

114TH CONGRESS
1ST SESSION

H. R. 4035

To protect consumers by prohibiting the Administrator of the Environmental Protection Agency from promulgating as final certain energy-related rules that are estimated to cost more than \$100,000,000 and will cause significant adverse effects to the economy.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2015

Mr. FLEMING introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To protect consumers by prohibiting the Administrator of the Environmental Protection Agency from promulgating as final certain energy-related rules that are estimated to cost more than \$100,000,000 and will cause significant adverse effects to the economy.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Consumers Re-
5 lief Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (2) DIRECT COSTS.—The term “direct costs”
5 has the meaning given the term in chapter 8 of the
6 report of the Environmental Protection Agency enti-
7 tled “Guidelines for Preparing Economic Analyses”
8 and dated December 17, 2010.

9 (3) ENERGY-RELATED RULE THAT IS ESTI-
10 MATED TO COST MORE THAN \$100,000,000.—The
11 term “energy-related rule that is estimated to cost
12 more than \$100,000,000” means a rule of the Envi-
13 ronmental Protection Agency that—

14 (A) regulates any aspect of the production,
15 supply, distribution, or use of energy or pro-
16 vides for such regulation by States or other gov-
17 ernmental entities; and

18 (B) is estimated by the Administrator or
19 the Director of the Office of Management and
20 Budget to impose direct costs and indirect
21 costs, in the aggregate, of more than
22 \$100,000,000.

23 (4) INDIRECT COSTS.—The term “indirect
24 costs” has the meaning given the term in chapter 8
25 of the report of the Environmental Protection Agen-

1 cy entitled “Guidelines for Preparing Economic
2 Analyses” and dated December 17, 2010.

3 (5) RULE.—The term “rule” has the meaning
4 given to the term in section 551 of title 5, United
5 States Code.

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

8 **SEC. 3. PROHIBITION AGAINST FINALIZING CERTAIN EN-**
9 **ERGY-RELATED RULES THAT WILL CAUSE**
10 **SIGNIFICANT ADVERSE EFFECTS TO THE**
11 **ECONOMY.**

12 Notwithstanding any other provision of law, the Ad-
13 ministrator may not promulgate as final an energy-related
14 rule that is estimated to cost more than \$100,000,000 if
15 the Secretary determines under section 4(b)(3) that the
16 rule will cause significant adverse effects to the economy.

17 **SEC. 4. REPORTS AND DETERMINATIONS PRIOR TO PRO-**
18 **MULGATING AS FINAL CERTAIN ENERGY-RE-**
19 **LATED RULES.**

20 (a) IN GENERAL.—Before promulgating as final any
21 energy-related rule that is estimated to cost more than
22 \$100,000,000, the Administrator shall carry out the re-
23 quirements of subsection (b).

24 (b) REQUIREMENTS.—

1 (1) REPORT TO CONGRESS.—The Administrator
2 shall submit to Congress and the Secretary a report
3 containing—

4 (A) a copy of the rule;

5 (B) a concise general statement relating to
6 the rule;

7 (C) an estimate of the total costs of the
8 rule, including the direct costs and indirect
9 costs of the rule;

10 (D)(i) an estimate of the total benefits of
11 the rule and when such benefits are expected to
12 be realized;

13 (ii) a description of the modeling, the cal-
14 culations, the assumptions, and the limitations
15 due to uncertainty, speculation, or lack of infor-
16 mation associated with the estimates under this
17 subparagraph; and

18 (iii) a certification that all data and docu-
19 ments relied upon by the Environmental Protec-
20 tion Agency in developing the estimates—

21 (I) have been preserved; and

22 (II) are available for review by the
23 public on the Web site of the Environ-
24 mental Protection Agency, except to the
25 extent to which publication of the data and

documents would constitute disclosure of confidential information in violation of applicable Federal law;

(E) an estimate of the increases in energy prices, including potential increases in gasoline or electricity prices for consumers, that may result from implementation or enforcement of the rule; and

(F) a detailed description of the employment effects, including potential job losses and shifts in employment, that may result from implementation or enforcement of the rule.

(2) INITIAL DETERMINATION ON INCREASES AND IMPACTS.—The Secretary, in consultation with the Federal Energy Regulatory Commission and the Administrator of the Energy Information Administration, shall prepare an independent analysis to determine whether the rule will cause any—

(A) increase in energy prices for consumers, including low-income households, small businesses, and manufacturers;

(B) impact on fuel diversity of the electricity generation portfolio of the United States or on national, regional, or local electric reliability;

1 (C) adverse effect on energy supply, dis-
2 tribution, or use due to the economic or tech-
3 nical infeasibility of implementing the rule; or

4 (D) other adverse effect on energy supply,
5 distribution, or use, including a shortfall in sup-
6 ply and increased use of foreign supplies.

7 (3) SUBSEQUENT DETERMINATION ON ADVERSE
8 EFFECTS TO THE ECONOMY.—If the Secretary deter-
9 mines under paragraph (2) that the rule will cause
10 an increase, impact, or effect described in that para-
11 graph, the Secretary, in consultation with the Ad-
12 ministrator, the Secretary of Commerce, the Sec-
13 retary of Labor, and the Administrator of the Small
14 Business Administration, shall—

15 (A) determine whether the rule will cause
16 significant adverse effects to the economy, tak-
17 ing into consideration—

18 (i) the costs and benefits of the rule
19 and limitations in calculating the costs and
20 benefits due to uncertainty, speculation, or
21 lack of information; and

22 (ii) the positive and negative impacts
23 of the rule on economic indicators, includ-
24 ing those related to gross domestic prod-
25 uct, unemployment, wages, consumer

prices, and business and manufacturing activity; and

(B) publish the results of the determination made under subparagraph (A) in the Federal Register.

**SEC. 5. PROHIBITION ON USE OF SOCIAL COST OF CARBON
IN ANALYSIS.**

(a) DEFINITION OF SOCIAL COST OF CARBON.—In this section, the term “social cost of carbon” means—

(1) the social cost of carbon as described in the technical support document entitled “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866”, published by the Interagency Working Group on Social Cost of Carbon, United States Government, in May 2013 (or any successor or substantially related document); or

(2) any other estimate of the monetized damages associated with an incremental increase in carbon dioxide emissions in a given year.

(b) PROHIBITION ON USE OF SOCIAL COST OF CARBON IN ANALYSIS.—Notwithstanding any other provision of law or any Executive order, the Administrator may not use the social cost of carbon to incorporate social benefits of reducing carbon dioxide emissions, or for any other rea-

1 son, in any cost-benefit analysis relating to an energy-re-
2 lated rule that is estimated to cost more than
3 \$100,000,000 unless a Federal law is enacted authorizing
4 the use.

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