

115TH CONGRESS
1ST SESSION

H. R. 3117

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Chair of the Council on Environmental Quality from considering the social cost of carbon, the social cost of methane, or the social cost of nitrous oxide, in taking any action, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2017

Mr. JENKINS of West Virginia (for himself, Mr. CULBERSON, Mr. MCKINLEY, Mr. MULLIN, Mr. WOMACK, Mr. LAHOOD, Mr. FLORES, Mr. GRIFFITH, Mr. BISHOP of Utah, Mr. COLE, Mr. GOSAR, Mr. OLSON, and Mr. MOONEY of West Virginia) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Chair of the Council on Environmental Quality from considering the social cost of carbon, the social cost of methane, or the social cost of nitrous oxide, in taking any action, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Transparency and
3 Honesty in Energy Regulations Act of 2017”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) as a tool to justify Federal actions by the
7 Secretary of Energy, the Administrator of the Envi-
8 ronmental Protection Agency, the Secretary of the
9 Interior, and the Chair of the Council on Environ-
10 mental Quality to address greenhouse gas emissions,
11 including the regulation or prohibition of the explo-
12 ration, mining, production, and use of coal and other
13 fossil fuels as energy sources, the social cost of car-
14 bon, the social cost of methane, and the social cost
15 of nitrous oxide represent the hypothetical cost of 1
16 incremental ton of carbon dioxide, methane, or ni-
17 trous oxide emissions in a given year;

18 (2) the document of the Office of Management
19 and Budget entitled “Circular A–4” and dated Sep-
20 tember 17, 2003—

21 (A) guides Federal agencies on the devel-
22 opment of regulatory impact analysis required
23 under Executive Order 12866 (5 U.S.C. 601
24 note; relating to regulatory planning and re-
25 view) and other authorities; and

1 (B) instructs Federal agencies to include
2 discount rates of 3 and 7 percent and evaluate
3 the costs and benefits of the regulatory action
4 that accrue to citizens and residents of the
5 United States;

6 (3) first developed in 2009 by an interagency
7 working group that included the Department of En-
8 ergy, the Environmental Protection Agency, and the
9 Council on Environmental Quality, the estimates for
10 the social cost of carbon, as well as the subsequently
11 developed estimates of the social cost of methane,
12 and the social cost of nitrous oxide fail to comply
13 with the 3- and 7-percent discount rates prescribed
14 by the document of the Office of Management and
15 Budget entitled “Circular A-4” and dated Sep-
16 tember 17, 2003;

17 (4) while the document of the Office of Man-
18 agement and Budget entitled “Circular A-4” and
19 dated September 17, 2003, specifies that, in car-
20 rying out an evaluation of the global effects of a
21 rule, regulation, or action, the evaluation shall be re-
22 ported separately from domestic costs and benefits
23 of that rule, regulation, or action, the social cost of
24 carbon instead calculates the global benefits in lieu

1 of, not in addition to, the domestic costs of a rule,
2 regulation, or action;

3 (5) the use of the estimates for the social cost
4 of carbon, the social cost of methane, and the social
5 cost of nitrous oxide, in the rulemakings of the De-
6 partment of Energy, the Environmental Protection
7 Agency, the Department of the Interior, and the
8 Council on Environmental Quality without public no-
9 tice and an adequate opportunity for comment vio-
10 lates scientific peer review requirements;

11 (6) the Environmental Protection Agency relied
12 upon the social cost of methane, without appropriate
13 peer review or opportunity for public notice and
14 comment, in justifying the costs and benefits of the
15 September 2015 proposed and the June 2016 final-
16 ized rules under the Clean Air Act for methane
17 emissions from new, modified, and reconstructed
18 sources in the oil and gas sector;

19 (7) the Department of the Interior used the so-
20 cial cost of methane estimate to justify the costs and
21 benefits of the final rule entitled “Waste Prevention,
22 Production Subject to Royalties, and Resource Con-
23 servation” (81 Fed. Reg. 83008 (November 18,
24 2016));

1 (8) the Council on Environmental Quality
2 issued final guidance on August 1, 2016, that, with
3 respect to a monetary cost-benefit analysis for an
4 evaluation of a proposed Federal action under the
5 National Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.), directed the head of each Fed-
7 eral agency to include the social cost of carbon in
8 any consideration of the effect of greenhouse gas
9 emissions;

