecting such a rate, charge, or classification, is unjust, unreasonable, unduly discriminatory or preferential;

(3) review the transmission planning process for the applicable transmission planning region;

(4) review transmission facility costs in the applicable transmission planning region;

(5) provide examples and advice to Transmission Organizations in the applicable transmission planning region on regional transmission operations, planning, and cost-allocation processes;

(6) identify situations in which it is cost-effective or otherwise appropriate to—

(A) construct non-wires alternatives to transmission; and

(B) deploy grid-enhancing technologies; and

(7) coordinate and share information with State regulatory authorities in the applicable transmission planning region.

(c) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Energy Regulatory Commission.

[DISCUSSION DRAFT]

(2) **STATE REGULATORY AUTHORITY; TRANSMISSION ORGANIZATION.**—The terms “State regulatory authority” and “Transmission Organization” have the meanings given such terms in section 3 of the Federal Power Act (16 U.S.C. 796).

SEC. 205. INTEROPERABILITY OF OFFSHORE TRANSMISSION INFRASTRUCTURE.

(a) **STUDY.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall complete and publish on the website of the Department of Energy a study that assesses the need to, and challenges of, developing and standardizing interoperable equipment and systems in support of shared offshore transmission networks. Such study shall include recommendations for Congress, State, Tribal, and local governments, manufacturers of electric grid components, systems, and technologies, regional transmission organizations, offshore renewable energy project developers, and appropriate standards organizations to help ensure interoperability across seams between offshore renewable energy projects, States, and regions on the outer Continental Shelf.

(b) **INTEROPERABILITY STANDARD DEVELOPMENT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of Energy shall establish and implement a program to identify, develop, implement, support, and document a standard for interoperability of electric grid components, systems, and technologies to accelerate the implementation and delivery of electricity generated by offshore renewable energy projects through shared transmission infrastructure.

(2) **GOALS.**—The goals of developing an interoperability standard under paragraph (1) shall be—

(A) to hasten adoption of shared transmission infrastructure for offshore electricity generation by encouraging cooperation of manufacturers of electric grid components, systems, or technologies in order to—

(i) maximize interoperability among manufacturers’ systems, products, tools, and applications;

(ii) reduce offshore renewable energy project delays and cost overruns;

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(iii) manage power grid complexity; and

(iv) enhance grid resilience, reliability, and cybersecurity;
and

(B) to establish technical baseline requirements to effectively and securely measure, monitor, control, and protect electricity generation and transmission infrastructure from the point of generation to the control center.

(3) **FINANCIAL ASSISTANCE.**—The Secretary may provide financial assistance under the program to entities to carry out activities that—

(A) engage equipment manufacturers and industry stakeholders in collaborative platforms, including workshops and forums;

(B) identify current challenges and propose solutions to improve interoperability; and

(C) develop an industry interoperability standard that meets the goals described in paragraph (2) for voluntary implementation.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Energy to carry out this section \$5,000,000, to remain available until expended.

**TITLE IV—ALLEVIATING PRESSURE ON THE
ELECTRIC GRID**

Subtitle A—Improving grid flexibility with existing wires

SEC. 311. IMPROVING GRID FLEXIBILITY WITH EXISTING WIRES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is further amended by adding at the end the following:

“SEC. 226. NON-TRANSMISSION ALTERNATIVES.

“(a) **IN GENERAL.**—In carrying out sections 205 and 206, the Commission—

[DISCUSSION DRAFT]

“(1) may consider the allocation of costs associated with non-transmission alternatives for the purposes of permitting cost recovery through transmission rates; and

“(2) shall allow costs associated with non-transmission alternatives to be included in transmission rates and subject to regional cost allocation.

“(b) IMPLEMENTATION.—In implementing this section, the Commission shall ensure that any cost allocation provisions for non-transmission alternatives are just and reasonable, including by prohibiting any double-recovery of costs.

“(c) NON-TRANSMISSION ALTERNATIVE DEFINED.—In this section, the term ‘non-transmission alternative’—

“(1) means a resource that—

“(A) defers or eliminates the need for new transmission facilities; and

“(B) does not provide transmission service;

“(2) includes—

“(A) an electric storage device, if used as a replacement for transmission service;

“(B) energy efficiency; and

“(C) demand response; and

“(3) does not include traditional generation resources.”.

SEC. 312. DEPLOYMENT OF GRID ENHANCING TECHNOLOGIES.

(a) DEPLOYMENT OF GRID ENHANCING TECHNOLOGIES.—Not later than 180 days after the date of enactment of this Act, the Commission shall issue a new regulation, or revise existing regulations, to require the following:

(1) CONSULTATION.—

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(A) **IN GENERAL.**—With respect to processing a request to interconnect a generation project or an energy storage project, the Regional Transmission Organization, Independent System Operator, or transmission planning coordinator, as applicable, shall—

(i) consult with the relevant owner of the transmission facility or transmission system, and the interconnection customer, regarding deploying grid enhancing technology in addition to, or as a substitute to, carrying out a traditional transmission upgrade or addition, such as modifying or adding a conductor or substation element; and

(ii) study the efficacy of deploying grid enhancing technology for the purposes described in clause (i).

(B) **UNCONNECTED TRANSMISSION FACILITIES.**—With respect to a request to interconnect a generation project or an energy storage project to a transmission facility that is not connected to a transmission system, the owner or operator of such a facility shall—

(i) consult with the interconnection customer regarding deploying grid enhancing technology in addition to, or as a substitute to, carrying out a traditional transmission upgrade or addition, such as modifying or adding a conductor or substation element; and

(ii) study the efficacy of deploying grid enhancing technology for the purposes described in clause (i).

(2) **DEPLOYMENT.**—

(A) **IN GENERAL.**—An interconnection customer that is consulted with under paragraph (1) may request that grid enhancing technology that was the subject of such consultation be deployed.

(B) **DETERMINATION.**—The owner of the transmission facility or transmission system to which such technology would be

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deployed shall determine whether to deploy such technology, subject to an appeal under subparagraph (C).

(C) APPEAL.—

(i) IN GENERAL.—An interconnection customer that requests deployment of grid enhancing technology under subparagraph (A) may submit to the Commission a request for a hearing to appeal the decision under subparagraph (B) to not deploy grid enhancing technology.

(ii) EFFECT OF APPEAL.—After a hearing under clause (i), the Commission may order the owner of the transmission facility or transmission system to deploy the grid enhancing technology requested under subparagraph (A).

(3) UPDATING PROCEDURES.—Not later than the date that is 3 months after the date on which the Commission issues or revises regulations as required under this section, each public utility shall make a filing pursuant to section 205 of the Federal Power Act (16 U.S.C. 824d) to amend their interconnection procedures to comply with such regulations.

(b) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(2) ENERGY STORAGE PROJECT.—The term “energy storage project” means equipment which receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells, flywheels, capacitors, superconducting magnets, or other technologies identified by the Secretary of Energy, and which has a capacity of not less than 5 kilowatt hours.

(3) GENERATION PROJECT.—The term “generation project” means any facility—

(A) that generates electricity; and

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(B) the interconnection request of which is subject to the jurisdiction of the Commission.

(4) **GRID ENHANCING TECHNOLOGY.**—The term “grid enhancing technology” means any technology or equipment that increases the capacity, efficiency, or reliability of a transmission facility or transmission system, including—

(A) power flow control and transmission switching equipment;

(B) energy storage technology;

(C) topology optimization technology;

(D) dynamic line rating technology; and

(E) other advanced transmission technologies, such as composite reinforced aluminum conductors or high temperature superconductors.

(5) **INTERCONNECTION CUSTOMER.**—The term “interconnection customer” means a person or entity that has submitted a request to interconnect a generation project or an energy storage project that is subject to the jurisdiction of the Commission to the owner or operator of a transmission facility or a transmission system.

(6) **PUBLIC UTILITY.**—The term “public utility” has the meaning given such term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(7) **REGIONAL TRANSMISSION ORGANIZATION; INDEPENDENT SYSTEM OPERATOR.**—The terms “Regional Transmission Organization” and “Independent System Operator” have the meanings given such terms in section 3 of the Federal Power Act (16 U.S.C. 796).

(8) **TRANSMISSION SYSTEM.**—The term “transmission system” means a network of transmission facilities used for the transmission of electric energy in interstate commerce.

Subtitle B—Aggregating electricity demand response by individual electricity users

SEC. 321. AGGREGATOR BIDDING INTO ORGANIZED POWER MARKETS.

(a) **IN GENERAL.**—Notwithstanding any prohibition established by a relevant electric retail regulatory authority with respect to who may bid into an organized power market, each Transmission Organization shall allow any bid from an aggregator of retail customers that aggregates the demand response of the customers of utilities that distributed more than 4 million megawatt-hours in the previous fiscal year.

(b) **RULEMAKING.**—Not later than 90 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall initiate a rulemaking to carry out the requirements of subsection (a).

(c) **DEFINITIONS.**—In this section:

(1) **ELECTRIC RETAIL REGULATORY AUTHORITY.**—The term “electric retail regulatory authority” means an entity that establishes retail electricity prices and retail competition policies for customers.

(2) **TRANSMISSION ORGANIZATION.**—The term “Transmission Organization” has the meaning given such term in section 3 of the Federal Power Act (16 U.S.C. 796).

Subtitle C—Facilitating community and residential solar power

SEC. 331. COMMUNITY SOLAR CONSUMER CHOICE PROGRAM; FEDERAL GOVERNMENT PARTICIPATION IN COMMUNITY SOLAR.

