ORAL ARGUMENT NOT YET SCHEDULED

No. 22-1139

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CONCERNED HOUSEHOLD ELECTRICITY CONSUMERS COUNCIL,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,

Respondents.

On Consolidated Petition for Review of Environmental Protection Agency Final Order

BRIEF OF PUBLIC INTEREST ORGANIZATIONS AS RESPONDENT-INTERVENORS

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CERTIFICATES AS TO PARTIES, RULINGS, AND OTHER CASES

Pursuant to D.C. Circuit Rule 28(a)(1), Respondent-Intervenors state the following:

A. Parties, Intervenors, and Amici

Petitioners' Corrected Brief (at i–ii) lists all parties, intervenors, and amici that have appeared to date, except for amici Christopher Field, Michael Oppenheimer, and Susan Solomon.

B. Rulings Under Review

Respondent-Intervenors seek review of the U.S. Environmental Protection Agency's ("EPA") denial of Petitioners' administrative petitions for reconsideration or rulemaking regarding the 2009 Endangerment Finding for Greenhouse Gases. *See* Notice of Final Action Denying Petitions: Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Action on Petitions, 87 Fed. Reg. 25,412 (Apr. 29, 2022) (the "Denial"); *see also* EPA's Denial of Petitions Relating to the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, EPA-HQ-OAR-2022-0129-0053 (Apr. 29, 2022) (the "Decision Memo").

C. Related Cases

Petitioners' brief (at ii) identifies the only prior related case. There are no currently pending related cases.

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Public Interest Organization Respondent-Intervenors make the following disclosures:

American Lung Association

The American Lung Association is a not-for-profit corporation organized under the laws of the State of Maine and incorporated under Section 501(c)(3) of the Internal Revenue Code. The American Lung Association's mission is to save lives by improving lung health and preventing lung disease through education, advocacy, and research. The American Lung Association works to protect public health from unhealthy air pollution by supporting the Clean Air Act and pressing the U.S. Environmental Protection Agency to ensure that all Americans have air that is safe and healthy to breathe. This includes encouraging more protective limits on ozone and particle pollution, reducing power plant carbon dioxide emissions, and cleaner gasoline and vehicle standards. The American Lung Association has no parent companies, and no publicly held company has a ten percent or greater ownership interest in the American Lung Association.

American Public Health Association

The American Public Health Association ("APHA)" is incorporated in Massachusetts and headquartered in Washington, D.C. APHA has 54 state and

regional affiliates representing all 50 states, the District of Columbia and Puerto Rico. APHA is recognized as a not-for-profit corporation under Section 501(c)(3) of the United States Internal Revenue Code. The American Public Health Association champions the health of all people and all communities. APHA represents more than 23,000 individual members of the public health profession. We speak out for public health issues and policies backed by science. We are the only organization that combines a nearly 150-year perspective, a broad-based member community, and the ability to influence federal policy to improve the public's health. APHA has long advocated in support of the Clean Air Act, including as a tool to combat climate change and for strong public health protections from ozone and other dangerous air pollutants. The American Public Health Association has no parent companies, and no publicly held company has a ten percent or greater ownership interest in the American Public Health Association.

Appalachian Mountain Club

Appalachian Mountain Club is a not-for-profit environmental and recreation corporation organized and existing under the laws of the Commonwealth of Massachusetts. The Club has a mission of promoting the protection, enjoyment, and understanding of mountains, forest, waters, and trails of the Appalachian

Region. Appalachian Mountain Club has no parent corporations, and no publicly held company has a ten percent or greater ownership interest in it.

Clean Air Council

Clean Air Council is a non-profit environmental organization, organized under the laws of the Commonwealth of Pennsylvania. Clean Air Council's mission is to protect and defend everyone's right to breathe clean air. Clean Air Council does not have any parent corporations, and no publicly held corporation has a ten percent or greater ownership interest in it.

Clean Wisconsin

Clean Wisconsin, created in 1970 as Wisconsin's Environmental Decade, is a non-profit membership corporation organized and existing under the laws of Wisconsin, whose mission is to protect Wisconsin's air, water, and special places by being an effective voice in the legislature, state and federal agencies, and the courts. Clean Wisconsin does not have any parent corporations, and no publicly held corporation has a ten percent or greater ownership interest in it.

Environmental Defense Fund

Environmental Defense Fund ("EDF") is a national non-governmental, non-profit organization, organized under the laws of the State of New York, with hundreds of thousands of members across the United States. EDF links science, economics, and law to create innovative, equitable, and cost-effective solutions to

urgent environmental problems. EDF does not have any parent corporations, and no publicly held corporation has a ten percent or greater ownership interest in it.

National Parks Conservation Association

National Parks Conservation Association ("NPCA"), a corporation organized and existing under the laws of the District of Columbia, is a nonprofit organization that strives to protect and enhance America's National Park System for present and future generations. NPCA does not have any parent corporations and no publicly held corporation has a ten percent or greater ownership in it.

Natural Resources Council of Maine

The Natural Resources Council of Maine ("NRCM") is a not-for-profit membership organization whose mission is protecting, restoring, and conserving Maine's environment, now and for future generations. NRCM works to improve the quality of Maine's rivers, reduce poisonous chemicals threatening human and wildlife health, decrease air and global warming pollution, and conserve Maine lands. NRCM does not have any parent corporations, and no publicly held corporation has a ten percent or greater ownership interest in it.

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Foundation	FAIR Energy Foundation

STATEMENT OF JURISIDICTION

The Clean Air Act confers exclusive jurisdiction on this Court to review nationally effective final actions of the U.S. Environmental Protection Agency ("EPA") Administrator, 42 U.S.C. § 7607(b)(1). As demonstrated in Part I of EPA's brief ("EPA Br."), and *infra* Section I, Petitioners lack Article III standing to press challenges to EPA's Notice of Final Action Denying Petitions: Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act; Final Action on Petitions, 87 Fed. Reg. 25,412 (Apr. 29, 2022) ("Denial"); and accompanying memorandum, EPA-HQ-OAR-2022-0129-0053 ("Decision Memo").

Separately, jurisdiction is lacking as to claims that were asserted, or could have been asserted, in timely challenges to the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 74 Fed. Reg. 66,496 (Dec. 15, 2009), and EPA's Denial of the Petitions To Reconsider the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, 75 Fed. Reg. 49,556 (Aug. 13, 2010). *See infra* pp. 10–17.

STATUTES AND REGULATIONS

Pertinent statutes and regulations not already included in the Petitioners' and Respondent's addenda are included in the Addendum to this brief.

STATEMENT OF THE CASE

Respondent-Intervenors adopt EPA's Statement of the Case. EPA Br. 3–12.

STANDARD OF REVIEW

Petitioners bear the burden of establishing their Article III standing and must demonstrate "an 'injury in fact,' that is 'fairly traceable' to the [Respondent's] conduct, and 'likely to be redressed' by a favorable decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). "When standing is not self-evident . . . 'the petitioner must supplement the record to the extent necessary to explain and substantiate its entitlement to judicial review.'" *Am. Fuel & Petrochemical Mfrs. v. EPA*, 3 F.4th 373, 379 (D.C. Cir. 2021) (citation omitted).

With respect to the merits, the Court may reverse the Administrator's Denial if its action is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 42 U.S.C. § 7607(d)(9)(A).

"Judicial review of EPA's denial of a rulemaking petition is 'extremely limited' and 'highly deferential.'" *New York v. EPA*, 921 F.3d 257, 261 (D.C. Cir 2019) (citing *Massachusetts v. EPA*, 549 U.S. 497, 527–28 (2007)). A court will overturn an agency's denial of a request to open a rulemaking "only in the rarest and most compelling of circumstances," such as when the agency commits a "plain error[] of law." *Am. Horse Prot. Ass'n v. Lyng*, 812 F.2d 1, 5 (D.C. Cir. 1987) (citation omitted) (internal quotation marks omitted).

SUMMARY OF ARGUMENT

Petitioners have failed to establish their standing to sue. The Council asserts that EPA's 2009 finding that greenhouse gas emissions from motor vehicles endanger public health and welfare will increase electricity costs paid by its members, but it fails to provide any concrete support, by declaration or otherwise, for this bald and speculative claim of future injury. Petitioners' abstract claims of harm to their organizations' missions fall far short of what is required to establish organizational standing.

Petitioners have also failed to establish any basis for mandatory administrative reconsideration. As described *infra* at Section II.A, all of the grounds on which they rely arose well after the 60-day period following the finalization of EPA's Endangerment Finding, making the petitions for reconsideration untimely under 42 U.S.C. § 7607(d)(7)(B). Nor was EPA obligated to grant their alternative requests for a new rulemaking to revisit the endangerment posed by greenhouse gas emissions from motor vehicles. These requests are fairly understood as based on grounds already considered in the original (and 2010 reconsideration) proceedings, and, to that extent, are untimely and not reviewable under 42 U.S.C. § 7607(b)(2). Even if these requests are not time-barred, they were properly denied based on their poor grounding in fact and the overwhelming scientific record supporting EPA's 2009 Endangerment Finding and its sequels.

Petitioners' contention that *Massachusetts v. EPA*, 549 U.S. 497 (2007), should be overturned fails on multiple grounds. Lack of subject matter jurisdiction aside, this Court lacks power to reconsider Supreme Court decisions. The recent decision in *West Virginia v. EPA*, 142 S. Ct. 2587 (2022), including its formulation of the major questions doctrine, does not undermine *Massachusetts*, which the Court relied upon in a series of subsequent cases. Finally, the recently enacted Inflation Reduction Act confirms that Congress recognizes that greenhouse gases are air pollutants under the Clean Air Act's regulatory provisions.

ARGUMENT

I. PETITIONERS LACK ARTICLE III STANDING

A party invoking the jurisdiction of a federal court has the burden to demonstrate its standing, which, as an "irreducible constitutional minimum," entails showings that it has suffered (1) "an injury in fact, (2) that is fairly traceable to the challenged conduct . . . and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo,* 578 U.S. at 338. As Respondent EPA demonstrates more fully, EPA Br. 17–27, Petitioners Concerned Household Electricity Consumers Council (the "Council") and FAIR Energy Foundation (the "Foundation") both fail to make these showings. Accordingly, their petitions must be dismissed for lack of subject matter jurisdiction.