10 (9) the regulations of the Department of En-
11 ergy, the Environmental Protection Agency, the De-
12 partment of the Interior, and the Council on Envi-
13 ronmental Quality are costing families of the United
14 States billions of dollars each year and are justified,
15 in large part, by the social cost of carbon, the social
16 cost of methane, and the social cost of nitrous oxide;

17 (10) continued use of the social cost of carbon,
18 the social cost of methane, and the social cost of ni-
19 trous oxide by the Department of Energy, the Envi-
20 ronmental Protection Agency, the Department of the
21 Interior, and the Council on Environmental Quality
22 ignores sound science for the purpose of eliminating
23 the exploration, mining, production, and use of the
24 abundant domestic sources of fossil fuel energy of
25 the United States;

1 (11) Executive Order 13777 (82 Fed. Reg.
2 12285 (March 1, 2017)) states that the policy of the
3 United States is to alleviate any unnecessary regu-
4 latory burden on the people of the United States;
5 and

6 (12) Executive Order 13783 of March 28, 2017
7 (82 Fed. Reg. 16093 (March 31, 2017))—

8 (A) disbands the interagency working
9 group referred to in paragraph (3);

10 (B) withdraws the social cost of carbon,
11 the social cost of methane, and the social cost
12 of nitrous oxide; and

13 (C) directs Federal agencies, in monetizing
14 the value of changes in greenhouse gas emis-
15 sions as a result of a regulation, to follow the
16 document of the Office of Management and
17 Budget entitled “Circular A–4” and dated Sep-
18 tember 17, 2003, by using the discount rates
19 specified in that document and evaluating only
20 the domestic effects of the regulation.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

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

1 (2) SOCIAL COST OF CARBON.—The term “so-
2 cial cost of carbon” means—

3 (A) the estimate of the social cost of car-
4 bon described in—

5 (i) the document entitled “Technical
6 Support Document: Social Cost of Carbon
7 for Regulatory Impact Analysis Under Ex-
8 ecutive Order 12866”, published by the
9 Interagency Working Group on Social Cost
10 of Carbon, United States Government, in
11 February 2010; or

12 (ii)(I) the document entitled “Tech-
13 nical Support Document: Technical Update
14 of the Social Cost of Carbon for Regu-
15 latory Impact Analysis Under Executive
16 Order 12866”, published by the Inter-
17 agency Working Group on Social Cost of
18 Carbon, United States Government, in
19 May 2013 and revised in November 2013
20 and July 2015, and published and revised
21 by the Interagency Working Group on the
22 Social Cost of Greenhouse Gases, United
23 States Government, in August 2016; or

24 (II) any successor or substantially re-
25 lated document; and

1 (B) any other estimate of the monetized
2 damages associated with an incremental in-
3 crease in carbon dioxide emissions in a given
4 year.

5 (3) SOCIAL COST OF METHANE.—The term “so-
6 cial cost of methane” means—

7 (A) the estimate of the social cost of meth-
8 ane described in—

9 (i) the proposed rule entitled “Oil and
10 Natural Gas Sector: Emission Standards
11 for New and Modified Sources” (80 Fed.
12 Reg. 56593 (September 18, 2015));

13 (ii) the final rule entitled “Oil and
14 Natural Gas Sector: Emission Standards
15 for New, Reconstructed, and Modified
16 Sources” (81 Fed. Reg. 35824 (June 3,
17 2016));

18 (iii) the regulatory impact analysis en-
19 titled “Regulatory Impact Analysis of the
20 Final Oil and Natural Gas Sector: Emis-
21 sion Standards for New, Reconstructed,
22 and Modified Sources”, prepared by the
23 Environmental Protection Agency, Office
24 of Air and Radiation, in May 2016 and

1 identified by docket ID number EPA–HQ–
2 OAR–2010–0505–7630; or

3 (iv)(I) the document entitled “Adden-
4 dum to Technical Support Document on
5 Social Cost of Carbon for Regulatory Im-
6 pact Analysis under Executive Order
7 12866: Application of the Methodology to
8 Estimate the Social Cost of Methane and
9 the Social Cost of Nitrous Oxide”, pub-
10 lished by the Interagency Working Group
11 on Social Cost of Greenhouse Gases,
12 United States Government, in August
13 2016; or

14 (II) any successor or substantially re-
15 lated document; and

16 (B) any other estimate of the monetized
17 damages associated with an incremental in-
18 crease in methane emissions in a given year.