(a) **DEFINITIONS.**—In this section:

(1) **COMMUNITY SOLAR.**—The term “community solar” means a solar power plant, the benefits of the electricity produced by which are shared by two or more electricity customers.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

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(3) **SUBSCRIBER.**—The term “subscriber” means an electricity customer who receives a benefit associated with the proportional output of the community solar facility of the customer.

(b) **ESTABLISHMENT OF COMMUNITY SOLAR CONSUMER CHOICE PROGRAM.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to expand community solar options to—

(A) individuals, particularly individuals that do not have regular access to onsite solar, including low- and moderate-income individuals;

(B) businesses;

(C) nonprofit organizations; and

(D) States and local and Tribal governments.

(2) **ALIGNMENT WITH EXISTING FEDERAL PROGRAMS.**—The Secretary shall align the program under paragraph (1) with existing Federal programs that serve low-income communities.

(3) **ASSISTANCE TO STATE AND LOCAL GOVERNMENTS.**—In carrying out the program under paragraph (1), the Secretary shall—

(A) provide technical assistance to States and local and Tribal governments for projects to increase community solar;

(B) assist States and local and Tribal governments in the development of new and innovative financial and business models that leverage competition in the marketplace in order to serve community solar subscribers; and

(C) use National Laboratories (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)) to collect and disseminate data to assist private entities in the financing of, subscription to, and operation of community solar projects.

[DISCUSSION DRAFT]

(c) **FEDERAL GOVERNMENT PARTICIPATION IN COMMUNITY SOLAR.**—The Secretary will expand the existing grant, loan, and financing programs to include community solar projects (as defined in paragraph (20) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)), as added pursuant to section 3 of this Act).

SEC. 332. ESTABLISHMENT OF COMMUNITY SOLAR PROGRAMS.

(a) **IN GENERAL.**—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(22) **COMMUNITY SOLAR PROGRAMS.**—Each electric utility shall offer a community solar program that provides all ratepayers, including low-income ratepayers, equitable and demonstrable access to such community solar program. For the purposes of this paragraph, the term ‘community solar program’ means a service provided to any electric consumer that the electric utility serves through which the value of electricity generated by a community solar facility may be used to offset charges billed to the electric consumer by the electric utility. A ‘community solar facility’ is—

“(A) a solar photovoltaic system that allocates electricity to multiple electric consumers of an electric utility;

“(B) connected to a local distribution of the electric utility;

“(C) located either on or off the property of the electric consumers; and

“(D) may be owned by an electric utility, an electric consumer, or a third party.”.

(b) **COMPLIANCE.**—

(1) **TIME LIMITATIONS.**—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

“(9) (A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each

[DISCUSSION DRAFT]

nonregulated utility shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (22) of section 111(d).

“(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (22) of section 111(d).”.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended—

(i) by striking “such paragraph (14)” and all that follows through “paragraphs (16)” and inserting “such paragraph (14). In the case of the standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (15). In the case of the standards established by paragraphs (16)”;

(ii) by adding at the end the following: “In the case of the standard established by paragraph (22) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (22).”.

(B) TECHNICAL CORRECTION.—

(i) **IN GENERAL.—**Section 1254(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) is amended—

(I) by striking paragraph (2); and

(II) by redesignating paragraph (3) as paragraph (2).

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(ii) TREATMENT.—The amendment made by paragraph (2) of section 1254(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) (as in effect on the day before the date of enactment of this Act) is void, and section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) shall be in effect as if those amendments had not been enacted.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

“(i) PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (22) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

“(1) the State has implemented for the electric utility the standard (or a comparable standard);

“(2) the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

“(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility.”.

(B) CROSS-REFERENCE.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634) is amended by adding at the end the following: “In the case of the standard established by paragraph (22) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (22).”.

SEC. 333. FEDERAL CONTRACTS FOR PUBLIC UTILITY SERVICES.

[DISCUSSION DRAFT]

Section 501(b)(1) of title 40, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B) PUBLIC UTILITY CONTRACTS.—A contract under this paragraph for public utility services may be for a period of not more than 30 years.”.

SEC. 334. FACILITATING DISTRIBUTED ENERGY RESOURCES.

(a) DEFINITIONS.—In this section:

(1) AUTHORITY HAVING JURISDICTION.—The term “authority having jurisdiction” means any State, territory, county, local, or Tribal office or official with jurisdiction—

(A) to issue permits;

(B) to conduct inspections to enforce the requirements of a relevant code or standard; or

(C) to approve the installation of, or the equipment and materials used in the installation of, distributed energy systems, as determined appropriate by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) IN GENERAL.—The Secretary shall establish and carry out a program to expedite, standardize, streamline, or improve processes for permitting, inspecting, and interconnecting distributed energy systems, as determined appropriate by the Secretary. Such program shall support the development, adoption, use, and maintenance of streamlined model permitting processes that may be adopted by authorities having jurisdiction.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide technical assistance and financial assistance, in the form of grants, to authorities having jurisdiction to support the adoption, use, and maintenance of SolarAPP+ and other streamlined model permitting processes for distributed energy systems, as determined appropriate by the Secretary.

[DISCUSSION DRAFT]

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section [\$___] for each of fiscal years 2024 through 2028.

Subtitle D—Addressing the shortage of electricity transformers

SEC. 341. ADDRESSING THE SHORTAGE OF ELECTRICITY TRANSFORMERS.

There is authorized to be appropriated \$2,100,000,000 for the Secretary of Energy under the authority of the Title III of the Defense Production Act of 1950 (50 USC § 4531-4534) to expand domestic manufacturing of transformers and grid components, including grain-oriented electrical steel, flexible transformers, circuit breakers, switchgears and substations to serve load and interconnect generation, and inverters and optimizers to integrate the influx of distributed generators, including through the use of advanced purchase commitments and other financial assistance as may be necessary.

TITLE IV—MODERNIZING ELECTRICITY RATEMAKING

SEC. 401. ACCOUNTING FOR THE EXTERNAL COST OF GREENHOUSE GAS EMISSIONS.

(a) PURPOSE.—The purpose of this section is to clarify the intent of Congress when passing the Federal Power Act and to provide direction to the Federal Energy Regulatory Commission with respect to wholesale electricity rates.

(b) FINDINGS.—Congress makes the following findings:

(1) When passing the Federal Power Act, Congress required the Federal Energy Regulatory Commission (“the Commission”) to ensure that the rates charged by electric utilities for, or in connection with, wholesale electricity rates are “just and reasonable”, a process which necessarily includes the evaluation of all factors affecting wholesale market rates, including environmental externalities.

[DISCUSSION DRAFT]

(2) The Federal Power Act requires the Commission to ensure that public utilities do not grant undue preference or advantage to, or discriminate against, any person when making wholesale electricity sales.

(3) Section 206(a) of the Federal Power Act authorizes the Commission to change any rates that the Commission determines to be “unjust, unreasonable, unduly discriminatory or preferential”.

(4) In its final rule titled “Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act” published on December 15, 2009 (74 Fed. Reg. 66496), the Environmental Protection Agency found that the emissions of greenhouse gases “endanger both the public health and the public welfare of current and future generations”.

(5) The failure of markets to internalize the costs of greenhouse gas pollution into the cost of products, including electricity, led to a misallocation of capital, and therefore to the emission of a greater volume of these pollutants.

(6) In 1956, the Supreme Court held in *Federal Power Commission v. Sierra Pacific Power Company*, 350 U.S. 348 (1956), that the Commission must ensure protection of the public interest when exercising its authority to set just and reasonable rates.

(7) The restructuring of the electricity industry in the Federal Power Act was intended to promote competition among electricity providers, resulting in lower electricity rates to consumers, higher quality services, and a more robust national economy.

(8) Prior to restructuring, utility commissions were frequently asked to consider other societal benefits when setting rates, including access to energy, rate equity between different classes of customers, and environmental concerns.

(9) According to the Environmental Protection Agency, in 2019, emissions from the power sector contributed the second highest share of greenhouse gas emissions by economic sector.

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(10) The benefits of competition will not be achieved if some competitors enjoy an advantage resulting from externalization of environmental costs, permitting them to charge prices for electricity that do not reflect the full economic and environmental cost of production.

(11) Despite the Environmental Protection Agency’s finding of endangerment, emissions of greenhouse gases into the air, which endanger public health and threaten the quality of the air, land, and water of the United States, are externalities that are not frequently or uniformly reflected in the price charged for products such as electricity across the United States.

(12) The disparity in regulatory treatment between electric generating units with above-average greenhouse gas emissions and those with little to no greenhouse gas emissions provides a significant competitive advantage for high greenhouse gas emitting energy generating units over their competitors.

(13) States and State commissions should be encouraged to incorporate the cost of greenhouse gas emissions into wholesale rates for electricity.

(c) CERTAIN RATES UNJUST, UNREASONABLE, UNDULY DISCRIMINATORY, OR PREFERENTIAL.—

(1) **IN GENERAL.—**For the purposes of section 205 and section 206 of the Federal Power Act (16 U.S.C. 824d, 824e), if the Federal Energy Regulatory Commission determines that a rate for the wholesale sale of electricity does not incorporate the cost of externalized greenhouse gas emissions to public health, safety, or welfare, then the Federal Energy Regulatory Commission shall find that such rate is unjust, unreasonable, unduly discriminatory, or preferential.