A. The Council Lacks Associational Standing.

The Council asserts associational standing and must therefore demonstrate that "the challenged agency action . . . injures one or more of its members, identify those members, and point to evidence in the administrative record or in a declaration that shows those persons . . . are actually members of petitioner's association and how the challenged agency action affects them." *Hearth, Patio & Barbecue Ass'n v. EPA*, 11 F.4th 791, 803 (D.C. Cir. 2021). Critically here, a party challenging agency action must identify sufficient proof of its Article III standing no later than in its opening brief. *See* D.C. Cir. R. 28(a)(7) ("[T]he brief of the . . . petitioner must set forth the basis for the claim of standing. [] When the appellant's or petitioner's standing is not apparent from the administrative record, the brief must include arguments and evidence establishing the claim of standing. *See Sierra Club v. EPA*, 292 F.3d 895, 900–01 (D.C. Cir. 2002)").

The Council asserts that EPA's Denial harms its members because each belongs to "a household that pays electricity bills," and replacing fossil fuels with renewables "will increase the cost of electricity paid by the[se members' households]." Pet'r Br. 32. But the Council fails to provide declarations from members or refer to any record evidence to support these claims.[1] The Council

[1] The Council lists five individuals as members, *see* Pet'r Br. i, but provides no accompanying declarations. The Court should not accept declarations with the

provides no information describing the electricity mix currently powering the members' homes or demonstrating how reopening the 2009 Endangerment Finding for greenhouse gasses from motor vehicles—which does not itself *regulate* anything, let alone power plants[2]—would affect the cost of electricity for the Council's members. The Council's generalized and unsupported claims cannot support Article III standing. *See, e.g., City of Scottsdale v. FAA*, 37 F.4th 678, 679 (D.C. Cir. 2022) (standing lacking where petitioner's declaration asserted new flight paths created disruptive noise and pollution but did not "refer to any specific flight that cause[d] specific harm to specific property").

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reply brief because no "serious effort to satisfy the requirements of [D.C. Cir. R. 28(a)(7)]" was made in the Council's opening brief. *Ams. for Safe Access v. DEA*, 706 F.3d 438, 444 (D.C. Cir. 2013); *cf. Nat'l Council for Adoption v. Blinken*, 4 F.4th 106, 112 (D.C. Cir. 2021) (allowing supplement that merely "shored up the initial ones."). Respondents would be "disadvantaged in the adversarial process" were supplemental submissions allowed, *Ams. for Safe Access*, 706 F.3d at 444; *see also Blinken*, 4 F.4th at 111 (declining to consider declarations submitted with reply where "there was 'a far less substantial showing of standing in' the initial affidavits filed with the opening brief") (citations omitted).

[2] Petitioners did not seek review of either of EPA's rules regulating emissions of greenhouse gases from power plants. *See West Virginia v. EPA*, No. 15-1363 & consol. cases, (D.C. Cir) (review of Clean Power Plan, 80 Fed. Reg. 64,662 (Oct. 23, 2015)); and *Am. Lung Ass'n v. EPA*, No. 19-1140 & consol. cases (D.C. Cir.) (review of Affordable Clean Energy rule, 84 Fed. Reg. 32,520 (July 8, 2019)). No federal emissions limits for greenhouse gas emission for existing power plants are in effect now (nor when these petitions for review were filed); it is entirely speculative what form such regulation might take in the future, and what effect (if any) a future regulation might have on electricity prices paid by Petitioners' members.

Petitioners' assertions are also entirely speculative. This Court recently denied standing to a party asserting strikingly similar harm, explaining that the "effect the [petitioner] anticipate[d] on its future electricity rates depend[ed] on how third parties—such as electricity generators, electricity providers, public utility commissions, and state pollution control agencies—might react to the [agency action]." *Am. Lung Ass'n v. EPA*, 985 F.3d 914, 990 (D.C. Cir. 2021), *rev'd in part on other grounds sub nom. West Virginia v. EPA*, 142 S. Ct. 2587 (2022). Likewise, the Council's asserted injury—renewable generation's replacing fossil generation and leading to higher electricity prices—depends on a long roster of circumstances, contingencies, and actors.

Several outcomes regarding generation mix and electricity prices are at least equally plausible. By many measures, renewable energy sources including solar and wind produce the cheapest electricity, and renewable power generation has been growing rapidly even in areas where there is minimal or no greenhouse-gas regulation.[3] The primary driver of wholesale electricity price is the cost to generate

[3] *E.g.*, *Solar*, Int'l Energy Agency, https://www.iea.org/fuels-and-technologies/solar (last accessed Jan. 7, 2023) ("Solar [photovoltaic] is becoming the lowest-cost option for new electricity generation in most of the world, which is expected to propel investment in the coming years."); *Levelized Costs of New Generation Resources in the Annual Energy Outline 2022*, U.S. Energy Info. Admin. 8, 9, tbls. 1a, 1b (Mar. 2022), (projecting levelized cost of electricity for new resources entering service in 2027, with standalone solar generation having the lowest cost even before accounting for tax credits), https://www.eia.gov/outlooks/aeo/pdf/

electricity at the margin—that is, the generation cost of the last power plant needed to meet the demand at any given time. Indeed, because generation cost from variable renewables is typically zero, the electricity "price setter" plants tend to be fossil fuel plants. Petitioners' contention that regulating carbon pollution would, by prompting an increase in the proportion of electricity generated by renewable power sources, result in increases in members' electricity prices is, to put it mildly, as debatable as it is unsupported by evidence.

Finally, the Council fails to demonstrate a causal connection between its alleged injury and the Denial. *See Util. Workers Union of Am. Local 464 v. FERC*, 896 F.3d 573, 574 (D.C. Cir. 2018) (denying standing to electricity customer-petitioners because they failed to show a causal link between the closure of coal plant and increased cost of their retail electricity service). The Council's theory of causation makes several unsupported leaps: that the 2009 Endangerment Finding for motor vehicles leads to greater regulation of fossil fuels in general, which spurs greater use of renewable energy, which they claim would cause electricity to cost

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electricity_generation.pdf; *Levelized Cost of Energy, Levelized Cost of Storage, and Levelized Cost of Hydrogen*, Lazard Insights tbl. "Levelized Cost of Energy Comparison: Unsubsidized Analysis" (Oct. 28, 2021), https://lazard.com/perspective/levelized-cost-of-energy-levelized-cost-of-storage-and-levelized-cost-of-hydrogen; Chris Gilligan, *10 States that Produce the Most Renewable Energy*, U.S. News & World Rep. (July 27, 2022), https://usnews.com/news/best-states/slideshows/these-state-use-the-most-renewable-energy (based on U.S. Energy Information Administration data).

more than electricity generated from fossil fuels, causing increased energy prices for Petitioners' members' households. *See Ctr. for Biological Diversity v. Dep't of Interior*, 563 F.3d 466, 478 (D.C. Cir. 2009) ("The more attenuated or indirect the chain of causation between the government's conduct and the plaintiff's injury, the less likely the plaintiff will be able to establish a causal link sufficient for standing."). This deficit is exacerbated by the Council's failure to submit supporting declarations or other evidence. *See Ass'n of Flight Attendants-CWA v. U.S. DOT*, 564 F.3d 462, 464 (D.C. Cir. 2009).

B. Petitioners Lack Organizational Standing

Petitioners also argue that the Denial harms their respective organizational missions. Pet'r Br. 37. Parties claiming organizational standing must demonstrate a "concrete and demonstrable injury to the organization's activities." *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). Petitioners must therefore demonstrate that their "discrete programmatic concerns are being directly and adversely affected." *Viasat, Inc. v. FCC*, 47 F.4th 769, 781 (D.C. Cir. 2022) (citation omitted). "A mere setback to the organization's abstract social interests is not enough." *Id.* (citation omitted).

Petitioners' alleged organizational injury is fatally abstract. While Petitioners describe their general interest in the continued use of fossil fuels and "overcoming governmental tampering with . . . available scientific information,"

see Pet'r Br. 35, they fail to include any "discrete programmatic concerns" stemming from EPA's actions, *see Viasat*, 47 F.4th at 781 (citation omitted). "[O]rganizations who seek to do no more than vindicate their own value preferences through the judicial process generally cannot establish standing." *ASPCA v. Feld Entm't, Inc.*, 659 F.3d 13, 25 (D.C. Cir. 2011) (citation omitted).

II. EPA PROPERLY DENIED THE PETITIONS FOR ADMINISTRATIVE RECONSIDERATION OR RULEMAKING.

Even if Petitioners had standing to sue, they have failed to demonstrate any basis to compel EPA to reconsider the Endangerment Finding or to commence a new rulemaking to rescind it. EPA's proceedings resulting in the 2009 Endangerment Finding and the 2010 reconsideration denial were comprehensive, featuring review of thousands of scientific studies, major assessment reports that themselves synthesized thousands of peer-reviewed studies, and consideration of upwards of 380,000 public comments. *See* Decision Memo at 5–6. This Court reviewed the Finding and reconsideration denial in *Coal. for Responsible Regulation v. EPA*, upholding them *in toto*, and noting that the agency's judgments were supported by an "ocean of evidence," 684 F. 3d 102, 123 (D.C. Cir. 2012). The Supreme Court denied all three certiorari petitions that challenged the portions of the decision upholding the Endangerment Finding. *See Util. Air Regulatory Grp. v. EPA*, 571 U.S. 951 (2013) (noting denials of certiorari in *Virginia v. EPA*, No. 12-1152, *Pacific Legal Foundation v. EPA*, No. 12-1153, and *Coal. for*

Responsible Regulation v. EPA, No. 12-1253). In the ensuing twelve years, EPA has frequently cited the conclusions of the 2009 Finding, noting in each instance that the scientific evidence that human activities are contributing to dangerous greenhouse gas pollution that endangers health and welfare has become more compelling and unarguable. *See, e.g.*, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2, 81 Fed. Reg. 73,478, 73,486 (Oct. 25, 2016) (surveying new, major peer-reviewed scientific assessments and finding that "the improved understanding of the climate system they present further strengthens the case that [greenhouse gas] emissions endanger public health and welfare"); Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards, 86 Fed. Reg. 74,434, 74,489 (Dec. 30, 2021) (similar). *See also* Finding That Greenhouse Gas Emissions from Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated to Endanger Public Health and Welfare, 81 Fed. Reg. 54,422, 54,424 (Aug. 15, 2016) (reaffirming conclusions of 2009 Endangerment Finding as part of new endangerment finding concerning aircraft emissions under Section 231 of the Clean Air Act).

