November 5, 2021

Via the Regulations.gov eFiling Portal
Docket CEQ-2021-0003

Re: Federal Agency Climate Adaptation and Resilience Plans

To Whom It May Concern:

Environmental Defense Fund ("EDF"), the Institute for Policy Integrity at NYU School of Law ("Policy Integrity"), Columbia Law School's Sabin Center for Climate Change Law ("Sabin Center"), and the Initiative on Climate Risk and Resilience Law ("ICRRL") respectfully submit the following materials to the Council on Environmental Quality ("CEQ") and Office of Management and Budget ("OMB") in response to their request for public input on the Federal Agency Climate Adaptation and Resilience Plans released on October 7, 2021 (the "Plans").[1] EDF is a non-partisan, non-governmental environmental organization representing over two million members and supporters nationwide. Since 1967, EDF has linked law, policy, science, and economics to create innovative and cost-effective solutions to today's most pressing environmental problems. Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy.[2] The Sabin Center develops and promulgates legal techniques to address climate change and trains law students and lawyers in their use. ICRRL is a joint initiative of EDF, the Sabin Center, Policy Integrity, and Vanderbilt Law School, focused on legal efforts on climate risk and resilience, particularly at the intersection of practice and scholarship.[3]

EDF, Policy Integrity, the Sabin Center, and ICRRL support the development of the Plans, which establish a foundation for actions to protect government operations and facilities, and all who rely upon them. We recommend that agencies consider the following steps as they build on that foundation:

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[1] Federal Agency Climate Adaptation and Resilience Plans, https://www.regulations.gov/document/CEQ-2021-0003-0001.
[2] This document does not purport to represent the views, if any, of New York University School of Law.
[3] This document does not necessarily represent the views of each ICRRL partner organization. For more information about ICRRL, see https://icrrl.org.

- Agencies should conduct climate vulnerability studies that are consistent, rigorous, and organization-wide, evaluating agency infrastructure, finances, and services provided;
- Agencies should examine the greenhouse gas emissions implications of adaptation measures, and avoid maladaptive measures that would address a symptom of climate change while contributing to its root cause;
- Agencies should publicly disclose the climate risks they face; and
- Agencies should draw on panels of technical experts and interagency working groups to identify, develop, and disseminate information about best practices for adaptation measures.

I. Agencies Should Conduct Vulnerability Studies That Are Consistent, Rigorous, and Organization-Wide.

Agency adaptation planning should begin with a rigorous examination of vulnerabilities to climate change impacts, using the best available forward-looking climate data and modeling. Thorough vulnerability studies can provide valuable, concrete information to facilitate effective action on adaptation and resilience.

Vulnerability studies should consider the full range of climate impacts expected to occur within the relevant local area, including anticipated changes in temperature, precipitation, and the frequency and severity of extreme events. The studies should use comprehensive, downscaled climate projections that yield a range of expected outcomes for each climate variable, including a "worst" case outcome consistent with RCP8.5.[4]

In their Plans, some agencies have indicated that they will conduct site-, office-, or program-specific vulnerability analyses.[5] These analyses should use consistent methodologies. Agencies should further consider supplementing their focused analyses with a more comprehensive examination of risks that could affect their operations, facilities, and ability to provide services to the public. This includes assessing climate risk and resilience factors in the agency's financial activities, such as procurement, investment, and grant programs.

In conducting vulnerability studies, agencies may find it useful to draw on a recent joint report of EDF and the Sabin Center, *Climate Risk in the Electricity Sector* (see Attachment 1).[6] While that report focuses on best practices for the electricity sector, the principles it describes are broadly applicable to organizations engaged in climate resilience planning, including federal agencies.

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[4] Representative Concentration Pathways (RCPs) describe different possible trajectories for atmospheric greenhouse gas levels. RCP8.5 is the high greenhouse gas emissions scenario. See Intergovernmental Panel on Climate Change, Climate Change 2014 Synthesis Report 8 (2014), https://perma.cc/5KSD-E44J.
[5] *See, e.g.*, U.S. DEP'T OF TREASURY, CLIMATE ACTION PLAN 7 (2021).
[6] Romany M. Webb et al., *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Electric Utilities*, 51 ENVTL. L. REV. 577 (2021), https://perma.cc/WV5Y-U2HL.