(2) **GREENHOUSE GAS DEFINED.—**In this subsection, the term “greenhouse gas” includes—

(A) any gas identified by the Environmental Protection Agency in the final rule titled “Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean

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Air Act” published on December 15, 2009 (74 Fed. Reg. 66496), including carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride; and

(B) nitrogen trifluoride.

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to affect or modify the existing authorities of the Federal Energy Regulatory Commission.

SEC. 402. FACILITATING PERFORMANCE-BASED RATEMAKING.

(a) **IN GENERAL.**— All utility rates subject to Federal Energy Regulatory Commission jurisdiction shall ensure, to the extent practicable that the interests of owners and operators of energy transmission facilities and electricity consumers are aligned with respect to—

- (1) grid reliability;
- (2) grid congestion;
- (3) electricity rate; and
- (4) environmental impacts, including greenhouse gas emissions.

(b) **REPORTING.**—Not later than two years after the enactment of this Act, and annually thereafter, the Federal Energy Regulatory Commission shall provide to Congress, and make publicly available, a report detailing the status of how each regional transmission organization or independent system operator has implemented the standards established under subsection (a). Such report shall also detail how states within the geographical boundaries of each regional transmission organization or independent system operator is meeting state-specific decarbonization targets and the degree to which rates or other actions subject to the regional transmission organization or independent system operator’s jurisdiction are impacting states’ abilities to reach these targets.

(c) **RULEMAKING.**—Not later than 90 days after the date of enactment of this Act, the Federal Energy Regulatory Commission shall initiate a rulemaking to carry out the requirements of subsection (a).

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(d) DEFINITIONS.—In this section:

(1) ELECTRICITY CONSUMER; RATE.—The terms “electric consumer” and “rate” have the meanings given the terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(2) ENERGY TRANSMISSION FACILITIES. -- The term ‘energy transmission facility’ means, as applicable—

(A) an alternating current transmission facility; or

(B) a high-voltage, direct current transmission facility.

(3) GREENHOUSE GAS EMISSIONS. – The term “greenhouse gas emissions” includes—

(A) any gas identified by the Environmental Protection Agency in the final rule titled “Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act” published on December 15, 2009 (74 Fed. Reg. 66496), including carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride; and

(B) nitrogen trifluoride.

(4) INDEPENDENT SYSTEM OPERATOR; REGIONAL TRANSMISSION ORGANIZATION.—The terms “Independent System Operator” and “Regional Transmission Organization” have the meanings given those terms in section 3 of the Federal Power Act (16 U.S.C. 796).

**TITLE V—FACILITATING CLEAN ENERGY
DEPLOYMENT ON PUBLIC LAND**

SEC. 501. DEFINITIONS.

In this title:

(1) COVERED LAND.—The term “covered land” means land that is—

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(A) Federal lands administered by the Secretary; and

(B) not excluded from the development of geothermal, solar, or wind energy under—

(i) a land use plan; or

(ii) other Federal law.

(2) **EXCLUSION AREA.**—The term “exclusion area” means covered land that is identified by the Bureau of Land Management as not suitable for development of renewable energy projects.

(3) **FEDERAL LAND.**—The term “Federal land” means—

(A) public lands; and

(B) lands of the National Forest System as described in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(4) **FUND.**—The term “Fund” means the Renewable Energy Resource Conservation Fund established by section 504(c)(1).

(5) **LAND USE PLAN.**—The term “land use plan” means—

(A) in regard to Federal land, a land use plan established under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) in regard to National Forest System lands, a land management plan approved, amended, or revised under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(6) **PRIORITY AREA.**—The term “priority area” means covered land identified by the land use planning process of the Bureau of Land Management as being a preferred location for a renewable energy project, including a designated leasing area (as defined in section 2801.5(b) of title 43, Code of Federal Regulations (or a successor

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regulation)) that is identified under the rule of the Bureau of Land Management entitled “Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections” (81 Fed. Reg. 92122 (December 19, 2016)) (or a successor regulation).

(7) PUBLIC LANDS.—The term “public lands” has the meaning given that term in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(8) RENEWABLE ENERGY PROJECT.—The term “renewable energy project” means a project carried out on covered land that uses wind, solar, or geothermal energy to generate energy.

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(10) VARIANCE AREA.—The term “variance area” means covered land that is—

(A) not an exclusion area;

(B) not a priority area; and

(C) identified by the Secretary as potentially available for renewable energy development and could be approved without a plan amendment, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)).

SEC. 502. LAND USE PLANNING; UPDATES TO PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.

(a) PRIORITY AREAS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish priority areas on covered land for geothermal, solar, and wind energy projects, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)) and the renewable

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energy permitting goal enacted by the Consolidated Appropriations Act of 2021 (Public Law 116–260). Among applications for a given renewable energy source, proposed projects located in priority areas for that renewable energy source shall—

(A) be given the highest priority for incentivizing deployment thereon; and

(B) be offered the opportunity to participate in any regional mitigation plan developed for the relevant priority areas.

(2) ESTABLISHING PRIORITY AREAS.—

(A) **GEOHERMAL ENERGY.**—For geothermal energy, the Secretary shall establish priority areas as soon as practicable, but not later than 5 years, after the date of the enactment of this Act.

(B) **SOLAR ENERGY.**—For solar energy—

(i) solar designated leasing areas (including the solar energy zones established by Bureau of Land Management Solar Energy Program, established in October 2012), and any subsequent land use plan amendments, shall be considered to be priority areas for solar energy projects; and

(ii) the Secretary shall complete a process to consider establishing additional solar priority areas as soon as practicable, but not later than 3 years, after the date of the enactment of this Act.

(C) **WIND ENERGY.**—For wind energy, the Secretary shall complete a process to consider establishing additional wind priority areas as soon as practicable, but not later than 3 years, after the date of the enactment of this Act.

(b) **VARIANCE AREAS.**—Variance areas shall be considered for renewable energy project development, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)) and the renewable energy permitting goal enacted by the Consolidated Appropriations Act of 2021 (Public Law 116–260), and applications for a given

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renewable energy source located in those variance areas shall be timely processed in order to assist in meeting that goal.

(c) REVIEW AND MODIFICATION.—

(1) IN GENERAL.—Not less than once every 10 years, the Secretary shall—

(A) review the adequacy of land allocations for geothermal, solar, and wind energy priority, exclusion, and variance areas for the purpose of encouraging and facilitating new renewable energy development opportunities; and

(B) based on the review carried out under subparagraph (A), add, modify, or eliminate priority, variance, and exclusion areas.

(2) EXCEPTION.—Paragraph (1) shall not apply to the renewable energy land use planning published in the Desert Renewable Energy Conservation Plan developed by the California Energy Commission, the California Department of Fish and Wildlife, the Bureau of Land Management, and the United States Fish and Wildlife Service until at least January 1, 2030.

(d) COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.—For purposes of this section, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

(1) for geothermal energy, by updating the document entitled “Final Programmatic Environmental Impact Statement for Geothermal Leasing in the Western United States”, dated October 2008, and incorporating any additional regional analyses that have been completed by Federal agencies since that programmatic environmental impact statement was finalized;

(2) for solar energy, by updating the document entitled “Final Programmatic Environmental Impact Statement (PEIS) for Solar Energy Development in Six Southwestern States”, dated July 2012, and incorporating any additional regional analyses that have been completed by Federal agencies since that programmatic environmental impact statement was finalized; and

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(3) for wind energy, by updating the document entitled “Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM–Administered Lands in the Western United States”, dated July 2005, and incorporating any additional regional analyses that have been completed by Federal agencies since the programmatic environmental impact statement was finalized.

(e) NO EFFECT ON PROCESSING SITE SPECIFIC APPLICATIONS.—Site specific environmental review and processing of permits for proposed projects shall proceed during preparation of an updated programmatic environmental impact statement, resource management plan, or resource management plan amendment.

(f) COORDINATION.—In developing updates required by this section, the Secretary shall coordinate, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners and operators, developers, and other appropriate entities to ensure that priority areas identified by the Secretary are—

(1) economically viable (including having access to existing and planned transmission lines);

(2) likely to avoid or minimize impacts to habitat for animals and plants, recreation, cultural resources, and other uses of covered land; and

(3) consistent with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), including subsection (c)(9) of that section (43 U.S.C. 1712(c)(9)).

SEC. 503. LIMITED EXEMPTIONS FROM NEW REQUIREMENTS.

(a) DEFINITION OF PROJECT.—In this section, the term “project” means a system described in section 2801.9(a)(4) of title 43, Code of Federal Regulations (as in effect on the date of the enactment of this Act).

(b) REQUIREMENT TO PAY RENTS AND FEES.—Unless otherwise agreed to by the owner of a project, the owner of a project that applied for a right-of-way under section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) on or before December 19, 2016, shall be obligated to pay with respect to the right-of-way all rents and fees in effect before the effective date of the rule of

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the Bureau of Land Management entitled “Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections” (81 Fed. Reg. 92122 (December 19, 2016)).

SEC. 504. DISPOSITION OF REVENUES.

(a) DISPOSITION OF REVENUES.—

(1) AVAILABILITY.—Except as provided in paragraph (2), beginning on January 1, 2024, of amounts collected from a wind or solar project as bonus bids, rentals, fees, or other payments under a right-of-way, permit, lease, or other authorization the following shall be made available, without further appropriation or fiscal year limitation, as follows:

(A) Twenty-five percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the revenue is derived.