The Clean Air Act and this Court's precedents do not lightly allow for re-litigation of agency determinations that have been subject to a comprehensive public rulemaking process and judicial review. Petitioners' briefs fail to grapple

with the robust body of law and the great weight of evidence supporting EPA's 2009 Finding (and its subsequent reaffirmations). EPA correctly denied their petitions.

A. Petitioners Failed to Meet the Requirements for Mandatory Administrative Reconsideration under Clean Air Act Section 307(d)(7)(B)

To the extent Petitioners seek to force reconsideration of the 2009 Endangerment Finding, their effort fails to satisfy explicit statutory timing requirements. Reconsideration is mandatory (and thus court-enforceable) only if petitioner can demonstrate that (1) either "it was impracticable to raise such objection within [the public comment period]" or "the grounds for such objection arose after" this period, "but within the time specified for judicial review" and that (2) "such objection is of central relevance to the outcome of the rule." 42 U.S.C. § 7607(d)(7)(B). Petitioners do not claim that the "impracticability" exception applies here; it addresses "problems [that arise] during the period for public comment on or petitioning for review of the regulation itself." *Alon Refin. Krotz Springs, Inc. v. EPA*, 936 F.3d 628, 648 (D.C. Cir. 2019).

Section 7607(d)(7)(B)'s provision for mandatory reconsideration based on instances where "the grounds for [the] objection arose after" the comment period but "within the time specified for judicial review," applies only to objections that arose within "sixty days from the promulgation of the final rule" as "is specified in

section 7607(b)(1).” *Id*. at 647. As this Court explained in *Alon*, Section 7607(d)(7)(B) does not apply to objections that “arose after the close of the initial window for judicial review”—a position that “would ‘make a mockery of Congress’[s] careful effort to force potential litigants to bring challenges to a rule issued under this statute at the outset.’” 936 F.3d at 648 (quoting *Am. Rd. & Transp. Builders Ass’n v. EPA*, 705 F.3d 453, 458 (D.C. Cir. 2013)).

The public comment period for the proposed Endangerment Finding ended on June 23, 2009, and the period for judicial review of the Finding expired 60 days after its December 15, 2009 publication in the Federal Register—on Monday, February 15, 2010. Petitioners here rely on materials arising after that date, which are not valid bases to compel administrative reconsideration. Decision Memo at 10 n.20 (noting that petitions relied upon publications from 2013–2019).

Finally, as EPA demonstrates, EPA Br. 31–55, even if Petitioners had satisfied Section 7607(d)(7)(B)’s timing requirements, they failed to meet the separate requirement that their proffers be of “central relevance to the outcome of the rule,” because they failed to establish “substantial support for [their] argument that the regulation should be revised.” *Chesapeake Climate Action Network v. EPA*, 952 F.3d 310, 314, 322 (D.C. Cir. 2020) (citation omitted).

B. Petitioners Failed to Provide Any Basis to Compel EPA to Initiate a New Rulemaking to Rescind the Endangerment Finding.

Petitioners also requested that EPA commence a new rulemaking to rescind the 2009 Finding. This effort should likewise be rejected on threshold grounds.

The Administrative Procedure Act, 5 U.S.C. § 553(e), provides interested persons "the right to petition for the issuance, amendment, or repeal of a rule." The agency's denial of a petition for rulemaking is a judicially reviewable final action. *See Massachusetts*, 549 U.S. at 527–28. The Clean Air Act requires that petitions for judicial review challenging final EPA actions must be brought within 60 days, 5 U.S.C. § 7607(b), a requirement that is "jurisdictional," *Okla. Dep't of Env't Quality v. EPA*, 740 F.3d 185, 191 (D.C. Cir. 2014). The deadline is subject to a narrow exception where the petition "is based solely on grounds arising after such sixtieth day." 42 U.S.C. § 7607(b)(1).[4]

This Court's precedents have sought to give effect to the Clean Air Act's review regime with its explicit priority upon timeliness and finality, while ensuring that the public has means to ensure that agency rules remain in sync with new scientific, technological, or legal developments. A party cannot employ a rulemaking petition to challenge a Clean Air Act rule belatedly, because Congress, in Section 7607(b), "has 'specifically address[ed] the consequences of failure to

[4] Petitioners do not rely on the "after arising grounds" provision.

bring a challenge within the statutory period.'" *Am. Rd. & Transp. Builders Ass'n,* 705 F.3d at 457 (quoting *Nat'l Mining Ass'n v. Dep't of the Interior*, 70 F.3d 1345, 1350 (D.C. Cir. 1995)). However, a party can obtain review (albeit under a highly deferential standard) of the denial of a rulemaking petition by asserting that "changed circumstances or new information . . . compel the amendment of an older regulation." *Alon*, 936 F.3d 643 (citing *NLRB Union v. FLRA*, 834 F.2d 191, 196–97 (D.C. Cir. 1987)).[5]

Although Petitioners assert that they may obtain review under the latter, "new information" route, they fail to make the case that their petition in fact turns on information that was not or could not have been presented in the 2009-2010 proceedings. Section 7607(b)'s requirements—and legislative concerns with finality, regulatory stability, and conserving agency resources—would be greatly undermined if parties, by merely using the "new information" label, could litigate (or relitigate) objections that could have been raised, or actual were raised, in timely, direct challenges to an existing rule. None of this Court's cases countenance that tactic.

[5] In *Alon*, for example, the operative "changed circumstance" was that EPA itself, five years after issuing its "point of obligation" rule for biofuels, had waived certain statutory requirements on the basis that "changing economic conditions" had made the requirements "impossible to achieve." 936 F.3d at 642.

As EPA's Decision Memo and brief in this case demonstrate, Petitioners' principal claims here reprise contentions considered in the 2009-2010 proceedings. While Petitioners point to the 2016-19 publication of articles, co-authored by Petitioner Wallace, claiming that observed climatic warming is explained by natural rather than anthropogenic factors, as EPA notes, "in substance their arguments largely repeat objections" raised and rejected in 2009-2010. EPA Br. 36; s*ee also* Decision Memo 18–20. Likewise recapitulatory of arguments from the 2009-2010 proceedings are Petitioners' emphasis on the "tropical hot spot," *see* Decision Memo 20–21; EPA Br. 47–49; their allegations of data manipulation, EPA Br. 39–40; Decision Memo 27; and their claims regarding the alleged insufficiency of surface temperature data concerning the southern oceans, *see* EPA Br. 38–39; Decision Memo 25. These and all other arguments that were made or that could have been made in the 2009-2010 proceedings, are subject to the Section 7607(b) time-bar and should be dismissed on that basis.

Even if any of Petitioners' contentions were found to be reviewable on a "new information" theory, such review is "extremely limited." *Alon*, 936 F.3d at 643 (quoting *NLRB Union v. FLRA*, 834 F.3d at 196). As EPA demonstrates in detail, none of Petitioners' claims comes close to providing grounds to call the Endangerment Finding into question. The sheer weight of evidence supporting the Finding—as well as a substantial body of new information and research available

since 2009-2010 in the form of reams of additional studies, assessments by each of the leading climate science bodies, and reviews by EPA itself in making subsequent endangerment findings—all reaffirm the 2009 Finding. *See* Decision Memo 7; *see also* Amicus Br. of Climate Change Scientists Christopher Field, Michael Oppenheimer and Susan Solomon at 14–28.[6]

III. PETITIONERS' EFFORT TO PROMPT A RECONSIDERATION OF *MASSACHUSETTS* IS MISDIRECTED AND UNSUPPORTED.

Finally, Petitioners seek to preserve for possible further review the argument that "*Massachusetts v. EPA* should be revisited under the major questions doctrine." Pet'r Br. 52.

As Petitioners acknowledge, "this Court cannot overrule the Supreme Court." *Id*. Rather, it "must follow the binding Supreme Court precedent." *We the People Found., Inc. v. United States*, 485 F.3d 140, 144 (D.C. Cir. 2007). *See also United States v. Anthem, Inc*., 855 F.3d 345, 354 (D.C. Cir. 2017).

Petitioners, moreover, identify no basis for any court to revisit *Massachusetts*. Since *Massachusetts* was decided more than fifteen years ago, the Supreme Court itself has repeatedly relied on the decision. In *Am. Elec. Power Co.* v. *Connecticut*, 564 U.S. 410 (2011), the Court, by 8-0 vote (with Justice

[6] For the reasons stated in EPA's Brief at 56–58, Petitioners' challenges to the settled standard of judicial review for agency scientific judgments, Pet'r Br. 47–52, lack merit.

Sotomayor recused), held that there is no federal nuisance remedy for power plants' greenhouse gas emissions because the Clean Air Act Section 111 authorizes regulation of and "speaks directly" to those emissions, *id*. at 424. In *Util. Air Regulatory Grp. v. EPA,* 573 U.S. 302 (2014), the Court, even as it held that EPA had misread the Act's permitting provisions to apply to small sources, *id*. at 323–24, held that EPA properly read the Act to require controls of greenhouse gases from large sources already subject to permitting requirements, *see id*. at 331. In the same litigation, the Court denied three certiorari petitions asking it to review and reverse EPA's 2009 Endangerment Finding. *Supra* p. 11. And the Court in *West Virginia*, while holding that the particular design of the Clean Power Plan exceeded EPA's authority under Section 111, recognized (as had *American Electric Power*) that the provision applies to power plants' greenhouse gas emissions, 142 S. Ct. at 2607, 2615–16, and that EPA would need to adopt a new greenhouse gas rule on remand, *id*. at 2601–02.

"Considerations of *stare decisis* weigh heavily in the area of statutory construction, where Congress is free to change this Court's interpretation of its legislation." *Illinois Brick Co. v. Illinois,* 431 U.S. 720, 736 (1977). In fact, many legislative proposals to reverse *Massachusetts* have failed. *See*, *e.g.*, S.J. Res. 26, 111th Cong. (2010), H.R. 910, 112th Cong. (2011), S. 482, 112th Cong. (2011).