II. Agencies Should Avoid Maladaptation in Their Resilience Planning.

In its Plan, the Department of Energy ("DOE") recognizes that "implementation of effective climate strategies must not only increase the resilience of DOE sites to climate impacts but also reduce the Department's GHG emissions."[7] All agencies should consider adopting this principle in order to avoid maladaptive measures that respond to acute symptoms of climate change but exacerbate its underlying cause. Maladaptive measures contribute to the source of the very costs that adaptation seeks to minimize.

III. Agencies Should Disclose Their Climate Risk Information to the Public.

As detailed in EDF and Policy Integrity's report, *Mandating Disclosure of Climate-Related Financial Risk* (see Attachment 2),[8] publicly disclosing information on climate risk can benefit stakeholders in government and the private sector, as well as the general public. Disclosure can facilitate public engagement with agencies' adaptation planning, increasing accountability and informing action. It can also inform a range of parties—such as state and local government entities, businesses, and environmental justice communities—about climate risks that may be relevant to their own planning efforts and increase the capacity for action at all levels of decisionmaking. As shown by a recent State of California advisory group report, government agencies can make good use of climate risk disclosure practices that were initially developed in the financial sector.[9]

IV. Agencies Should Draw on Panels of Technical Experts and Interagency Working Groups to Identify, Develop, and Disseminate Best Practices.

The Plans rightly recognize the need to coordinate with other agencies, including through groups like the National Climate Taskforce, Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization, Interagency Working Group on Extreme Heat, Interagency Working Group on Flood Resilience, and the White House Environmental Justice Interagency Council.[10] If employed effectively, this coordination should result in rigorous and consistent adaptation and resilience measures government-wide. For example, climate literacy tools in all agencies should contain the same, up-to-date climate data. Likewise, agencies should look to the same models for their downscaled data outputs. To support interagency coordination, the government should develop central hubs for gathering and sharing information, and should

[7] U.S. DEP'T OF ENERGY, 2021 CLIMATE ADAPTATION AND RESILIENCE PLAN 11 (2021); *see also* U.S. DEP'T OF HOUS. AND URBAN DEV., CLIMATE ADAPTATION PLAN 4 (2021) ("It is the policy of the Department to organize and deploy the full capacity of its offices to combat the climate crisis and implement a department-wide approach that reduces climate pollution; increases resilience to the impacts of climate change; protects public health; delivers environmental justice; and spurs well-paying union jobs and economic growth.").
[8] Madison Condon et al., *Mandating Disclosure of Climate-Related Financial Risk*, 23 N.Y.U. J. LEGIS. & PUB. POL'Y (forthcoming 2021), https://perma.cc/7GSF-VXFD.
[9] *See* CALIFORNIA CLIMATE-RELATED RISK DISCLOSURE ADVISORY GROUP, DEVELOPING CLIMATE RISK DISCLOSURE PRACTICES FOR THE STATE OF CALIFORNIA (2021), https://perma.cc/SK37-G3GW (analyzing climate-related risks to the State of California, and making recommendations on disclosure and consideration of such risks in government purchasing and investing).
[10] *See, e.g.*, U.S. DEP'T OF LABOR, CLIMATE ACTION PLAN 4 (2021).

convene panels of technical experts on climate science, the energy system, and other relevant topics to ensure that models and inputs are up to date and being used appropriately. In addition to drawing on the groups listed above, the government should consider establishing a new interagency working group and affiliated expert panel specifically focused on identifying and coordinating best practices for vulnerability studies and resilience planning.

In sum, the release of the Plans is an important step, which agencies should urgently and continually build upon to advance their adaptation and resilience to climate impacts.

Respectfully Submitted,

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Attachments (2):

1) Romany M. Webb, Michael Panfil, and Sarah Ladin, *Climate Risk in the Electricity Sector: Legal Obligations to Advance Climate Resilience Planning by Electric Utilities*, 51 ENVTL. L. REV. 577 (2021)

2) Madison Condon, Sarah Ladin, Jack Lienke, Michael Panfil, and Alexander Song, *Mandating Disclosure of Climate-Related Financial Risk*, 23 N.Y.U. J. LEGIS. & PUB. POL'Y (forthcoming 2021)

[11] Environmental Defense Fund thanks Joohwan Kim, legal intern, for assisting with the drafting of this letter.