(B) Twenty-five percent shall be paid by the Secretary of the Treasury to the one or more counties within the boundaries of which the revenue is derived, to be allocated among the counties based on the percentage of land from which the revenue is derived.

(C) Twenty-five percent shall be deposited in the Treasury and be made available to the Secretary to carry out the program established under this Act, including the transfer of the funds by the Bureau of Land Management to other Federal agencies and State agencies to facilitate the processing of renewable energy permits on Federal land, with priority given to using the amounts, to the maximum extent practicable without detrimental impacts to emerging markets, to expediting the issuance of permits required for the development of renewable energy projects in the States from which the revenues are derived.

(D) Twenty-five percent shall be deposited in the Renewable Energy Resource Conservation Fund established by subsection (c).

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following:

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(A) Amounts collected under section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)).

(B) Amounts deposited into the National Parks and Public Land Legacy Restoration Fund under section 200402(b) of title 54, United States Code.

(b) PAYMENTS TO STATES AND COUNTIES.—

(1) IN GENERAL.—Amounts paid to States and counties under subsection (a)(1) shall be used consistent with section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(2) PAYMENTS IN LIEU OF TAXES.—A payment to a county under paragraph (1) shall be in addition to a payment in lieu of taxes received by the county under chapter 69 of title 31, United States Code.

(c) RENEWABLE ENERGY RESOURCE CONSERVATION FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund to be known as the Renewable Energy Resource Conservation Fund, which shall be administered by the Secretary, in consultation with the Secretary of Agriculture.

(2) USE OF FUNDS.—The Secretary may make amounts in the Fund available to Federal, State, local, and Tribal agencies to be distributed in regions in which renewable energy projects are located on Federal land. Such amounts may be used to—

(A) restore and protect—

(i) fish and wildlife habitat for affected species;

(ii) fish and wildlife corridors for affected species; and

(iii) wetlands, streams, rivers, and other natural water bodies in areas affected by wind, geothermal, or solar energy development; and

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(B) preserve and improve recreational access to Federal land and water in an affected region through an easement, right-of-way, or other instrument from willing landowners for the purpose of enhancing public access to existing Federal land and water that is inaccessible or restricted.

(3) PARTNERSHIPS.—The Secretary may enter into cooperative agreements with State and Tribal agencies, nonprofit organizations, and other appropriate entities to carry out the activities described in paragraph (2).

(4) INVESTMENT OF FUND.—

(A) IN GENERAL.—Amounts deposited in the Fund shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(B) USE.—Interest earned under subparagraph (A) may be expended in accordance with this subsection.

(5) REPORT TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that includes a description of—

(A) the amount collected as described in subsection (a), by source, during that fiscal year;

(B) the amount and purpose of payments during that fiscal year to each Federal, State, local, and Tribal agency under paragraph (2); and

(C) the amount remaining in the Fund at the end of the fiscal year.

(6) INTENT OF CONGRESS.—It is the intent of Congress that the revenues deposited and used in the Fund shall supplement (and not

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supplant) annual appropriations for activities described in paragraph (2).

SEC. 505. SAVINGS.

Notwithstanding any other provision of this title, the Secretary shall continue to manage public lands under the principles of multiple use and sustained yield in accordance with title I of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (43 U.S.C. 1701 et seq.), as applicable, including due consideration of mineral and nonrenewable energy-related projects and other nonrenewable energy uses, for the purposes of land use planning, permit processing, and conducting environmental reviews.

TITLE VI—MODERNIZING OFFSHORE RENEWABLE ENERGY

SEC. 601. RESPONSIBLE DEVELOPMENT OF OFFSHORE RENEWABLE ENERGY PROJECTS.

(a) DEFINITIONS.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended by adding at the end the following:

“(u) OFFSHORE RENEWABLE ENERGY PROJECT.—The term ‘offshore renewable energy project’ means a project to carry out an activity described in section 8(p)(1)(C) related to wind, solar, wave, or tidal energy.”.

(b) NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended—

(1) by amending paragraph (3) to read as follows:

“(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards and coexistence with other ocean users, in a manner which—

“(A) supports the generation, transmission, and storage of zero-emission electricity; and

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“(B) is consistent with the maintenance of competition and other national needs, including the need to achieve State and Federal zero-emission electricity or renewable energy mandates, targets, and goals;”;

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(3) by inserting after paragraph (4) the following:

“(5) the identification, development, and production of lease areas for offshore renewable energy projects should be determined by a robust and transparent stakeholder process that incorporates engagement and input from a diverse group of ocean users as well as Federal, State, Tribal, and local governments;”.

(c) LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—Section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) by striking “27” and inserting “17”; and

(ii) by striking “15” and inserting “100”; and

(B) by adding at the end the following:

“(C) PAYMENTS FOR CONSERVATION AND MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—Notwithstanding section 9, the Secretary shall, without appropriation or fiscal year limitation, use 10 percent of the revenue received by the Federal Government from royalties, fees, rents, bonuses, and other payments from any lease, easement, or right-of-way granted under this subsection to provide grants to—

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“(I) State, local, and Tribal governments, and regional partnerships thereof, including Regional Ocean Partnerships and Regional Wildlife Science Collaboratives; and

“(II) nonprofit organizations.

“(ii) USE OF GRANTS.—Grants provided under clause (i) shall be used for carrying out activities related to marine and coastal habitat protection and restoration, mitigation of damage to natural resources and marine life, relevant research and data sharing initiatives, or increasing the organizational capacity of an entity described in subclause (I) or (II) of clause (i) to increase the effectiveness of entities that carry out such activities.

“(D) OFFSHORE RENEWABLE ENERGY COMPENSATION FUND.—Notwithstanding section 9, the Secretary shall, without appropriation or fiscal year limitation, deposit 10 percent of the revenue received by the Federal Government from royalties, fees, rents, bonuses, and other payments from any lease, easement, or right-of-way granted under this subsection into the Offshore Renewable Energy Compensation Fund established under section 34.”;

(2) by amending paragraph (3) to read as follows:

“(3) LEASING.—

“(A) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

“(B) SCHEDULE OF OFFSHORE RENEWABLE ENERGY LEASE SALES.—The Secretary shall, after providing an opportunity for public notice and comment, publish and periodically update a schedule of areas that may be available for leasing in the future for offshore renewable energy projects, indicating, to the extent possible, the timing of site identification

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activities, the timing of designation of any area to be leased, the anticipated size of such areas, the timing of lease sales, and the location of leasing activities.

“(C) MULTI-FACTOR BIDDING.—

“(i) IN GENERAL.—The Secretary may consider non-monetary factors when competitively awarding leases under paragraph (1), which may include commitments made by the bidder to—

“(I) support or increase access to registered apprenticeship programs and pre-apprenticeship programs that have an articulation agreement with a registered apprenticeships program for offshore renewable energy projects;

“(II) support development of domestic supply chains for offshore renewable energy projects, including development of ports and other energy infrastructure necessary to facilitate offshore renewable energy projects;

“(III) establish a community benefit agreement with one or more community or stakeholder groups, which may include covered entities;

“(IV) make investments to evaluate, monitor, improve, and mitigate impacts to the health and biodiversity of ecosystems and wildlife within the leased area; and

“(V) make other investments determined appropriate by the Secretary.

“(ii) CONTRACTUAL COMMITMENTS.—When considering non-monetary factors under this subparagraph, the Secretary shall—

“(I) evaluate the quality of commitments made by the bidder; and

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“(II) reward finalized binding agreements above assurances for future commitments.

“(iii) DEFINITIONS.—In this subparagraph:

“(I) COVERED ENTITY.—The term ‘covered entity’ has the meaning given such term in section 34(k).

“(II) REGISTERED APPRENTICESHIP PROGRAM.—The term ‘registered apprenticeship program’ means an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the National Apprenticeship Act; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.).”;

(3) by amending paragraph (4) to read as follows:

“(4) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

“(i) safety;

“(ii) protection of the environment, which includes facilitation of the generation, transmission, and storage of zero-emission electricity;

“(iii) prevention of waste;

“(iv) conservation of the natural resources of the outer Continental Shelf;

“(v) coordination with relevant Federal agencies and State, Tribal, and local governments;

“(vi) protection of national security interests of the United States;

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“(vii) protection of correlative rights in the outer Continental Shelf;

“(viii) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

“(ix) reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

“(x) consideration of—

“(I) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

“(II) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

“(xi) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection;

“(xii) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection; and

“(xiii) satisfaction of any applicable State and Federal renewable and clean energy mandates, targets, and goals.

“(B) PROJECT LABOR AGREEMENTS.—

“(i) IN GENERAL.—Beginning not later than January 1, 2024, the Secretary shall require, as a term or condition of each lease, right-of-way, and easement, as applicable, for an offshore renewable energy project that the holder of the lease, right-of-way, or easement, (and any successor or assignee) and its agents, contractors, and subcontractors engaged in the construction of any facilities for such offshore renewable

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energy project agree, for purposes of such construction, negotiate or become a party to a project labor agreement with one or more labor organizations. A project labor agreement shall bind all contractors and subcontractors on the project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents. The Secretary shall not approve a construction and operations plan with respect to any offshore renewable energy project until being assured by the lessee that such project labor agreement will be maintained for the duration of the project.

“(ii) DEFINITIONS.—In this subparagraph:

“(I) CONSTRUCTION.—The term ‘construction’ includes reconstruction, rehabilitation, modernization, alteration, conversion, extension, repair, or improvement of any facility, structure, or other real property (including any onshore facilities) for an offshore renewable energy project.