Nor does *West Virginia*'s reliance on the major questions doctrine (cited in Pet's Br. 52–60), provide any basis to revisit *Massachusetts*. While *West Virginia* was the first case in which the Court referred to the major questions doctrine as such, the majority opinion relied on a series of decisions, most prominently, *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000), which had articulated similar reasoning in disapproving agency rules that depended on claims of agency authority broader than the relevant statute allowed. *See West Virginia*, 142 S. Ct. at 2607–08. The *Massachusetts* decision thoroughly considered and rejected arguments that *Brown & Williamson* supported construing the Clean Air Act to exclude greenhouse gases, *see* 549 U.S. at 530–32; even the dissenters did not rely on *Brown & Williamson*'s reasoning, *see id*. at 560 ("This is a straightforward administrative-law case, in which Congress has passed a malleable statute giving broad discretion, not to us but to an executive agency") (Scalia, J., dissenting).

Furthermore, there is no foundation to Petitioners' claim that EPA's Finding triggers the "skepticism" canon that *West Virginia* reserves for "extraordinary cases" when agencies have interpreted a statute in a novel manner that effects a "transformative" expansion of agency authority. 142 S. Ct. at 2609–10. To note a few of patent differences from *West Virginia*: Far from being an "ancillary provision" of the Act, *id*. at 2610, Section 202 has been the statutory fulcrum of

national motor vehicle emissions standards for more than 50 years. Far from being "unheralded," *id*., EPA's explicit statutory authority to identify dangers to public health and welfare and set limits on dangerous emissions has been recognized and exercised for decades. And whereas the Supreme Court concluded that the Clean Power Plan thrust EPA into matters in which it had "no comparative expertise," *id*. at 2613, determining whether emissions of air pollution endanger public health and welfare involves EPA's core scientific and technical expertise. *See Coal. for Responsible Regulation*, 684 F.3d at 120, 122–23.

Finally, Petitioners (Pet'r Br. 59–60) misstate the significance of the Inflation Reduction Act, Pub. L. 117-169 (signed into law Aug. 22, 2022). Though post-dating the Denial, the new statute cuts strongly against Petitioners' legal arguments. As House Energy and Commerce Committee Chair Frank Pallone explained, the Act "reinforces the longstanding authority and responsibility of the [EPA] to regulate [greenhouse gases] as air pollutants under the Clean Air Act." 168 Cong. Rec. E868 (2022).

The Inflation Reduction Act adds an array of amendments to Title I of the Clean Air Act repeatedly defining "greenhouse gas" as "the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride"— the same six gases included in EPA's 2009 Finding (and its 2016 finding under Section 231 of the Clean Air Act). *See, e.g.,* 42 U.S.C. § 7432(d)(4)

(definition in new Clean Air Act Section 132(d)(4), in provision promoting clean heavy-duty vehicles); *id.* § 7433(d)(2) (new Clean Air Section 133(d)(2), in provision concerning air pollution at ports); *id*. § 7434(c)(2) (new Clean Air Act Section 134(c)(2), in provision establishing a Greenhouse Gas Reduction Fund); *id*. § 7435(c) (new Clean Air Act Section 135(c), part of the Low Emissions Electricity Program); *see also* Addendum of Statutes 2, 3, 5, 7, 8, 10, 11, 14, 15, 16, 17, 21, 24 (instances of the "greenhouse gas" definition). These provisions express Congress's own judgment that each of these compounds falls within the definition of "air pollutant," which applies throughout the Act (including Title I). 42 U.S.C. § 7602(g) (Clean Air Act-wide definition of "air pollutant"); *see also id*. § 7437 (new Clean Air Act Section 137 providing $5 billion in support for development and implementation of plans to address "greenhouse gas *air pollution*") (emphasis added).

Furthermore, the Inflation Reduction Act requires that EPA use existing Clean Air Act regulatory authorities to reduce emissions of greenhouse gases. Because those Clean Air Act provisions authorize EPA to regulate emissions of "air pollutants," they further confirm that greenhouse gases are indeed such pollutants. The new Methane Emissions Reduction Program, adds a new Section 136 to the Clean Air Act, codified at 42 U.S.C. § 7436, requires EPA to impose a fee on emissions of methane from applicable oil and gas facilities, subject to

certain exceptions. Section 136 provides that the charges will not apply to "an applicable facility that is subject to and in compliance with methane emissions requirement pursuant to subsections (b) and (d) of section 111 [of the Clean Air Act, 42 U.S.C. § 7411]" once additional requirements are met and the Administrator has made certain determinations. *Id*. § 7436(f)(6)(A). *See also* Inflation Reduction Act § 60105(g) (providing EPA with funding "to provide grants to States to adopt and implement greenhouse gas and zero-emission standards for mobile sources pursuant to Section 177 of the Clean Air Act (42 U.S.C. § 7507)"); new Clean Air Act Section 135(a)(6), 42 U.S.C. § 7435(a)(6) (requiring EPA to "ensure that reductions in greenhouse gas emissions are achieved *through use of the existing authorities of this Act*") (emphasis added)).

Petitioners complain that the Inflation Reduction Act did not provide "newly granted regulatory authority" (Pet'r Br. 60) in the specific form of amending the "air pollutant" definition at issue in *Massachusetts* itself, namely, Section 302(g), 42 U.S.C. § 7602(g). But it was unnecessary for Congress do so, because Congress knew that Section 302(g) had been interpreted authoritatively in the 2007 *Massachusetts* decision, which had found the statute "unambiguous," 549 U.S. at 529, and then relied on in three subsequent Supreme Court decisions (*Am. Elec. Power Co.*, *Util. Air Regulatory Grp.*, and *West Virginia*), as well as multiple EPA actions. *See also* Greg Dotson & Dustin J. Maghamfar, *The Clean Air Act*

Amendments of 2022: Clean Air, Climate Change, and the Inflation Reduction Act, 53 ENVT'L L. REP. 10017, 10027 (2023) (noting that the "greenhouse gas" definition enumerating the six specific compounds served to limit the provisions' reach to a "smaller set than the entire universe of heat-trapping gases, while restating in statutory language the key holding of *Massachusetts*"). And, as noted, the Inflation Reduction Act requires EPA to employ longstanding Clean Air Act regulatory authorities to address major sources of greenhouse gas emissions, including power plants, the oil and gas industry, and motor vehicles—leaving no doubt that Congress recognizes that these emissions consist of Clean Air Act "air pollutants."

Petitioners are correct (Pet'r Br. 60) that congressional rules on the reconciliation process limited the measures that could be included in the Inflation Reduction Act—absent a decision not to enforce the "Byrd Rule," new provisions had to be linked to measures having a budgetary effect. *See* Dotson & Maghamfar, 53 ENVT'L L. REP. at 10018–19, 10034 (describing rules governing reconciliation). But those self-imposed procedural strictures still left Congress with broad authority to enact the first major set of amendments to the Clean Air Act since 1990, directing how programs and regulatory actions should be taken to reduce greenhouse gases, and mandating or supporting regulatory action in numerous ways. *See id.* at 10119–22, 10026–34. As summarized above, those statutory

provisions make it crystal clear that Congress and the United States Code recognize *Massachusetts*' holding that greenhouse gases are air pollutants for purposes of Clean Air Act regulation.

CONCLUSION

The petitions for review should be dismissed for lack of jurisdiction. To the extent the Court has jurisdiction over them, the petitions should be denied.

DATED: January 17, 2023

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 27 and 32(g)(1), the undersigned counsel for Respondent-Intervenors certifies that this motion complies (1) with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) and D.C. Circuit Rule 27(a)(2) because it contains 5,450 words and (2) with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)–(6) because it is has been prepared using Microsoft Office Word for Office 365 and is set in Times New Roman font in a size equivalent to 14 points or larger.

/s/ James P. Duffy

Dated: January 17, 2023

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2023, the foregoing Brief of Public Interest Organizations as Respondent-Intervenors has been served on all registered counsel through the Court's electronic filing system.

/s/ James P. Duffy

Dated: January 17, 2023

ADDENDUM OF STATUTES

ADDENDUM

Inflation Reduction Act of 2022, Pub. L. 117-169, Title VI

Service, the Bureau of Land Management, the Bureau of Ocean Energy Management, the Bureau of Reclamation, the Bureau of Safety and Environmental Enforcement, and the Office of Surface Mining Reclamation and Enforcement.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Subtitle A—Air Pollution

SEC. 60101. CLEAN HEAVY-DUTY VEHICLES.

The Clean Air Act is amended by inserting after section 131 of such Act (42 U.S.C. 7431) the following:

"SEC. 132. CLEAN HEAVY-DUTY VEHICLES. 42 USC 7432.

"(a) APPROPRIATIONS.—

"(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $600,000,000, to remain available until September 30, 2031, to carry out this section.

"(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $400,000,000, to remain available until September 30, 2031, to make awards under this section to eligible recipients and to eligible contractors that propose to replace eligible vehicles to serve 1 or more communities located in an air quality area designated pursuant to section 107 as nonattainment for any air pollutant.

"(3) RESERVATION.—Of the funds appropriated by paragraph (1), the Administrator shall reserve 3 percent for administrative costs necessary to carry out this section.

"(b) PROGRAM.—Beginning not later than 180 days after the date of enactment of this section, the Administrator shall implement a program to make awards of grants and rebates to eligible recipients, and to make awards of contracts to eligible contractors for providing rebates, for up to 100 percent of costs for— Deadline. Grants. Rebates.

"(1) the incremental costs of replacing an eligible vehicle that is not a zero-emission vehicle with a zero-emission vehicle, as determined by the Administrator based on the market value of the vehicles; Determination.

"(2) purchasing, installing, operating, and maintaining infrastructure needed to charge, fuel, or maintain zero-emission vehicles;

"(3) workforce development and training to support the maintenance, charging, fueling, and operation of zero-emission vehicles; and

"(4) planning and technical activities to support the adoption and deployment of zero-emission vehicles.

"(c) APPLICATIONS.—To seek an award under this section, an eligible recipient or eligible contractor shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator shall prescribe.

