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. Moon-ey 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) as a tool to justify Federal actions by 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 to address greenhouse gas emissions, including the regulation or prohibition of the exploration, mining, production, and use of coal and other fossil fuels as energy sources, the social cost of carbon, the social cost of methane, and the social cost of nitrous oxide represent the hypothetical cost of 1 incremental ton of carbon dioxide, methane, or nitrous oxide emissions in a given year;

(2) the document of the Office of Management and Budget entitled “Circular A–4” and dated September 17, 2003—

(A) guides Federal agencies on the development of regulatory impact analysis required under Executive Order 12866 (5 U.S.C. 601 note; relating to regulatory planning and review) and other authorities; and
(B) instructs Federal agencies to include discount rates of 3 and 7 percent and evaluate the costs and benefits of the regulatory action that accrue to citizens and residents of the United States;

(3) first developed in 2009 by an interagency working group that included the Department of Energy, the Environmental Protection Agency, and the Council on Environmental Quality, the estimates for the social cost of carbon, as well as the subsequently developed estimates of the social cost of methane, and the social cost of nitrous oxide fail to comply with the 3- and 7-percent discount rates prescribed by the document of the Office of Management and Budget entitled “Circular A–4” and dated September 17, 2003;

(4) while the document of the Office of Management and Budget entitled “Circular A–4” and dated September 17, 2003, specifies that, in carrying out an evaluation of the global effects of a rule, regulation, or action, the evaluation shall be reported separately from domestic costs and benefits of that rule, regulation, or action, the social cost of carbon instead calculates the global benefits in lieu
of, not in addition to, the domestic costs of a rule,
regulation, or action;

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

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

(7) the Department of the Interior used the so-
cial cost of methane estimate to justify the costs and
benefits of the final rule entitled “Waste Prevention,
Production Subject to Royalties, and Resource Con-
servation” (81 Fed. Reg. 83008 (November 18,
2016));
(8) the Council on Environmental Quality issued final guidance on August 1, 2016, that, with respect to a monetary cost-benefit analysis for an evaluation of a proposed Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), directed the head of each Federal agency to include the social cost of carbon in any consideration of the effect of greenhouse gas emissions;

(9) the regulations of the Department of Energy, the Environmental Protection Agency, the Department of the Interior, and the Council on Environmental Quality are costing families of the United States billions of dollars each year and are justified, in large part, by the social cost of carbon, the social cost of methane, and the social cost of nitrous oxide;

(10) continued use of the social cost of carbon, the social cost of methane, and the social cost of nitrous oxide by the Department of Energy, the Environmental Protection Agency, the Department of the Interior, and the Council on Environmental Quality ignores sound science for the purpose of eliminating the exploration, mining, production, and use of the abundant domestic sources of fossil fuel energy of the United States;
(11) Executive Order 13777 (82 Fed. Reg. 12285 (March 1, 2017)) states that the policy of the United States is to alleviate any unnecessary regulatory burden on the people of the United States; and


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

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

(C) directs Federal agencies, in monetizing the value of changes in greenhouse gas emissions as a result of a regulation, to follow the document of the Office of Management and Budget entitled “Circular A–4” and dated September 17, 2003, by using the discount rates specified in that document and evaluating only the domestic effects of the regulation.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.
(2) **Social cost of carbon.**—The term “social cost of carbon” means—

(A) the estimate of the social cost of carbon described in—


(II) any successor or substantially related document; and
(B) any other estimate of the monetized damages associated with an incremental increase in carbon dioxide emissions in a given year.

(3) SOCIAL COST OF METHANE.—The term “social cost of methane” means—

(A) the estimate of the social cost of methane described in—

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

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

(iii) the regulatory impact analysis entitled “Regulatory Impact Analysis of the Final Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources”, prepared by the Environmental Protection Agency, Office of Air and Radiation, in May 2016 and
identified by docket ID number EPA–HQ–OAR–2010–0505–7630; or


(II) any successor or substantially related document; and

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

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

(A) the estimate of the social cost of nitrous oxide described in—

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

(ii) any other successor or substantially related document; and

(B) any other estimate of the monetized damages associated with an incremental increase in nitrous oxide emissions in a given year.


(a) IN GENERAL.—The Secretary of Energy, under any authority, the Administrator, under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary of the Interior, under any authority, and the Chair of the Council on Environmental Quality, under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), may not con-
sider the social cost of carbon, social cost of methane, or
social cost of nitrous oxide—

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

(A) any law;

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

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

(2) in any rulemaking;

(3) in the issuance of any guidance;

(4) in taking any other agency action; or

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

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

(1) a Federal law is enacted that explicitly au-
thorizes the consideration; or
(2) the Secretary of Energy, the Administrator, the Secretary of the Interior, or the Chair of the Council on Environmental Quality uses an estimate for the social cost of carbon, social cost of methane, or social cost of nitrous oxide that—

(A) complies with the requirements of the document of the Office of Management and Budget entitled “Circular A–4” and dated September 17, 2003;

(B) uses the discount rates of 3 and 7 percent specified in that document;

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

(D) uses only—

(i) the most up to date and empirically estimated equilibrium climate sensitivity distributions; and

(ii) realistic time horizons.

SEC. 5. REPORT OF THE ADMINISTRATOR.

Not later than 120 days after the date of enactment of this Act, the Administrator, in coordination and consultation with the Secretary of Energy, the Secretary of the Interior, and the Chair of the Council on Environmental Quality, shall submit to the Committees on Energy and Commerce and Natural Resources of the House of
Representatives and the Committees on Environment and Public Works and Energy and Natural Resources of the Senate a report describing the number of proposed and final rulemakings, guidance documents, and agency actions that, since January 2009, have used the social cost of carbon, the social cost of methane, or the social cost of nitrous oxide, including the use of the social cost of carbon, the social cost of methane, or the social cost of nitrous oxide as part of any cost-benefit analysis required under Executive Order 12866 (5 U.S.C. 601 note; relating to regulatory planning and review) or other relevant authority.