“(II) LABOR ORGANIZATION.—The term ‘labor organization’ means a labor organization as defined in section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5))—

“(aa) of which building and construction employees are members; and

“(bb) that directly, or through its affiliates, sponsors a registered apprenticeship program.

“(III) PROJECT LABOR AGREEMENT.—The term ‘project labor agreement’ means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in section 8(e) and (f) of the National Labor Relations Act (29 U.S.C. 158(f)).

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“(IV) REGISTERED APPRENTICESHIP PROGRAM.—The term ‘registered apprenticeship program’ means an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the National Apprenticeship Act; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.).

“(C) DOMESTIC CONTENT.—

“(i) IN GENERAL.—Beginning not later than December 31, 2031, the Secretary shall require that—

“(I) all structural iron and steel products that are (upon completion of construction) components of facilities for an offshore renewable energy project shall be produced in the United States; and

“(II) not less than 80 percent of the total costs of all manufactured products that are (upon completion of construction) components of such facilities shall be attributable to manufactured products which are mined, produced, or manufactured in the United States.

“(ii) WAIVER.—The Secretary may waive the requirements of clause (i) in any case or category of cases in which the Secretary finds that—

“(I) applying clause (i) would be inconsistent with the public interest;

“(II) such products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

“(III) the use of such products will increase the cost of the overall project by more than 25 percent.

“(iii) PUBLIC NOTIFICATION.—If the Secretary receives a request for a waiver under this subparagraph, the Secretary shall make available to the public, on an informal

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basis, a copy of the request and information available to the Secretary concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Secretary shall make the request and accompanying information available to the public by electronic means, including on the official public Internet site of the Department of the Interior.

“(iv) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner consistent with United States obligations under international agreements.”;

(4) by amending paragraph (10) to read as follows:

“(10) APPLICABILITY.—

“(A) IN GENERAL.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

“(B) CERTAIN TRANSMISSION INFRASTRUCTURE.—Notwithstanding subparagraph (A), if otherwise authorized pursuant to the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), the Secretary may issue a lease, easement, or right-of-way to enable the transmission of electricity generated by an offshore renewable energy project.”; and

(5) by adding at the end the following:

“(11) REGIONAL IMPACT STUDIES.—

“(A) IN GENERAL.—Beginning two years after the date of enactment of this paragraph, before holding any lease sale pursuant to paragraph (1) for an area, the Secretary shall conduct a study of such area, or the region that includes such area, in order to establish information needed for assessment and management of the environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas

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which may be affected by offshore renewable energy projects in such area or region.

“(B) INCLUSIONS.—A study conducted under subparagraph (A)—

“(i) may incorporate the best available existing science and data;

“(ii) may identify areas for which there is insufficient science and data; and

“(iii) shall include consideration of the cumulative impacts (including potential navigational impacts) of offshore renewable energy projects on human, marine, and coastal environments.

“(C) USE OF DATA AND ASSESSMENTS.— The Secretary shall use the data and assessments included in studies conducted under this paragraph, as appropriate, when deciding—

“(i) which portions of an area or region are most appropriate to make available for leasing; and

“(ii) whether to issue any permit or other authorization that is necessary to carry out an offshore renewable energy project.

“(D) NEPA APPLICABILITY.—The Secretary conducting a study under subparagraph (A) shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

(d) RESERVATIONS.—Section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(a)) is amended to read as follows—

“(a) WITHDRAWAL OF UNLEASED LANDS BY THE PRESIDENT.—

“(1) IN GENERAL.—The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

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“(2) REVERSAL FOR CERTAIN OFFSHORE RENEWABLE ENERGY PROJECTS.—With respect to a withdrawal under paragraph (1) of unleased lands from disposition, the President may reverse such a withdrawal only to allow for leasing under section (8)(p)(1)(C) and only if the President determines that environmental, national security, or national or regional energy conditions or demands have changed such that a reversal would be in the public interest.”.

(e) CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—Section 23(c)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(c)(2)) is amended to read as follows:

“(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or development and production plan under this Act, or any final lease, easement, or right-of-way granted pursuant to section (8)(p)(1) (and any related final Federal agency actions), shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.”.

SEC. 602. OFFSHORE RENEWABLE ENERGY COMPENSATION FUND.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended by adding at the end the following:

“SEC. 34. OFFSHORE RENEWABLE ENERGY COMPENSATION FUND.

“(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Offshore Renewable Energy Compensation Fund, which shall be used by the Secretary to provide to eligible recipients—

“(1) payments for claims—

“(A) described under subsection (f)(1); and

“(B) verified pursuant to subsection (d)(1); and

“(2) grants to carry out mitigation activities described in subsection (f)(2).

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“(b) AVAILABILITY OF FUND.—The Fund shall be available to the Secretary without fiscal year limitations for the purpose of providing payments and grants under subsection (a).

“(c) ACCOUNTS.—The Fund shall—

“(1) consist of the royalties, fees, rentals, bonuses, and other payments deposited under section 8(p)(2)(D); and

“(2) be divided into separate area accounts from which payments and grants shall be provided based on the area in which damages occur.

“(d) REGULATIONS.—The Secretary shall establish, by regulation, a process to—

“(1) file, process, and verify claims for purposes of providing payments under subsection (a)(1); and

“(2) apply for a grant provided under subsection (a)(2).

“(e) PAYMENT AMOUNT.—Payments provided under subsection (a)(1) shall—

“(1) be based on the scope of the verified claim;

“(2) be fair and provided efficiently and in a transparent manner; and

“(3) if the eligible recipient receiving the payment has or will receive direct compensation for the verified claim pursuant to a community benefit agreement or other agreement between such eligible recipient and a holder of a lease, easement, or right-of-way, be reduced by an amount that is equal to the amount of such direct compensation.

“(f) ELIGIBLE CLAIMS; MITIGATION GRANTS.—

“(1) ELIGIBLE CLAIMS.—A payment may be provided under subsection (a)(1) for a claim to—

“(A) replace or repair gear that was lost or damaged by the development of an offshore renewable energy project; or

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“(B) replace income that was lost from the development of an offshore renewable energy project.

“(2) MITIGATION GRANTS.—If the Secretary determines that there are sufficient amounts in an area account of the Fund to provide payments for all verified claims at any given time, the Secretary may use amounts in the Fund to provide grants to eligible recipients, and other entities determined appropriate by the Secretary, to mitigate the potential effects of development of an offshore renewable energy project, including by paying for gear changes, navigation technology improvements, and other measures to enhance safety.

“(g) ADVISORY GROUP.—

“(1) IN GENERAL.—The Secretary shall establish and regularly convene an advisory group that shall provide recommendations on the development and administration of this section.

“(2) MEMBERSHIP.—The advisory group shall—

“(A) be comprised of individuals—

“(i) appointed by the Secretary; and

“(ii) representing the geographic diversity of areas impacted by the development of offshore renewable energy projects; and

“(B) include representatives from—

“(i) recreational fishing interests;

“(ii) commercial fishing interests;

“(iii) Tribal fishing interests;

“(iv) the National Marine Fisheries Services;

“(v) the fisheries science community; and

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“(vi) other fields of expertise necessary to effectively develop and administer this section, as determined by the Secretary.

“(3) TRAVEL EXPENSES.—The Secretary may provide amounts to any member of the advisory group to pay for travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under section 5703 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the advisory group.

“(h) INSUFFICIENT FUNDS.—

“(1) IN GENERAL.—If the Secretary determines that an area account does not contain a sufficient amount to provide payments under subsection (a)(1), the Secretary may, not more than once each calendar year, require any holder of an offshore renewable energy lease located within the area covered by the area account to pay an amount specified by the Secretary, which shall be deposited into such area account.

“(2) AMOUNT.—No holder of an offshore renewable energy lease shall be required to pay an amount in excess of \$1 per acre of the leased land described in paragraph (1).

“(i) ADMINISTRATIVE EXPENSES.—The Secretary may use up to 15 percent of any amount deposited into the Fund under section 8(p)(2)(D) for administrative expenses to carry out this section.

“(j) ANNUAL REPORT.—The Secretary shall submit to Congress, and make publicly available, an annual report on activities carried out under this section, including a description of claims filed and the amount of payments and grants provided.

“(k) DEFINITIONS.—In this section:

“(1) COVERED ENTITY.—The term ‘covered entity’ means a community, stakeholder, or tribal interest—

“(A) that uses a geographic space of a lease area, or uses resources harvested from a geographic space of a lease area; and

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“(B) for which such use is directly and adversely impacted by the development of an offshore renewable energy project located in such leased area.

“(2) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means—

“(A) a covered entity that is located in the United States; or

“(B) a regional association, cooperative, non-profit organization, commission, or corporation that—

“(i) serves a covered entity;

“(ii) acts on behalf of a covered entity for purposes of this section, including by submitting a claim for a covered entity; and

“(iii) is located in the United States.

“(3) FUND.—The term ‘Fund’ means the Offshore Renewable Energy Compensation Fund established under subsection (a).

“(4) LEASE AREA.—The term ‘lease area’ means an area covered by an offshore renewable energy lease.

“(5) OFFSHORE RENEWABLE ENERGY LEASE.—The term ‘offshore renewable energy lease’ means a lease, easement, or right-of-way granted under section 8(p)(1)(C).”.