"(d) DEFINITIONS.—For purposes of this section:

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means a contractor that has the capacity—

"(A) to sell, lease, license, or contract for service zero-emission vehicles, or charging or other equipment needed to charge, fuel, or maintain zero-emission vehicles, to individuals or entities that own, lease, license, or contract for service an eligible vehicle; or

"(B) to arrange financing for such a sale, lease, license, or contract for service.

"(2) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a State;

"(B) a municipality;

"(C) an Indian tribe; or

"(D) a nonprofit school transportation association.

"(3) ELIGIBLE VEHICLE.—The term 'eligible vehicle' means a Class 6 or Class 7 heavy-duty vehicle as defined in section 1037.801 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(4) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

"(5) ZERO-EMISSION VEHICLE.—The term 'zero-emission vehicle' means a vehicle that has a drivetrain that produces, under any possible operational mode or condition, zero exhaust emissions of—

"(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(B) any greenhouse gas.".

SEC. 60102. GRANTS TO REDUCE AIR POLLUTION AT PORTS.

The Clean Air Act is amended by inserting after section 132 of such Act, as added by section 60101 of this Act, the following:

42 USC 7433.

"SEC. 133. GRANTS TO REDUCE AIR POLLUTION AT PORTS.

"(a) APPROPRIATIONS.—

"(1) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,250,000,000, to remain available until September 30, 2027, to award rebates and grants to eligible recipients on a competitive basis—

"(A) to purchase or install zero-emission port equipment or technology for use at, or to directly serve, one or more ports;

"(B) to conduct any relevant planning or permitting in connection with the purchase or installation of such zero-emission port equipment or technology; and

"(C) to develop qualified climate action plans.

"(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $750,000,000, to remain available until September 30, 2027, to award rebates and grants to eligible recipients to carry out activities described in paragraph (1) with respect to ports located in air quality areas designated pursuant to section 107 as nonattainment for an air pollutant.

"(b) LIMITATION.—Funds awarded under this section shall not be used by any recipient or subrecipient to purchase or install zero-emission port equipment or technology that will not be located at, or directly serve, the one or more ports involved.

"(c) ADMINISTRATION OF FUNDS.—Of the funds made available by this section, the Administrator shall reserve 2 percent for administrative costs necessary to carry out this section.

"(d) DEFINITIONS.—In this section:

"(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a port authority;

"(B) a State, regional, local, or Tribal agency that has jurisdiction over a port authority or a port;

"(C) an air pollution control agency; or

"(D) a private entity that—

"(i) applies for a grant under this section in partnership with an entity described in any of subparagraphs (A) through (C); and

"(ii) owns, operates, or uses the facilities, cargo-handling equipment, transportation equipment, or related technology of a port.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

"(3) QUALIFIED CLIMATE ACTION PLAN.—The term 'qualified climate action plan' means a detailed and strategic plan that—

"(A) establishes goals, implementation strategies, and accounting and inventory practices to reduce emissions at one or more ports of—

"(i) greenhouse gases;

"(ii) an air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(iii) hazardous air pollutants;

"(B) includes a strategy to collaborate with, communicate with, and address potential effects on low-income and disadvantaged near-port communities and other stakeholders that may be affected by implementation of the plan; and

"(C) describes how an eligible recipient has implemented or will implement measures to increase the resilience of the one or more ports involved.

"(4) ZERO-EMISSION PORT EQUIPMENT OR TECHNOLOGY.—The term 'zero-emission port equipment or technology' means human-operated equipment or human-maintained technology that—

"(A) produces zero emissions of any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant) and any greenhouse gas other than water vapor; or

"(B) captures 100 percent of the emissions described in subparagraph (A) that are produced by an ocean-going vessel at berth.".

SEC. 60103. GREENHOUSE GAS REDUCTION FUND.

The Clean Air Act is amended by inserting after section 133 of such Act, as added by section 60102 of this Act, the following:

42 USC 7434.

"SEC. 134. GREENHOUSE GAS REDUCTION FUND.

Deadlines.

"(a) APPROPRIATIONS.—

"(1) ZERO-EMISSION TECHNOLOGIES.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $7,000,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to States, municipalities, Tribal governments, and eligible recipients for the purposes of providing grants, loans, or other forms of financial assistance, as well as technical assistance, to enable low-income and disadvantaged communities to deploy or benefit from zero-emission technologies, including distributed technologies on residential rooftops, and to carry out other greenhouse gas emission reduction activities, as determined appropriate by the Administrator in accordance with this section.

"(2) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $11,970,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to eligible recipients for the purposes of providing financial assistance and technical assistance in accordance with subsection (b).

"(3) LOW-INCOME AND DISADVANTAGED COMMUNITIES.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $8,000,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to eligible recipients for the purposes of providing financial assistance and technical assistance in low-income and disadvantaged communities in accordance with subsection (b).

"(4) ADMINISTRATIVE COSTS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $30,000,000, to remain available until September 30, 2031, for the administrative costs necessary to carry out activities under this section.

"(b) USE OF FUNDS.—An eligible recipient that receives a grant pursuant to subsection (a) shall use the grant in accordance with the following:

"(1) DIRECT INVESTMENT.—The eligible recipient shall—

"(A) provide financial assistance to qualified projects at the national, regional, State, and local levels;

"(B) prioritize investment in qualified projects that would otherwise lack access to financing; and

"(C) retain, manage, recycle, and monetize all repayments and other revenue received from fees, interest, repaid loans, and all other types of financial assistance provided using grant funds under this section to ensure continued operability.

"(2) INDIRECT INVESTMENT.—The eligible recipient shall provide funding and technical assistance to establish new or

support existing public, quasi-public, not-for-profit, or nonprofit entities that provide financial assistance to qualified projects at the State, local, territorial, or Tribal level or in the District of Columbia, including community- and low-income-focused lenders and capital providers.

"(c) DEFINITIONS.—In this section:

"(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means a nonprofit organization that—

"(A) is designed to provide capital, leverage private capital, and provide other forms of financial assistance for the rapid deployment of low- and zero-emission products, technologies, and services;

"(B) does not take deposits other than deposits from repayments and other revenue received from financial assistance provided using grant funds under this section;

"(C) is funded by public or charitable contributions; and

"(D) invests in or finances projects alone or in conjunction with other investors.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

"(3) QUALIFIED PROJECT.—The term 'qualified project' includes any project, activity, or technology that—

"(A) reduces or avoids greenhouse gas emissions and other forms of air pollution in partnership with, and by leveraging investment from, the private sector; or

"(B) assists communities in the efforts of those communities to reduce or avoid greenhouse gas emissions and other forms of air pollution.

"(4) ZERO-EMISSION TECHNOLOGY.—The term 'zero-emission technology' means any technology that produces zero emissions of—

"(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(B) any greenhouse gas.".

SEC. 60104. DIESEL EMISSIONS REDUCTIONS.

(a) GOODS MOVEMENT.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $60,000,000, to remain available until September 30, 2031, for grants, rebates, and loans under section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) to identify and reduce diesel emissions resulting from goods movement facilities, and vehicles servicing goods movement facilities, in low-income and disadvantaged communities to address the health impacts of such emissions on such communities.

(b) ADMINISTRATIVE COSTS.—The Administrator of the Environmental Protection Agency shall reserve 2 percent of the amounts made available under this section for the administrative costs necessary to carry out activities pursuant to this section.

SEC. 60105. FUNDING TO ADDRESS AIR POLLUTION.

(a) FENCELINE AIR MONITORING AND SCREENING AIR MONITORING.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury

not otherwise appropriated, $117,500,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, support, and maintain fenceline air monitoring, screening air monitoring, national air toxics trend stations, and other air toxics and community monitoring.

(b) MULTIPOLLUTANT MONITORING STATIONS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $50,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405)—

(1) to expand the national ambient air quality monitoring network with new multipollutant monitoring stations; and

(2) to replace, repair, operate, and maintain existing monitors.

(c) AIR QUALITY SENSORS IN LOW-INCOME AND DISADVANTAGED COMMUNITIES.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, and operate air quality sensors in low-income and disadvantaged communities.

(d) EMISSIONS FROM WOOD HEATERS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for testing and other agency activities to address emissions from wood heaters.

(e) METHANE MONITORING.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for monitoring emissions of methane.

(f) CLEAN AIR ACT GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $25,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405).

(g) GREENHOUSE GAS AND ZERO-EMISSION STANDARDS FOR MOBILE SOURCES.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the

Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, to provide grants to States to adopt and implement greenhouse gas and zero-emission standards for mobile sources pursuant to section 177 of the Clean Air Act (42 U.S.C. 7507).

(h) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60106. FUNDING TO ADDRESS AIR POLLUTION AT SCHOOLS.

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $37,500,000, to remain available until September 30, 2031, for grants and other activities to monitor and reduce greenhouse gas emissions and other air pollutants at schools in low-income and disadvantaged communities under subsections (a) through (c) of section 103 of the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105 of that Act (42 U.S.C. 7405).

(b) TECHNICAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $12,500,000, to remain available until September 30, 2031, for providing technical assistance to schools in low-income and disadvantaged communities under subsections (a) through (c) of section 103 of the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105 of that Act (42 U.S.C. 7405)—

(1) to address environmental issues;

(2) to develop school environmental quality plans that include standards for school building, design, construction, and renovation; and

(3) to identify and mitigate ongoing air pollution hazards.

(c) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60107. LOW EMISSIONS ELECTRICITY PROGRAM.

The Clean Air Act is amended by inserting after section 134 of such Act, as added by section 60103 of this Act, the following:

"SEC. 135. LOW EMISSIONS ELECTRICITY PROGRAM. 42 USC 7435.

"(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031—

"(1) $17,000,000 for consumer-related education and partnerships with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(2) $17,000,000 for education, technical assistance, and partnerships within low-income and disadvantaged communities with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(3) $17,000,000 for industry-related outreach, technical assistance, and partnerships with respect to reductions in

greenhouse gas emissions that result from domestic electricity generation and use;

"(4) $17,000,000 for outreach and technical assistance to, and partnerships with, State, Tribal, and local governments with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

Assessment. Deadline.

