

115TH CONGRESS
1ST SESSION

S. 1512

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Transportation, and the Chair of the Council on Environmental Quality from considering, in taking any action, the social cost of carbon, the social cost of methane, the social cost of nitrous oxide, or the social cost of any other greenhouse gas, unless compliant with Office of Management and Budget guidance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2017

Mr. LANKFORD (for himself, Mr. CORNYN, Mr. INHOFE, Mr. BARRASSO, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Transportation, and the Chair of the Council on Environmental Quality from considering, in taking any action, the social cost of carbon, the social cost of methane, the social cost of nitrous oxide, or the social cost of any other greenhouse gas, unless compliant with Office of Management and Budget guidance, 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, the Secretary of Transportation, and the
10 Chair of the Council on Environmental Quality to
11 address greenhouse gas emissions, including the reg-
12 ulation or prohibition of the exploration, mining,
13 production, and use of coal and other fossil fuels as
14 energy sources, the social cost of greenhouse gases,
15 specifically the social cost of carbon, the social cost
16 of methane, and the social cost of nitrous oxide, rep-
17 represents the hypothetical cost of 1 incremental ton of
18 carbon dioxide, methane, or nitrous oxide emissions
19 in a given year;

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

23 (A) guides Federal agencies on the devel-
24 opment of regulatory impact analysis required
25 under Executive Order 12866 (5 U.S.C. 601

1 note; relating to regulatory planning and re-
2 view) and other authorities; and

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

8 (3) first developed in 2009 by an interagency
9 working group that included the Department of En-
10 ergy, the Environmental Protection Agency, the De-
11 partment of Transportation, and the Council on En-
12 vironmental Quality, the estimates for the social cost
13 of carbon and the subsequently developed social cost
14 of methane and social cost of nitrous oxide fail to
15 comply with the 3- and 7-percent discount rates pre-
16 scribed by the document of the Office of Manage-
17 ment and Budget entitled “Circular A–4” and dated
18 September 17, 2003;

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

1 carbon, the social cost of methane, and the social
2 cost of nitrous oxide instead calculates the global
3 benefits in lieu of, not in addition to, the domestic
4 costs of a rule, regulation, or action;

5 (5) the use of the estimates of the social cost
6 of greenhouse gases, including the estimates for the
7 social cost of carbon, the social cost of methane, and
8 the social cost of nitrous oxide, in the rulemakings
9 and other actions of the Department of Energy, the
10 Environmental Protection Agency, the Department
11 of the Interior, the Department of Transportation,
12 and the Council on Environmental Quality was with-
13 out—

14 (A) an adequate opportunity for public no-
15 tice and comment; and

16 (B) rigorous scientific peer review;

17 (6) the Environmental Protection Agency relied
18 on—

19 (A) the interagency working group esti-
20 mate of the social cost of methane, without ap-
21 propriate peer review or opportunity for public
22 notice and comment, in attempting to justify
23 the costs and benefits of—

24 (i) the proposed rule entitled “Oil and
25 Natural Gas Sector: Emission Standards

1 for New and Modified Sources” (80 Fed.
2 Reg. 56593 (September 18, 2015)); and

3 (ii) the final rule entitled “Oil and
4 Natural Gas Sector: Emission Standards
5 for New, Reconstructed, and Modified
6 Sources” (81 Fed. Reg. 35824 (June 3,
7 2016)) and the accompanying regulatory
8 impact analysis entitled “Regulatory Im-
9 pact Analysis of the Final Oil and Natural
10 Gas Sector: Emission Standards for New,
11 Reconstructed, and Modified Sources”,
12 prepared by the Environmental Protection
13 Agency, Office of Air and Radiation, in
14 May 2016 and identified by docket ID
15 number EPA–HQ–OAR–2010–0505–7630;
16 and

17 (B) the interagency working group esti-
18 mate of the social cost of carbon, without ap-
19 propriate peer review or opportunity for public
20 notice and comment, in attempting to justify
21 the costs and benefits of—

22 (i) the final rule entitled “Standards
23 of Performance for Greenhouse Gas Emis-
24 sions From New, Modified, and Recon-
25 structed Stationary Sources: Electric Util-

1 ity Generating Units” (80 Fed. Reg.
2 64510 (October 23, 2015)) and the accom-
3 panying regulatory impact analysis entitled
4 “Regulatory Impact Analysis for the Final
5 Standards of Performance for Greenhouse
6 Gas Emissions from New, Modified, and
7 Reconstructed Stationary Sources: Electric
8 Utility Generating Units”, prepared by the
9 Environmental Protection Agency, Office
10 of Air and Radiation, in October 2015 and
11 identified by docket ID number EPA–HQ–
12 OAR–2013–0495; and

13 (ii) the final rule entitled “Carbon
14 Pollution Emission Guidelines for Existing
15 Stationary Sources: Electric Utility Gener-
16 ating Units” (80 Fed. Reg. 64662 (Octo-
17 ber 23, 2015)) and the accompanying reg-
18 ulatory impact analysis entitled “Regu-
19 latory Impact Analysis for the Clean Power
20 Plan Final Rule”, prepared by the Envi-
21 ronmental Protection Agency, Office of Air
22 and Radiation, in October 2015 and identi-
23 fied by docket ID number EPA–HQ–
24 OAR–2013–0602;

1 (7) the Department of the Interior used the so-
2 cial cost of methane estimate to justify the costs and
3 benefits of the final rule entitled “Waste Prevention,
4 Production Subject to Royalties, and Resource Con-
5 servation” (81 Fed. Reg. 83008 (November 18,
6 2016));