TITLE VII—EMPOWERING COMMUNITIES

SEC. 701. ENVIRONMENTAL JUSTICE ANALYSIS IN NEPA.

(a) PURPOSE.—The purpose of this section is to establish additional protections relating to Federal actions affecting environmental justice communities in recognition of the disproportionate burden of adverse human health or environmental effects faced by such communities.

(b) DEFINITIONS.—In this section:

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(1) ENVIRONMENTAL IMPACT STATEMENT.—The term “environmental impact statement” means the detailed statement of environmental impacts of a proposed action required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) FEDERAL ACTION.—The term “Federal action” means a proposed action that requires the preparation of an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) PREPARATION OF A COMMUNITY IMPACT REPORT.—A Federal agency proposing to take a Federal action that has the potential to cause negative environmental or public health impacts to an environmental justice community shall prepare a community impact report assessing the potential impacts of the proposed action.

(d) CONTENTS.—A community impact report described in subsection (c) shall—

(1) assess the degree to which a proposed Federal action affecting an environmental justice community will cause multiple or cumulative exposure to human health and environmental hazards that influence, exacerbate, or contribute to adverse health outcomes;

(2) assess relevant public health data and industry data concerning the potential for multiple or cumulative exposure to human health or environmental hazards in the area of the environmental justice community and historical patterns of exposure to environmental hazards and Federal agencies shall assess these multiple, or cumulative effects, even if certain effects are not within the control or subject to the discretion of the Federal agency proposing the Federal action;

(3) assess the impact of such proposed Federal action on such environmental justice community’s ability to access public parks, outdoor spaces, and public recreation opportunities;

(4) evaluate alternatives to or mitigation measures for the proposed Federal action that will—

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(A) eliminate or reduce any identified exposure to human health and environmental hazards described in paragraph (1) to a level that is reasonably expected to avoid human health impacts in environmental justice communities; and

(B) not negatively impact an environmental justice community's ability to access public parks, outdoor spaces, and public recreation opportunities; and

(5) analyze any alternative developed by members of an affected environmental justice community that meets the purpose and need of the proposed action.

(e) DELEGATION.—Federal agencies shall not delegate responsibility for the preparation of a community impact report described in subsection (c) to any other entity.

(f) NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS FOR ENVIRONMENTAL JUSTICE COMMUNITIES.—When carrying out the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a proposed Federal action that may affect an environmental justice community, a Federal agency shall—

(1) consider all potential direct, indirect, and cumulative impacts caused by the action, alternatives to such action, and mitigation measures to the environmental justice community required by that Act;

(2) require any public comment period carried out during the scoping phase of the environmental review process to be not less than 90 days;

(3) provide early and meaningful community involvement opportunities by—

(A) holding multiple hearings in such community regarding the proposed Federal action in each prominent language within the environmental justice community; and

(B) providing notice of any step or action in the process that Act involves public participation to any representative entities or

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organizations present in the environmental justice community including—

- (i) local religious organizations;
- (ii) civic associations and organizations;
- (iii) business associations of people of color;
- (iv) environmental and environmental justice organizations, including community-based grassroots organizations led by people of color;
- (v) homeowners, tenants, and neighborhood watch groups;
- (vi) local governments and Tribal Governments;
- (vii) rural cooperatives;
- (viii) business and trade organizations;
- (ix) community and social service organizations;
- (x) universities, colleges, and vocational schools;
- (xi) labor and other worker organizations;
- (xii) civil rights organizations;
- (xiii) senior citizens' groups; and
- (xiv) public health agencies and clinics; and

(4) provide translations of publicly available documents made available pursuant to that Act in any language spoken by more than 5 percent of the population residing within the environmental justice community.

(g) COMMUNICATION METHODS AND REQUIREMENTS.—Any notice provided under subsection (f)(3)(B) shall be provided—

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(1) through communication methods that are accessible in the environmental justice community, which may include electronic media, newspapers, radio, direct mailings, canvassing, and other outreach methods particularly targeted at communities of color, low-income communities, and Tribal and Indigenous communities; and

(2) at least 30 days before any hearing in such community or the start of any public comment period.

(h) **REQUIREMENTS FOR ACTIONS REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT.**—For any proposed Federal action affecting an environmental justice community requiring the preparation of an environmental impact statement, the Federal agency shall provide the following information when giving notice of the proposed action:

(1) A description of the proposed action.

(2) An outline of the anticipated schedule for completing the process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), with a description of key milestones.

(3) An initial list of alternatives and potential impacts.

(4) An initial list of other existing or proposed sources of multiple or cumulative exposure to environmental hazards that contribute to higher rates of serious illnesses within the environmental justice community.

(5) An agency point of contact.

(6) Timely notice of locations where comments will be received or public meetings held.

(7) Any telephone number or locations where further information can be obtained.

(i) **NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS FOR INDIAN TRIBES.**—When carrying out the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a proposed Federal action that may affect an Indian Tribe, a Federal agency shall—

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(1) seek Tribal representation in the process in a manner that is consistent with the government-to-government relationship between the United States and Tribal Governments, the Federal Government’s trust responsibility to federally Recognized Indian Tribes, and any treaty rights;

(2) ensure that an Indian Tribe is invited to hold the status of a cooperating agency throughout the process under that Act for any proposed action that could impact an Indian Tribe, including actions that could impact off reservation lands and sacred sites; and

(3) invite an Indian Tribe to hold the status of a cooperating agency in accordance with paragraph (2) not later than the date on which the scoping process for a proposed action requiring the preparation of an environmental impact statement commences.

(j) AGENCY DETERMINATIONS.—Federal agency determinations about the analysis of a community impact report described in subsection (c) shall be subject to judicial review to the same extent as any other analysis performed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(k) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

(l) SAVINGS CLAUSE.—Nothing in this section diminishes—

(1) any right granted through the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to the public; or

(2) the requirements under that Act to consider direct, indirect, and cumulative impacts.

SEC. 702. AVOIDING CUMULATIVE IMPACTS.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended—

(1) in section 101(a)—

(A) by striking “man’s” and inserting “human”; and

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(B) by striking “man” each place it appears and inserting “humankind”;

(2) in section 102—

(A) by striking “The Congress authorizes and directs that, to the fullest extent possible:” and inserting “The Congress authorizes and directs that, notwithstanding any other provision of law and to the fullest extent possible:”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “insure” each place it appears and inserting “ensure”; and

(II) by striking “man’s” and inserting “the human”;

(ii) in subparagraph (C)—

(I) by striking clause (iii) and inserting the following:

“(iii) a reasonable range of alternatives that—

“(I) are technically feasible,

“(II) are economically feasible, and

“(III) where applicable, do not cause or contribute to adverse cumulative effects, including effects caused by exposure to environmental pollution, on an overburdened community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the agency preparing or having taken primary responsibility for preparing the environmental document pursuant to this Act, except that where the agency determines that an alternative will serve a compelling public interest in the affected overburdened community with conditions to protect public health,”; and

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(II) in clause (iv), by striking “man’s” and inserting “the human”;

(C) in subparagraph (E), by inserting “that are consistent with subparagraph (C)(3)” after “describe appropriate alternatives”; and

(D) in subparagraph (F), by striking “mankind’s” and inserting “humankind’s”; and

(3) by adding at the end the following:

“SEC. 106. DEFINITIONS.

“In this Act:

“(1) EFFECT; IMPACT.—The terms ‘effect’ and ‘impact’ mean changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and include the following:

“(A) Direct effects, which are caused by the action and occur at the same time and place.

“(B) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

“(C) Cumulative effects, which are effects on the environment that result from the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

“(D) Effects that are ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, health, whether direct, indirect, or cumulative. Effects may also

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include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effects will be beneficial.

“(2) LIMITED ENGLISH PROFICIENCY.—The term ‘limited English proficiency’ means that a household does not have an adult that speaks English very well according to the United States Census Bureau.

“(3) LOW-INCOME HOUSEHOLD.—The term ‘low-income household’ means a household that is at or below twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.

“(4) OVERBURDENED COMMUNITY.—The term ‘overburdened community’ means any census block group, as determined in accordance with the most recent United States Census, in which:

“(A) at least 35 percent of the households qualify as low-income households;

“(B) at least 40 percent of the residents identify as minority or as members of a Tribal and Indigenous community; or

“(C) at least 40 percent of the households have limited English proficiency.

“(5) TRIBAL AND INDIGENOUS COMMUNITY.—The term ‘Tribal and Indigenous community’ means a population of people who are members of—

“(A) a federally recognized Indian Tribe;

“(B) a State-recognized Indian Tribe;

“(C) an Alaska Native or Native Hawaiian community or organization; or

“(D) any other community of Indigenous people located in a State.”.

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SEC. 703. FERC ENVIRONMENTAL JUSTICE LIAISON.

Section 319 of the Federal Power Act (16 U.S.C. 825q–1) is amended by adding at the end the following:

“(c) (1) The Director of the Office shall appoint within the Office an Environmental Justice Liaison (hereafter in this subsection referred to as the Liaison).

“(2) The Liaison shall engage and consult with environmental justice communities impacted by the construction or operation of projects authorized by the Commission.

“(3) In engaging and consulting with environmental justice communities, the Liaison shall engage with—

“(A) Tribal, State, and local governments;

“(B) community-based organizations;

“(C) faith-based organizations;

“(D) local small businesses; and

“(E) other groups, organizations, and individuals the Liaison deems necessary in order to ensure that members of the communities that will be affected by a project authorized by the Commission are consulted.