"(5) $1,000,000 to assess, not later than 1 year after the date of enactment of this section, the reductions in greenhouse gas emissions that result from changes in domestic electricity generation and use that are anticipated to occur on an annual basis through fiscal year 2031; and

"(6) $18,000,000 to ensure that reductions in greenhouse gas emissions are achieved through use of the existing authorities of this Act, incorporating the assessment under paragraph (5).

"(b) ADMINISTRATION OF FUNDS.—Of the amounts made available under subsection (a), the Administrator shall reserve 2 percent for the administrative costs necessary to carry out activities pursuant to that subsection.

"(c) DEFINITION OF GREENHOUSE GAS.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

SEC. 60108. FUNDING FOR SECTION 211(O) OF THE CLEAN AIR ACT.

(a) TEST AND PROTOCOL DEVELOPMENT.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, to carry out section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) with respect to—

(1) the development and establishment of tests and protocols regarding the environmental and public health effects of a fuel or fuel additive;

(2) internal and extramural data collection and analyses to regularly update applicable regulations, guidance, and procedures for determining lifecycle greenhouse gas emissions of a fuel; and

(3) the review, analysis, and evaluation of the impacts of all transportation fuels, including fuel lifecycle implications, on the general public and on low-income and disadvantaged communities.

(b) INVESTMENTS IN ADVANCED BIOFUELS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $10,000,000, to remain available until September 30, 2031, for new grants to industry and other related activities under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to support investments in advanced biofuels.

(c) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60109. FUNDING FOR IMPLEMENTATION OF THE AMERICAN INNOVATION AND MANUFACTURING ACT.

(a) APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2026, to carry out subsections (a) through (i) and subsection (k) of section 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

(2) IMPLEMENTATION AND COMPLIANCE TOOLS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,500,000, to remain available until September 30, 2026, to deploy new implementation and compliance tools to carry out subsections (a) through (i) and subsection (k) of section 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

(3) COMPETITIVE GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until September 30, 2026, for competitive grants for reclaim and innovative destruction technologies under subsections (a) through (i) and subsection (k) of section 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

(b) ADMINISTRATION OF FUNDS.—Of the funds made available pursuant to subsection (a)(3), the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out activities pursuant to such subsection.

SEC. 60110. FUNDING FOR ENFORCEMENT TECHNOLOGY AND PUBLIC INFORMATION.

(a) COMPLIANCE MONITORING.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $18,000,000, to remain available until September 30, 2031, to update the Integrated Compliance Information System of the Environmental Protection Agency and any associated systems, necessary information technology infrastructure, or public access software tools to ensure access to compliance data and related information.

(b) COMMUNICATIONS WITH ICIS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until September 30, 2031, for grants to States, Indian tribes, and air pollution control agencies (as such terms are defined in section 302 of the Clean Air Act (42 U.S.C. 7602)) to update their systems to ensure communication with the Integrated Compliance Information System of the Environmental Protection Agency and any associated systems.

(c) INSPECTION SOFTWARE.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money

in the Treasury not otherwise appropriated, $4,000,000, to remain available until September 30, 2031—

(1) to acquire or update inspection software for use by the Environmental Protection Agency, States, Indian tribes, and air pollution control agencies (as such terms are defined in section 302 of the Clean Air Act (42 U.S.C. 7602)); or

(2) to acquire necessary devices on which to run such inspection software.

SEC. 60111. GREENHOUSE GAS CORPORATE REPORTING.

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, for the Environmental Protection Agency to support—

(1) enhanced standardization and transparency of corporate climate action commitments and plans to reduce greenhouse gas emissions;

(2) enhanced transparency regarding progress toward meeting such commitments and implementing such plans; and

(3) progress toward meeting such commitments and implementing such plans.

(b) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

42 USC 4321 note.

SEC. 60112. ENVIRONMENTAL PRODUCT DECLARATION ASSISTANCE.

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to develop and carry out a program to support the development, enhanced standardization and transparency, and reporting criteria for environmental product declarations that include measurements of the embodied greenhouse gas emissions of the material or product associated with all relevant stages of production, use, and disposal, and conform with international standards, for construction materials and products by—

(1) providing grants to businesses that manufacture construction materials and products for developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses;

(2) providing technical assistance to businesses that manufacture construction materials and products in developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses; and

(3) carrying out other activities that assist in measuring, reporting, and steadily reducing the quantity of embodied carbon of construction materials and products.

(b) ADMINISTRATIVE COSTS.—Of the amounts made available under this section, the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out this section.

(c) DEFINITIONS.—In this section:

(1) GREENHOUSE GAS.—The term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

(2) STATE.—The term "State" has the meaning given to that term in section 302(d) of the Clean Air Act (42 U.S.C. 7602(d)).

SEC. 60113. METHANE EMISSIONS REDUCTION PROGRAM.

The Clean Air Act is amended by inserting after section 135 of such Act, as added by section 60107 of this Act, the following:

"SEC. 136. METHANE EMISSIONS AND WASTE REDUCTION INCENTIVE PROGRAM FOR PETROLEUM AND NATURAL GAS SYSTEMS. 42 USC 7436.

"(a) INCENTIVES FOR METHANE MITIGATION AND MONITORING.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $850,000,000, to remain available until September 30, 2028—

"(1) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency for the purposes of providing financial and technical assistance to owners and operators of applicable facilities to prepare and submit greenhouse gas reports under subpart W of part 98 of title 40, Code of Federal Regulations;

"(2) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency authorized under subsections (a) through (c) of section 103 for methane emissions monitoring;

"(3) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency for the purposes of providing financial and technical assistance to reduce methane and other greenhouse gas emissions from petroleum and natural gas systems, mitigate legacy air pollution from petroleum and natural gas systems, and provide funding for—

"(A) improving climate resiliency of communities and petroleum and natural gas systems;

"(B) improving and deploying industrial equipment and processes that reduce methane and other greenhouse gas emissions and waste;

"(C) supporting innovation in reducing methane and other greenhouse gas emissions and waste from petroleum and natural gas systems;

"(D) permanently shutting in and plugging wells on non-Federal land;

"(E) mitigating health effects of methane and other greenhouse gas emissions, and legacy air pollution from petroleum and natural gas systems in low-income and disadvantaged communities; and

"(F) supporting environmental restoration; and

"(4) to cover all direct and indirect costs required to administer this section, prepare inventories, gather empirical data, and track emissions.

"(b) INCENTIVES FOR METHANE MITIGATION FROM CONVENTIONAL WELLS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $700,000,000, to remain available until September 30, 2028, for

activities described in paragraphs (1) through (4) of subsection (a) at marginal conventional wells.

"(c) WASTE EMISSIONS CHARGE.—The Administrator shall impose and collect a charge on methane emissions that exceed an applicable waste emissions threshold under subsection (f) from an owner or operator of an applicable facility that reports more than 25,000 metric tons of carbon dioxide equivalent of greenhouse gases emitted per year pursuant to subpart W of part 98 of title 40, Code of Federal Regulations, regardless of the reporting threshold under that subpart.

Definition.

"(d) APPLICABLE FACILITY.—For purposes of this section, the term 'applicable facility' means a facility within the following industry segments, as defined in subpart W of part 98 of title 40, Code of Federal Regulations:

"(1) Offshore petroleum and natural gas production.
"(2) Onshore petroleum and natural gas production.
"(3) Onshore natural gas processing.
"(4) Onshore natural gas transmission compression.
"(5) Underground natural gas storage.
"(6) Liquefied natural gas storage.
"(7) Liquefied natural gas import and export equipment.
"(8) Onshore petroleum and natural gas gathering and boosting.
"(9) Onshore natural gas transmission pipeline.

Time periods.

"(e) CHARGE AMOUNT.—The amount of a charge under subsection (c) for an applicable facility shall be equal to the product obtained by multiplying—

"(1) the number of metric tons of methane emissions reported pursuant to subpart W of part 98 of title 40, Code of Federal Regulations, for the applicable facility that exceed the applicable annual waste emissions threshold listed in subsection (f) during the previous reporting period; and
"(2)(A) $900 for emissions reported for calendar year 2024;
"(B) $1,200 for emissions reported for calendar year 2025; or
"(C) $1,500 for emissions reported for calendar year 2026 and each year thereafter.

Fees.

"(f) WASTE EMISSIONS THRESHOLD.—

"(1) PETROLEUM AND NATURAL GAS PRODUCTION.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment listed in paragraph (1) or (2) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions from such facility that exceed—

"(A) 0.20 percent of the natural gas sent to sale from such facility; or
"(B) 10 metric tons of methane per million barrels of oil sent to sale from such facility, if such facility sent no natural gas to sale.

"(2) NONPRODUCTION PETROLEUM AND NATURAL GAS SYSTEMS.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment listed in paragraph (3), (6), (7), or (8) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions that exceed 0.05 percent of the natural gas sent to sale from or through such facility.

"(3) NATURAL GAS TRANSMISSION.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment listed in paragraph (4), (5), or (9) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions that exceed 0.11 percent of the natural gas sent to sale from or through such facility.

"(4) COMMON OWNERSHIP OR CONTROL.—In calculating the total emissions charge obligation for facilities under common ownership or control, the Administrator shall allow for the netting of emissions by reducing the total obligation to account for facility emissions levels that are below the applicable thresholds within and across all applicable segments identified in subsection (d).

"(5) EXEMPTION.—Charges shall not be imposed pursuant to paragraph (1) on emissions that exceed the waste emissions threshold specified in such paragraph if such emissions are caused by unreasonable delay, as determined by the Administrator, in environmental permitting of gathering or transmission infrastructure necessary for offtake of increased volume as a result of methane emissions mitigation implementation. Determination.

"(6) EXEMPTION FOR REGULATORY COMPLIANCE.— Determination.

"(A) IN GENERAL.—Charges shall not be imposed pursuant to subsection (c) on an applicable facility that is subject to and in compliance with methane emissions requirements pursuant to subsections (b) and (d) of section 111 upon a determination by the Administrator that—

"(i) methane emissions standards and plans pursuant to subsections (b) and (d) of section 111 have been approved and are in effect in all States with respect to the applicable facilities; and

"(ii) compliance with the requirements described in clause (i) will result in equivalent or greater emissions reductions as would be achieved by the proposed rule of the Administrator entitled 'Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review' (86 Fed. Reg. 63110 (November 15, 2021)), if such rule had been finalized and implemented.