19 (4) SOCIAL COST OF NITROUS OXIDE.—The
20 term “social cost of nitrous oxide” means—

21 (A) the estimate of the social cost of ni-
22 trous oxide described in—

23 (i) the document entitled “Addendum
24 to Technical Support Document on Social
25 Cost of Carbon for Regulatory Impact

1 Analysis under Executive Order 12866:
2 Application of the Methodology to Esti-
3 mate the Social Cost of Methane and the
4 Social Cost of Nitrous Oxide”, published
5 by the Interagency Working Group on So-
6 cial Cost of Greenhouse Gases, United
7 States Government, in August 2016; or

8 (ii) any other successor or substan-
9 tially related document; and

10 (B) any other estimate of the monetized
11 damages associated with an incremental in-
12 crease in nitrous oxide emissions in a given
13 year.

14 **SEC. 4. PROHIBITION ON CONSIDERING THE SOCIAL COST**
15 **OF GREENHOUSE GAS, INCLUDING THE SO-**
16 **CIAL COST OF CARBON, THE SOCIAL COST OF**
17 **METHANE, AND THE SOCIAL COST OF NI-**
18 **TROUS OXIDE.**

19 (a) IN GENERAL.—The Secretary of Energy, under
20 any authority, the Administrator, under the Clean Air Act
21 (42 U.S.C. 7401 et seq.), the Secretary of the Interior,
22 under any authority, and the Chair of the Council on En-
23 vironmental Quality, under the National Environmental
24 Policy Act of 1969 (42 U.S.C. 4321 et seq.), may not con-

1 sider the social cost of carbon, social cost of methane, or
2 social cost of nitrous oxide—

3 (1) as part of any cost-benefit analysis required
4 under—

5 (A) any law;

6 (B) Executive Order 12866 (5 U.S.C. 601
7 note; relating to regulatory planning and re-
8 view); or

9 (C) Executive Order 13563 (5 U.S.C. 601
10 note; relating to improving regulation and regu-
11 latory review);

12 (2) in any rulemaking;

13 (3) in the issuance of any guidance;

14 (4) in taking any other agency action; or

15 (5) as a justification for any rulemaking, guid-
16 ance document, or agency action.

17 (b) EXCEPTION.—The Secretary of Energy, the Ad-
18 ministrator, the Secretary of the Interior, and the Chair
19 of the Council on Environmental Quality may consider the
20 social cost of carbon, social cost of methane, or social cost
21 of nitrous oxide in carrying out an activity described in
22 subsection (a) only if, after the date of enactment of this
23 Act—

24 (1) a Federal law is enacted that explicitly au-
25 thORIZES the consideration; or

1 (2) the Secretary of Energy, the Administrator,
2 the Secretary of the Interior, or the Chair of the
3 Council on Environmental Quality uses an estimate
4 for the social cost of carbon, social cost of methane,
5 or social cost of nitrous oxide that—

6 (A) complies with the requirements of the
7 document of the Office of Management and
8 Budget entitled “Circular A–4” and dated Sep-
9 tember 17, 2003;

10 (B) uses the discount rates of 3 and 7 per-
11 cent specified in that document;

12 (C) considers only the domestic costs and
13 benefits of the activity; and

14 (D) uses only—

15 (i) the most up to date and empiri-
16 cally estimated equilibrium climate sensi-
17 tivity distributions; and

18 (ii) realistic time horizons.

19 **SEC. 5. REPORT OF THE ADMINISTRATOR.**

20 Not later than 120 days after the date of enactment
21 of this Act, the Administrator, in coordination and con-
22 sultation with the Secretary of Energy, the Secretary of
23 the Interior, and the Chair of the Council on Environ-
24 mental Quality, shall submit to the Committees on Energy
25 and Commerce and Natural Resources of the House of

1 Representatives and the Committees on Environment and
2 Public Works and Energy and Natural Resources of the
3 Senate a report describing the number of proposed and
4 final rulemakings, guidance documents, and agency ac-
5 tions that, since January 2009, have used the social cost
6 of carbon, the social cost of methane, or the social cost
7 of nitrous oxide, including the use of the social cost of
8 carbon, the social cost of methane, or the social cost of
9 nitrous oxide as part of any cost-benefit analysis required
10 under Executive Order 12866 (5 U.S.C. 601 note; relating
11 to regulatory planning and review) or other relevant au-
12 thority.

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