“(4) In this subsection, the term ‘environmental justice community’ means any population of color, community of color, indigenous community, or low-income community that experiences a disproportionate burden of the negative human health and environmental impacts of pollution or other environmental hazards.”.

SEC. 704. INTERVENOR FUNDING AT FERC OFFICE OF PUBLIC PARTICIPATION.

(a) IN GENERAL.—Section 319 of the Federal Power Act (16 U.S.C. 825q–1(b)(2)) is amended by striking “The Commission may” and inserting “The Commission shall”.

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(b) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall promulgate a final rule to provide compensation under section 319(b)(2) of the Federal Power Act (16 U.S.C. 825q–1(b)(2)).

SEC. 705. REFORMING RTO AND ISO GOVERNANCE AND PARTICIPATION.

(a) TECHNICAL CONFERENCE.—Not later than 180 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall convene a technical conference to consider Regional Transmission Organization and Independent System Operator independence, and the responsiveness of RTOs and ISOs to their customers and stakeholders, including the effectiveness of stakeholder policies and procedures adopted in compliance with Order 719, issued by the Commission on October 17, 2008, and published in the Federal Register on October 28, 2008, as the final rule entitled “Wholesale Competition in Regions with Organized Electricity Markets” (73 Fed. Reg. 64099).

(b) PARTICIPATION.—The technical conference shall be led by members of the Commission, and the Commission shall invite participation from representatives of each RTO and ISO, owners and operators of transmission facilities, owners and operators of electric generation facilities, owners and operators of distributed energy generation systems, end-use customers, electric power marketers, publicly owned electric utilities, consumer advocates, environmental justice advocates, environmental groups, State commissions, and such other stakeholders as the Commission determines appropriate.

(c) TOPICS.—In conducting the technical conference, the Commission shall seek to identify policies and practices that maintain RTO and ISO independence, and enhance the responsiveness of RTOs and ISOs to their customers and other stakeholders, taking into consideration—

(1) the benefits of greater transparency in RTO and ISO stakeholder processes, including access by stakeholders to relevant data and written background materials;

(2) barriers to participation in such stakeholder processes for new market participants and other non-incumbent stakeholders;

(3) the need for periodic, independent review of RTO and ISO stakeholder policies and procedures;

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(4) power imbalances between incumbent and non-incumbent stakeholders, including whether current RTO and ISO membership rules, sectoral designations, and voting procedures allow for adequate representation of all stakeholder views;

(5) whether and how RTOs and ISOs should take State public policy objectives into consideration as part of such stakeholder processes;

(6) whether existing RTO and ISO decision-making processes are sufficiently independent from the control of any market participant or class of participants;

(7) the role of the Office of Public Participation in facilitating greater stakeholder participation in RTOs and ISOs; and

(8) such other subjects as the Commission considers appropriate.

(d) PUBLIC COMMENT.—The Commission shall provide an opportunity for public comment on the technical conference.

(e) RULEMAKING.—Not later than 12 months after the conclusion of the technical conference, the Commission shall issue a final rule adopting such policies and procedures as the Commission determines necessary to maintain the independence of RTOs and ISOs, and to enhance the transparency and responsiveness of RTOs and ISOs to their customers and other stakeholders.

(f) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(2) FEDERAL POWER ACT DEFINITIONS.—The terms “electric utility”, “Independent System Operator”, “ISO”, “Regional Transmission Organization”, “RTO”, and “State commission” have the meanings given such terms in section 3 of the Federal Power Act (16 U.S.C. 796).

TITLE VIII—CREATING COHERENCE IN ENVIRONMENTAL PERMITTING

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SEC. 801. DEFINITIONS.

In this Act:

(1) **AUTHORIZATION.**—The term “authorization” means any Federal license, permit, approval, finding, determination, interagency consultation, or other administrative decision that is required or authorized to design, plan, site, construct, reconstruct, or commence operations of a project.

(2) **COOPERATING AGENCY.**—The term “cooperating agency” means an involved Federal agency that, with respect to a major project, is designated by the lead agency as a cooperating agency under section 6(b).

(3) **COUNCIL.**—The term “Council” means the Council on Environmental Quality.

(4) **ENVIRONMENTAL REVIEW DOCUMENT.**—The term “environmental review document” means, as prepared under NEPA—

- (A) an environmental assessment;
- (B) a finding of no significant impact;
- (C) an environmental impact statement; or
- (D) a record of decision.

(5) **INVOLVED FEDERAL AGENCY.**—The term “involved Federal agency” means a Federal agency that, with respect to a major project—

- (A) proposed such project; or
- (B) is involved in such project because such project is directly related, through functional interdependence or geographic proximity, to another project such agency has carried out or has proposed to carry out.

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(6) LEAD AGENCY.—The term “lead agency” means—

(A) the Federal agency preparing, or having taken primary responsibility for preparing an authorization for a major project; and

(B) if applicable, the Federal, State, Tribal, or local agency that is serving as a joint lead agency for the major project.

(7) MAJOR PROJECT.—The term “major project” means a project—

(A) for which more than 1 authorization, review, or study is required under a Federal law other than NEPA; and

(B) with respect to which the lead agency determines—

(i) an environmental impact statement is required; or

(ii) an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.

(8) NEPA.—The term “NEPA” means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(9) PROJECT.—The term “project” means a project—

(A) proposed for the construction of infrastructure to develop, produce, generate, store, transport, or distribute energy; and

(B) that, if implemented as proposed by the project sponsor, would require that—

(i) an environmental review document be prepared; and

(ii) a Federal agency issue an authorization for the project.

(10) PROJECT SPONSOR.—The term “project sponsor” means an entity seeking an authorization for a project.

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(11) PUBLIC LANDS.—The term “public lands” has the meaning given that term in section 103 of the Federal Land Policy and Management Act of 1976 ([43 U.S.C. 1702](#)).

(12) OUTER CONTINENTAL SHELF.—The term “Outer Continental Shelf” has the meaning given in Section 2 of the Outer Continental Shelf Lands Act ([43 U.S.C. 1331](#))

(13) SECRETARY CONCERNED.—The term “Secretary concerned” means, as appropriate—

(A) the Secretary of Agriculture, acting through the Chief of the Forest Service, with respect to National Forest System lands;

(B) the Secretary of the Army, with respect to the Corps of Engineers;

(C) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(D) the Secretary of Energy;

(E) the Secretary of the Interior, with respect to public lands and the Outer Continental Shelf;

(F) the Secretary of Transportation, with respect to the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration;

(G) the Federal Energy Regulatory Commission; and

(H) the Administrator of the Environmental Protection Agency.

SEC. 802. USE OF EXISTING ENVIRONMENTAL REVIEW DOCUMENTS.

The Secretary concerned shall use previously completed environmental assessments and environmental impact statements to satisfy the requirements of section 102 of NEPA (42 U.S.C. 4332) with respect to a major project if the Secretary concerned determines that—

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(1) the major project is substantially the same as a major project or alternative to a major project that was analyzed in an environmental assessment or environmental impact statement that was completed before the date on which the major project was proposed; and

(2) the effects of the major project are substantially the same as the effects analyzed in such completed environmental assessment or environmental impact statement.

SEC. 803. SPONSOR CONSULTATION.

(a) IN GENERAL.—A lead agency, with respect to a major project—

(1) shall, upon the request of the project sponsor, allow the project sponsor to contribute information for use in an environmental assessment or an environmental impact statement; and

(2) shall provide the project sponsor with appropriate guidance regarding the contribution of information under paragraph (1).

(b) USE OF CONTRIBUTED INFORMATION.—A lead agency that allows a project sponsor to contribute information under subsection (a) shall—

(1) evaluate the environmental assessment or environmental impact statement for which the project sponsor contributed information independently of the project sponsor; and

(2) assume responsibility for the contents of such environmental assessment or environmental impact statement on the date on which such environmental assessment or environmental impact statement is published in the Federal Register.

SEC. 804. GREENHOUSE GAS PROJECTIONS.

In preparing an environmental review document for a major project pursuant to NEPA, the Secretary concerned shall consider the incremental contribution of the major project to climate change, including by quantifying the reasonably foreseeable direct and indirect greenhouse gas emissions of the major project and reasonable alternatives to the major project, including a no-action alternative.

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SEC. 805. TIMELY AND UNIFIED FEDERAL ENVIRONMENTAL REVIEWS FOR MAJOR PROJECTS.

(a) LEAD AGENCY.—

(1) DESIGNATION.—

(A) DESIGNATION BY INVOLVED FEDERAL AGENCIES.—If there is more than 1 involved Federal agency with respect to a major project, the involved Federal agencies shall determine, by letter or memorandum, which involved Federal agency shall be the lead agency with respect to the major project based on consideration of the following factors:

(i) Magnitude of the involvement of the involved Federal agency.

(ii) Which involved Federal agency has the authority to approve or disapprove the major project.

(iii) Expertise of the involved Federal agency with respect to the environmental effects of the major project.

(iv) Anticipated duration of involvement of the involved Federal agency.

(v) Sequence of the involvement of the involved Federal agency.

(B) DESIGNATION BY REQUEST FROM SUBSTANTIALLY AFFECTED PARTY.—

(i) IN GENERAL.—A Federal, State, Tribal, or local agency or person that is substantially affected by the lack of a designation of a lead agency with respect to a major project under subparagraph (A) may submit to an involved Federal agency a written request for such a designation.