"(B) RESUMPTION OF CHARGE.—If the conditions in clause (i) or (ii) of subparagraph (A) cease to apply after the Administrator has made the determination in that subparagraph, the applicable facility will again be subject to the charge under subsection (c) beginning in the first calendar year in which the conditions in either clause (i) or (ii) of that subparagraph are no longer met. Time period.

"(7) PLUGGED WELLS.—Charges shall not be imposed with respect to the emissions rate from any well that has been permanently shut-in and plugged in the previous year in accordance with all applicable closure requirements, as determined by the Administrator. Determination.

"(g) PERIOD.—The charge under subsection (c) shall be imposed and collected beginning with respect to emissions reported for calendar year 2024 and for each year thereafter.

"(h) REPORTING.—Not later than 2 years after the date of enactment of this section, the Administrator shall revise the requirements of subpart W of part 98 of title 40, Code of Federal Regulations, to ensure the reporting under such subpart, and calculation of charges under subsections (e) and (f) of this section, are based on empirical data, including data collected pursuant to subsection (a)(4), accurately reflect the total methane emissions and waste emissions from the applicable facilities, and allow owners and operators of applicable facilities to submit empirical emissions data, in a manner to be prescribed by the Administrator, to demonstrate the extent to which a charge under subsection (c) is owed.

"(i) DEFINITION OF GREENHOUSE GAS.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

SEC. 60114. CLIMATE POLLUTION REDUCTION GRANTS.

The Clean Air Act is amended by inserting after section 136 of such Act, as added by section 60113 of this Act, the following:

42 USC 7437.

"SEC. 137. GREENHOUSE GAS AIR POLLUTION PLANS AND IMPLEMENTATION GRANTS.

"(a) APPROPRIATIONS.—

"(1) GREENHOUSE GAS AIR POLLUTION PLANNING GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any amounts in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to carry out subsection (b).

"(2) GREENHOUSE GAS AIR POLLUTION IMPLEMENTATION GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any amounts in the Treasury not otherwise appropriated, $4,750,000,000, to remain available until September 30, 2026, to carry out subsection (c).

"(3) ADMINISTRATIVE COSTS.—Of the funds made available under paragraph (2), the Administrator shall reserve 3 percent for administrative costs necessary to carry out this section, to provide technical assistance to eligible entities, to develop a plan that could be used as a model by grantees in developing a plan under subsection (b), and to model the effects of plans described in this section.

"(b) GREENHOUSE GAS AIR POLLUTION PLANNING GRANTS.—The Administrator shall make a grant to at least one eligible entity in each State for the costs of developing a plan for the reduction of greenhouse gas air pollution to be submitted with an application for a grant under subsection (c). Each such plan shall include programs, policies, measures, and projects that will achieve or facilitate the reduction of greenhouse gas air pollution.

Deadline. Publication.

Not later than 270 days after the date of enactment of this section, the Administrator shall publish a funding opportunity announcement for grants under this subsection.

"(c) GREENHOUSE GAS AIR POLLUTION REDUCTION IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Administrator shall competitively award grants to eligible entities to implement plans developed under subsection (b).

"(2) APPLICATION.—To apply for a grant under this subsection, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator shall require, which such application shall include information regarding the degree to which greenhouse gas air pollution is projected to be reduced in total and with respect to low-income and disadvantaged communities.

"(3) TERMS AND CONDITIONS.—The Administrator shall make funds available to a grantee under this subsection in such amounts, upon such a schedule, and subject to such conditions based on its performance in implementing its plan submitted under this section and in achieving projected greenhouse gas air pollution reduction, as determined by the Administrator. Determination.

"(d) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) an air pollution control agency;

"(C) a municipality;

"(D) an Indian tribe; and

"(E) a group of one or more entities listed in subparagraphs (A) through (D).

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

SEC. 60115. ENVIRONMENTAL PROTECTION AGENCY EFFICIENT, ACCURATE, AND TIMELY REVIEWS.

In addition to amounts otherwise available, there is appropriated to the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $40,000,000, to remain available until September 30, 2026, to provide for the development of efficient, accurate, and timely reviews for permitting and approval processes through the hiring and training of personnel, the development of programmatic documents, the procurement of technical or scientific services for reviews, the development of environmental data or information systems, stakeholder and community engagement, the purchase of new equipment for environmental analysis, and the development of geographic information systems and other analysis tools, techniques, and guidance to improve agency transparency, accountability, and public engagement.

SEC. 60116. LOW-EMBODIED CARBON LABELING FOR CONSTRUCTION MATERIALS. 42 USC 4321 note.

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for necessary administrative costs of the Administrator of the Environmental Protection Agency to carry out this section and to develop and carry out a program, in consultation with the Administrator of the Federal Highway Administration for construction materials used in transportation projects and the Administrator of General Services for construction materials used for Federal buildings, to identify and label construction materials and products that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant Consultation.

stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency, based on—

(1) environmental product declarations; or

Determinations.

(2) determinations by State agencies, as verified by the Administrator of the Environmental Protection Agency.

(b) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

Subtitle B—Hazardous Materials

SEC. 60201. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS.

The Clean Air Act is amended by inserting after section 137, as added by subtitle A of this title, the following:

42 USC 7438.

"SEC. 138. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS.

"(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

"(1) $2,800,000,000 to remain available until September 30, 2026, to award grants for the activities described in subsection (b); and

"(2) $200,000,000 to remain available until September 30, 2026, to provide technical assistance to eligible entities related to grants awarded under this section.

"(b) GRANTS.—

"(1) IN GENERAL.—The Administrator shall use amounts made available under subsection (a)(1) to award grants for periods of up to 3 years to eligible entities to carry out activities described in paragraph (2) that benefit disadvantaged communities, as defined by the Administrator.

"(2) ELIGIBLE ACTIVITIES.—An eligible entity may use a grant awarded under this subsection for—

"(A) community-led air and other pollution monitoring, prevention, and remediation, and investments in low- and zero-emission and resilient technologies and related infrastructure and workforce development that help reduce greenhouse gas emissions and other air pollutants;

"(B) mitigating climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfire events;

"(C) climate resiliency and adaptation;

"(D) reducing indoor toxics and indoor air pollution; or

"(E) facilitating engagement of disadvantaged communities in State and Federal advisory groups, workshops, rulemakings, and other public processes.

Definition.

"(3) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

"(A) a partnership between—

"(i) an Indian tribe, a local government, or an institution of higher education; and

"(ii) a community-based nonprofit organization;

"(B) a community-based nonprofit organization; or

"(C) a partnership of community-based nonprofit organizations.

"(c) ADMINISTRATIVE COSTS.—The Administrator shall reserve 7 percent of the amounts made available under subsection (a) for administrative costs to carry out this section.

"(d) DEFINITION OF GREENHOUSE GAS.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

Subtitle C—United States Fish and Wildlife Service

SEC. 60301. ENDANGERED SPECIES ACT RECOVERY PLANS.

In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $125,000,000, to remain available until expended, for the purposes of developing and implementing recovery plans under paragraphs (1), (3), and (4) of subsection (f) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

SEC. 60302. FUNDING FOR THE UNITED STATES FISH AND WILDLIFE SERVICE TO ADDRESS WEATHER EVENTS.

(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $121,250,000, to remain available until September 30, 2026, to make direct expenditures, award grants, and enter into contracts and cooperative agreements for the purposes of rebuilding and restoring units of the National Wildlife Refuge System and State wildlife management areas by—

(1) addressing the threat of invasive species;

(2) increasing the resiliency and capacity of habitats and infrastructure to withstand weather events; and

(3) reducing the amount of damage caused by weather events.

(b) ADMINISTRATIVE COSTS.—In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,750,000, to remain available until September 30, 2026, for necessary administrative expenses associated with carrying out this section.

Subtitle D—Council on Environmental Quality

SEC. 60401. ENVIRONMENTAL AND CLIMATE DATA COLLECTION.

In addition to amounts otherwise available, there is appropriated to the Chair of the Council on Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise

appropriated, $32,500,000, to remain available until September 30, 2026—

(1) to support data collection efforts relating to—

(A) disproportionate negative environmental harms and climate impacts; and

(B) cumulative impacts of pollution and temperature rise;

(2) to establish, expand, and maintain efforts to track disproportionate burdens and cumulative impacts and provide academic and workforce support for analytics and informatics infrastructure and data collection systems; and

(3) to support efforts to ensure that any mapping or screening tool is accessible to community-based organizations and community members.

SEC. 60402. COUNCIL ON ENVIRONMENTAL QUALITY EFFICIENT AND EFFECTIVE ENVIRONMENTAL REVIEWS.

In addition to amounts otherwise available, there is appropriated to the Chair of the Council on Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $30,000,000, to remain available until September 30, 2026, to carry out the Council on Environmental Quality's functions and for the purposes of training personnel, developing programmatic environmental documents, and developing tools, guidance, and techniques to improve stakeholder and community engagement.

Subtitle E—Transportation and Infrastructure

SEC. 60501. NEIGHBORHOOD ACCESS AND EQUITY GRANT PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

23 USC 177.

"§ 177. Neighborhood access and equity grant program

"(a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,893,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for competitive grants to eligible entities described in subsection (b)—

"(1) to improve walkability, safety, and affordable transportation access through projects that are context-sensitive—

"(A) to remove, remediate, or reuse a facility described in subsection (c)(1);

"(B) to replace a facility described in subsection (c)(1) with a facility that is at-grade or lower speed;

"(C) to retrofit or cap a facility described in subsection (c)(1);

"(D) to build or improve complete streets, multiuse trails, regional greenways, or active transportation networks and spines; or

"(E) to provide affordable access to essential destinations, public spaces, or transportation links and hubs;

"(2) to mitigate or remediate negative impacts on the human or natural environment resulting from a facility

described in subsection (c)(2) in a disadvantaged or underserved community through—

"(A) noise barriers to reduce impacts resulting from a facility described in subsection (c)(2);

"(B) technologies, infrastructure, and activities to reduce surface transportation-related greenhouse gas emissions and other air pollution;

"(C) natural infrastructure, pervious, permeable, or porous pavement, or protective features to reduce or manage stormwater run-off resulting from a facility described in subsection (c)(2);

"(D) infrastructure and natural features to reduce or mitigate urban heat island hot spots in the transportation right-of-way or on surface transportation facilities; or

"(E) safety improvements for vulnerable road users; and

"(3) for planning and capacity building activities in disadvantaged or underserved communities to—

"(A) identify, monitor, or assess local and ambient air quality, emissions of transportation greenhouse gases, hot spot areas of extreme heat or elevated air pollution, gaps in tree canopy coverage, or flood prone transportation infrastructure; Assessment.

"(B) assess transportation equity or pollution impacts and develop local anti-displacement policies and community benefit agreements; Assessment.

"(C) conduct predevelopment activities for projects eligible under this subsection;

"(D) expand public participation in transportation planning by individuals and organizations in disadvantaged or underserved communities; or

"(E) administer or obtain technical assistance related to activities described in this subsection.

"(b) ELIGIBLE ENTITIES DESCRIBED.—An eligible entity referred to in subsection (a) is—

"(1) a State;

"(2) a unit of local government;

"(3) a political subdivision of a State;

"(4) an entity described in section 207(m)(1)(E);

"(5) a territory of the United States;

"(6) a special purpose district or public authority with a transportation function;

"(7) a metropolitan planning organization (as defined in section 134(b)(2)); or

"(8) with respect to a grant described in subsection (a)(3), in addition to an eligible entity described in paragraphs (1) through (7), a nonprofit organization or institution of higher education that has entered into a partnership with an eligible entity described in paragraphs (1) through (7).

"(c) FACILITY DESCRIBED.—A facility referred to in subsection (a) is—

"(1) a surface transportation facility for which high speeds, grade separation, or other design factors create an obstacle to connectivity within a community; or

"(2) a surface transportation facility which is a source of air pollution, noise, stormwater, or other burden to a disadvantaged or underserved community.

"(d) INVESTMENT IN ECONOMICALLY DISADVANTAGED COMMUNITIES.—

"(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,262,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration to provide grants for projects in communities described in paragraph (2) for the same purposes and administered in the same manner as described in subsection (a).

"(2) COMMUNITIES DESCRIBED.—A community referred to in paragraph (1) is a community that—

"(A) is economically disadvantaged, underserved, or located in an area of persistent poverty;

"(B) has entered or will enter into a community benefits agreement with representatives of the community;

"(C) has an anti-displacement policy, a community land trust, or a community advisory board in effect; or

"(D) has demonstrated a plan for employing local residents in the area impacted by the activity or project proposed under this section.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—A project carried out under subsection (a) or (d) shall be treated as a project on a Federal-aid highway.

"(2) COMPLIANCE WITH EXISTING REQUIREMENTS.—Funds made available for a grant under this section and administered by or through a State department of transportation shall be expended in compliance with the U.S. Department of Transportation's Disadvantaged Business Enterprise Program.

"(f) COST SHARE.—The Federal share of the cost of an activity carried out using a grant awarded under this section shall be not more than 80 percent, except that the Federal share of the cost of a project in a disadvantaged or underserved community may be up to 100 percent.

"(g) TECHNICAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $50,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for—

"(1) guidance, technical assistance, templates, training, or tools to facilitate efficient and effective contracting, design, and project delivery by units of local government;

"(2) subgrants to units of local government to build capacity of such units of local government to assume responsibilities to deliver surface transportation projects; and

"(3) operations and administration of the Federal Highway Administration.

"(h) LIMITATIONS.—Amounts made available under this section shall not—

"(1) be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways; and

"(2) be used for a project for additional through travel lanes for single-occupant passenger vehicles.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following: 23 USC 101 prec.

"177. Neighborhood access and equity grant program.".

SEC. 60502. ASSISTANCE FOR FEDERAL BUILDINGS.

In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, for measures necessary to convert facilities of the Administrator of General Services to high-performance green buildings (as defined in section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

SEC. 60503. USE OF LOW-CARBON MATERIALS.

(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,150,000,000, to remain available until September 30, 2026, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, to acquire and install materials and products for use in the construction or alteration of buildings under the jurisdiction, custody, and control of the General Services Administration that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency. Determination.

(b) DEFINITION OF GREENHOUSE GAS.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60504. GENERAL SERVICES ADMINISTRATION EMERGING TECHNOLOGIES.

In addition to amounts otherwise available, there is appropriated to the Administrator of General Services for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $975,000,000, to remain available until September 30, 2026, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, for emerging and sustainable technologies, and related sustainability and environmental programs.

SEC. 60505. ENVIRONMENTAL REVIEW IMPLEMENTATION FUNDS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

"§ 178. Environmental review implementation funds 23 USC 178.

"(a) ESTABLISHMENT.—In addition to amounts otherwise available, for fiscal year 2022, there is appropriated to the Administrator, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for the purpose of facilitating the development and review of documents for the environmental review process for proposed projects through—

"(1) the provision of guidance, technical assistance, templates, training, or tools to facilitate an efficient and effective environmental review process for surface transportation projects and any administrative expenses of the Federal Highway Administration to conduct activities described in this section; and

"(2) providing funds made available under this subsection to eligible entities—

"(A) to build capacity of such eligible entities to conduct environmental review processes;

"(B) to facilitate the environmental review process for proposed projects by—

"(i) defining the scope or study areas;

"(ii) identifying impacts, mitigation measures, and reasonable alternatives;

"(iii) preparing planning and environmental studies and other documents prior to and during the environmental review process, for potential use in the environmental review process in accordance with applicable statutes and regulations;

"(iv) conducting public engagement activities; and

"(v) carrying out permitting or other activities, as the Administrator determines to be appropriate, to support the timely completion of an environmental review process required for a proposed project; and

"(C) for administrative expenses of the eligible entity to conduct any of the activities described in subparagraphs (A) and (B).

"(b) COST SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section by an eligible entity shall be not more than 80 percent.

"(2) SOURCE OF FUNDS.—The non-Federal share of the cost of an activity carried out under this section by an eligible entity may be satisfied using funds made available to the eligible entity under any other Federal, State, or local grant program.

"(c) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) a unit of local government;

"(C) a political subdivision of a State;

"(D) a territory of the United States;

"(E) an entity described in section 207(m)(1)(E);

"(F) a recipient of funds under section 203; or

"(G) a metropolitan planning organization (as defined in section 134(b)(2)).

"(3) ENVIRONMENTAL REVIEW PROCESS.—The term 'environmental review process' has the meaning given the term in section 139(a)(5).

"(4) PROPOSED PROJECT.—The term 'proposed project' means a surface transportation project for which an environmental review process is required.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is further amended by adding at the end the following: 23 USC 101 prec.

"178. Environmental review implementation funds.".

SEC. 60506. LOW-CARBON TRANSPORTATION MATERIALS GRANTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

"§ 179. Low-carbon transportation materials grants 23 USC 179.

"(a) FEDERAL HIGHWAY ADMINISTRATION APPROPRIATION.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available until September 30, 2026, to the Administrator to reimburse or provide incentives to eligible recipients for the use, in projects, of construction materials and products that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency, and for the operations and administration of the Federal Highway Administration to carry out this section.

"(b) REIMBURSEMENT OF INCREMENTAL COSTS; INCENTIVES.—

"(1) IN GENERAL.—The Administrator shall, subject to the availability of funds, either reimburse or provide incentives to eligible recipients that use low-embodied carbon construction materials and products on a project funded under this title.

"(2) REIMBURSEMENT AND INCENTIVE AMOUNTS.—

"(A) INCREMENTAL AMOUNT.—The amount of reimbursement under paragraph (1) shall be equal to the incrementally higher cost of using such materials relative to the cost of using traditional materials, as determined by the eligible recipient and verified by the Administrator. Determination. Verification.

"(B) INCENTIVE AMOUNT.—The amount of an incentive under paragraph (1) shall be equal to 2 percent of the cost of using low-embodied carbon construction materials and products on a project funded under this title.

"(3) FEDERAL SHARE.—If a reimbursement or incentive is provided under paragraph (1), the total Federal share payable for the project for which the reimbursement or incentive is provided shall be up to 100 percent.

"(4) LIMITATIONS.—

"(A) IN GENERAL.—The Administrator shall only provide a reimbursement or incentive under paragraph (1) for a project on a—

"(i) Federal-aid highway;

"(ii) tribal transportation facility;

"(iii) Federal lands transportation facility; or

"(iv) Federal lands access transportation facility.

"(B) OTHER RESTRICTIONS.—Amounts made available under this section shall not be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways.

"(C) SINGLE OCCUPANT PASSENGER VEHICLES.—Funds made available under this section shall not be used for

projects that result in additional through travel lanes for single occupant passenger vehicles.

Review. "(5) MATERIALS IDENTIFICATION.—The Administrator shall review the low-embodied carbon construction materials and products identified by the Administrator of the Environmental Protection Agency and shall identify low-embodied carbon construction materials and products—

"(A) appropriate for use in projects eligible under this title; and

"(B) eligible for reimbursement or incentives under this section.

"(c) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a State;

"(B) a unit of local government;

"(C) a political subdivision of a State;

"(D) a territory of the United States;

"(E) an entity described in section 207(m)(1)(E);

"(F) a recipient of funds under section 203;

"(G) a metropolitan planning organization (as defined in section 134(b)(2)); or

"(H) a special purpose district or public authority with a transportation function.

"(3) GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

23 USC 101 prec.

"179. Low-carbon transportation materials grants.".

TITLE VII—COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SEC. 70001. DHS OFFICE OF CHIEF READINESS SUPPORT OFFICER.

In addition to the amounts otherwise available, there is appropriated to the Secretary of Homeland Security for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, to remain available until September 30, 2028, for the Office of the Chief Readiness Support Officer to carry out sustainability and environmental programs.

SEC. 70002. UNITED STATES POSTAL SERVICE CLEAN FLEETS.

In addition to amounts otherwise available, there is appropriated to the United States Postal Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, the following amounts, to be deposited into the Postal Service Fund established under section 2003 of title 39, United States Code:

(1) $1,290,000,000, to remain available through September 30, 2031, for the purchase of zero-emission delivery vehicles.