(ii) SUBMISSION OF REQUEST.—An involved Federal agency that receives a request under this subparagraph shall

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submit such request to each involved Federal agency and to the Council.

(C) DESIGNATION BY COUNCIL.—

(i) SUBMISSION OF REQUEST.—Not earlier than 45 days after the date on which a request is submitted under subparagraph (B), if no designation of a lead agency with respect to the major project has been made under subparagraph (A), the entity that submitted the request under subparagraph (B) may request that the Council designate a lead agency.

(ii) CONTENTS OF REQUEST.—A request submitted under clause (i) shall consist of a—

(I) precise description of the nature and extent of the major project; and

(II) detailed statement with respect to each involved Federal agency and each factor listed in subparagraph (A) regarding which involved Federal agency should serve as lead agency for the major project.

(iii) SUBMISSION.—Not later than 2 days after the date on which the Council receives a request submitted under clause (i), the Council shall submit such request to each involved Federal agency.

(iv) RESPONSE.—An involved Federal agency may, not later than 20 days after the date of the submission of a request under clause (i), submit to the Council a response to such request.

(v) DESIGNATION.—Not later than 40 days after the date of the submission of a request under clause (i), if no lead agency has been otherwise designated, the Council shall designate a lead agency with respect to the major project

(D) JOINT LEAD AGENCIES.—

[DISCUSSION DRAFT]

(i) **IN GENERAL.**—In making a designation under subparagraph (A), the involved Federal agencies may, in addition to designating an involved Federal agency as a lead agency, appoint one or more Federal, State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies determine appropriate.

(ii) **RESPONSIBILITY.**—Joint lead agencies shall jointly fulfill the role described in paragraph (2).

(2) **ROLE.**—A lead agency shall, with respect to the major project—

(A) supervise the preparation of an environmental review document;

(B) request each cooperating agency to participate in the development of an environmental review document at the earliest practicable time;

(C) consider any analysis or proposal created by a cooperating agency in preparing an environmental document;

(D) establish and maintain a schedule in accordance with subsection (f);

(E) if the lead agency determines that an environmental review or authorization will not be completed in accordance with the schedule established and maintained under subsection (f), notify the cooperating agency responsible for issuing such environmental review or authorization of the violation of such schedule and request that the cooperating agency take such measures as the lead agency determines appropriate to comply with such schedule; and

(F) meet with a cooperating agency that requests such a meeting.

(b) **COOPERATING AGENCY.**—

[DISCUSSION DRAFT]

(1) DESIGNATION.—The lead agency may, with respect to the major project, designate an involved Federal agency or a State, Tribal, or local agency as a cooperating agency.

(2) SUBMISSION OF COMMENTS.—A cooperating agency shall, not later than a date specified by the lead agency, submit to the lead agency comments regarding matters relating to the major project with respect to which the cooperating agency has special expertise or jurisdiction by law.

(c) ONE DOCUMENT.—With respect to a major project and to the extent practicable, if the lead agency has determined that an environmental review document is required for such major project, such requirement shall be considered satisfied with respect to each involved Federal agency if the lead agency issues such an environmental review document.

(d) REQUEST FOR PUBLIC COMMENT.—A lead agency shall include in any notice of intent to prepare an environmental impact statement required under section 102 of NEPA (42 U.S.C. 4332) for a major project submitted to the Federal Register a request for public comment on alternatives and impacts and on relevant information, studies, or analyses.

(e) STATEMENT OF PURPOSE AND NEED.—An environmental impact statement with respect to a major project shall include a statement of purpose and need that briefly summarizes the underlying purpose and need for the major project.

(f) SCHEDULE.—

(1) IN GENERAL.—The lead agency for a major project shall, with the concurrence of each involved Federal agency, establish and maintain a schedule for completion of the environmental review and each authorization for the major project that—

(A) establishes deadlines in accordance with paragraph (3);

(B) identifies the date of the earliest Federal agency contact for the major project, including any pre-application consultation;

(C) includes any document that is a prerequisite for or predecessor to the environmental review; and

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(D) includes—

(i) any Federal authorization or action required as part of the environmental review process, consultation, or similar process that is required through the completion of the major project, including any pre-application consultation, application, interim milestone, public comment period, draft or final decision, and final authorization necessary to begin construction; and

(ii) to the maximum extent practicable, any State, Indian Tribe, Alaska Native Corporation, or local agency authorization, environmental review, or similar process that is required through the completion of the major project.

(2) **FACTORS FOR CONSIDERATION.**—In establishing a schedule under this subsection, a lead agency shall consider factors including the—

(A) responsibilities of each involved Federal agency under applicable law, including providing opportunities for public comment;

(B) resources available to each involved Federal agency;

(C) size and complexity of the major project;

(D) time required by an involved agency to conduct the environmental review and make decisions under applicable Federal law relating to the major project, including the issuance or denial of an authorization;

(E) cost of the major project;

(F) sensitivity of any natural and historic resources that may be affected by the major project; and

(G) timelines and deadlines established in this section and other applicable law.

[DISCUSSION DRAFT]

(3) **DEADLINES.**—Not later than 180 days after the enactment of this section, the Council shall publish guidance regarding the establishment of deadlines by which the environmental reviews and authorizations for major projects are to be completed. Under the guidance, the deadline for any given major project shall be a function of the factors identified under paragraph (2).

(4) **MODIFICATIONS.**—

(A) **IN GENERAL.**—The lead agency for a major project may, for good cause in accordance with subparagraph (B)—

(i) extend a deadline established under paragraph (1); and

(ii) shorten a deadline established under paragraph (1), in accordance with subparagraph (C).

(B) **GOOD CAUSE.**—Good cause to modify a deadline includes—

(i) compliance with a Federal law that prevents—

(I) the lead agency from completing an environmental assessment or environmental impact statement by a deadline established under paragraph (1); or

(II) the lead agency or an involved Federal agency from completing an authorization by the deadline established under paragraph (1);

(ii) a request submitted by the project sponsor to extend a deadline established under paragraph (1) to complete an environmental assessment, environmental impact statement, or authorization; and

(iii) a determination by the lead agency that a modification to a deadline established under paragraph (1) would facilitate completion of an environmental assessment, environmental impact statement, or authorization.

[DISCUSSION DRAFT]

(C) **SHORTENING OF DEADLINE.**—A lead agency may not shorten a deadline under subparagraph (A)(ii)—

(i) if shortening the deadline would impair the ability of an involved Federal agency—

(I) to conduct any necessary analysis; or

(II) to otherwise carry out any relevant obligation of the involved Federal agency; and

(ii) unless the lead agency has the concurrence of each involved Federal agency.

(5) **FAILURE TO MEET SCHEDULE OR DEADLINE.**—If an involved Federal agency fails to meet a schedule established under paragraph (1) not later than 30 days after the missed schedule or deadline, the involved Federal agency shall—

(A) notify the—

(i) Director of the Office of Management and Budget;

(ii) Executive Director of the Federal Permitting Improvement Steering Council;

(iii) Secretary concerned;

(iv) Committee on Natural Resources of the House of Representatives;

(v) Committee on Energy and Commerce of the House of Representatives;

(vi) Committee on Energy and Natural Resources of the Senate; and

(vii) Committee on Environment and Public Works of the Senate; and

(B) include in the notifications under subparagraph (A) a—

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(i) description of the cause for the failure; and

(ii) new schedule or deadline agreed on by the lead agency and each involved Federal agency.

(6) DISSEMINATION.—A copy of a schedule for a major project established under paragraph (1), and any modification to such a schedule, shall be provided to—

(A) each involved Federal agency;

(B) the project sponsor; and

(C) affected State, Tribal, or local agencies.

(7) REPORT.—Not later than 2 years after the date of enactment of this section, and annually thereafter, the Government Accounting Office shall submit a report to Congress and make publicly available, a report detailing each involved agency’s annual compliance with the process established under paragraph (3).

SEC. 806. E-NEPA.

(a) PERMITTING PORTAL .—Within 2 years of the enactment of this Act, the Council shall establish an online permitting portal for permits that require review under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) that—

(1) allows applicants to—

(A) submit required documents or materials for their application in one unified portal;

(B) upload additional documents as required by the applicable agency; and

(C) track the progress of individual applications;

(2) enhances interagency coordination in consultation by—

(A) allowing for comments in one unified portal;

[DISCUSSION DRAFT]

(B) centralizing data necessary for reviews; and

(C) streamlining communications between other agencies and the applicant; and

(3) boosts transparency in agency decisionmaking.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$[] for the Council to carry out this section.

SEC. 807. FEDERAL ENERGY REGULATORY COMMISSION STAFFING.

(a) CONSULTATION DEADLINE.—Section 401(k)(6) of the Department of Energy Organization Act (42 U.S.C. 24 7171(k)(6)) is amended—

(1) by striking “The Chairman” and inserting the following:

“(A) IN GENERAL.—The Chairman”; and

(2) by adding at the end the following:

“(B) DEADLINE.—The requirement under subparagraph (A) shall be considered met if the Director of the Office of Personnel Management has not taken final action on a plan for applying authorities under this subsection within 120 days of submission of the plan by the Chairman to the Director of the Office of Personnel Management.”.

(b) ELIMINATION OF REPORTING SUNSET.—Section 11004(b)(1) of the Energy Act of 2020 (42 U.S.C. 7171 note; Public Law 116–260) is amended by striking “thereafter for 10 years,” and inserting “thereafter,”.