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

16 (9) continued use of the social cost of green-
17 house gases, including the social cost of carbon, the
18 social cost of methane, and the social cost of nitrous
19 oxide by the Department of Energy, the Environ-
20 mental Protection Agency, the Department of the
21 Interior, the Department of Transportation, and the
22 Council on Environmental Quality ignores sound
23 science;

24 (10) Executive Order 13777 (82 Fed. Reg.
25 12285 (March 1, 2017)) states that the policy of the

1 United States is to alleviate any unnecessary regu-
2 latory burden on the people of the United States;
3 and

4 (11) Executive Order 13783 (82 Fed. Reg.
5 16093 (March 31, 2017))—

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

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

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

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

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

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

1 (A) the estimate of the social cost of car-
2 bon described in—

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

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

22 (II) any successor or substantially re-
23 lated document; and

24 (B) any other estimate of the monetized
25 damages associated with an incremental in-

1 crease in carbon dioxide emissions in a given
2 year.

3 (3) SOCIAL COST OF GREENHOUSE GAS.—The
4 term “social cost of greenhouse gas” means—

5 (A) the estimate of the social cost of any
6 greenhouse gas that is described in any suc-
7 cessor document to—

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

15 (ii) the document entitled “Technical
16 Support Document: Technical Update of
17 the Social Cost of Carbon for Regulatory
18 Impact Analysis Under Executive Order
19 12866”, published by the Interagency
20 Working Group on Social Cost of Carbon,
21 United States Government, in May 2013
22 and revised in November 2013 and July
23 2015, and published and revised by the
24 Interagency Working Group on the Social

1 Cost of Greenhouse Gases, United States
2 Government, in August 2016; or

3 (iii) 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; and

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

18 (4) SOCIAL COST OF METHANE.—The term “so-
19 cial cost of methane” means—

20 (A) the estimate of the social cost of meth-
21 ane described in—

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

1 (ii) the final rule entitled “Oil and
2 Natural Gas Sector: Emission Standards
3 for New, Reconstructed, and Modified
4 Sources” (81 Fed. Reg. 35824 (June 3,
5 2016));

6 (iii) the regulatory impact analysis en-
7 titled “Regulatory Impact Analysis of the
8 Final Oil and Natural Gas Sector: Emis-
9 sion Standards for New, Reconstructed,
10 and Modified Sources”, prepared by the
11 Environmental Protection Agency, Office
12 of Air and Radiation, in May 2016 and
13 identified by docket ID number EPA–HQ–
14 OAR–2010–0505–7630; or

15 (iv)(I) the document entitled “Adden-
16 dum to Technical Support Document on
17 Social Cost of Carbon for Regulatory Im-
18 pact Analysis under Executive Order
19 12866: Application of the Methodology to
20 Estimate the Social Cost of Methane and
21 the Social Cost of Nitrous Oxide”, pub-
22 lished by the Interagency Working Group
23 on Social Cost of Greenhouse Gases,
24 United States Government, in August
25 2016; or

1 (II) any successor or substantially re-
2 lated document; and

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

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

8 (A) the estimate of the social cost of ni-
9 trous oxide described in—

10 (i) the document entitled “Addendum
11 to Technical Support Document on Social
12 Cost of Carbon for Regulatory Impact
13 Analysis under Executive Order 12866:
14 Application of the Methodology to Esti-
15 mate the Social Cost of Methane and the
16 Social Cost of Nitrous Oxide”, published
17 by the Interagency Working Group on So-
18 cial Cost of Greenhouse Gases, United
19 States Government, in August 2016; or

20 (ii) any other successor or substan-
21 tially related document; and

22 (B) any other estimate of the monetized
23 damages associated with an incremental in-
24 crease in nitrous oxide emissions in a given
25 year.

1 **SEC. 4. PROHIBITION ON CONSIDERING THE SOCIAL COST**
 2 **OF GREENHOUSE GAS, INCLUDING THE SO-**
 3 **CIAL COST OF CARBON, THE SOCIAL COST OF**
 4 **METHANE, AND THE SOCIAL COST OF NI-**
 5 **TROUS OXIDE.**

6 (a) IN GENERAL.—The Secretary of Energy, under
 7 any authority, the Administrator, under the Clean Air Act
 8 (42 U.S.C. 7401 et seq.), the Secretary of the Interior,
 9 under any authority, the Secretary of Transportation,
 10 under any authority, and the Chair of the Council on En-
 11 vironmental Quality, under the National Environmental
 12 Policy Act of 1969 (42 U.S.C. 4321 et seq.), may not con-
 13 sider the social cost of carbon, social cost of methane, so-
 14 cial cost of nitrous oxide, or social cost of greenhouse
 15 gas—

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

18 (A) any law;

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

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

25 (2) in any rulemaking;

26 (3) in the issuance of any guidance;

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

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

4 (b) EXCEPTION.—The Secretary of Energy, the Ad-
5 ministrator, the Secretary of the Interior, the Secretary
6 of Transportation, and the Chair of the Council on Envi-
7 ronmental Quality may consider the social cost of carbon,
8 social cost of methane, social cost of nitrous oxide, or so-
9 cial cost of greenhouse gas in carrying out an activity de-
10 scribed in subsection (a) only if, after the date of enact-
11 ment of this Act—

12 (1) a Federal law is enacted that explicitly au-
13 thorizes the consideration; or

14 (2) the Secretary of Energy, the Administrator,
15 the Secretary of the Interior, the Secretary of
16 Transportation, or the Chair of the Council on Envi-
17 ronmental Quality uses an estimate for the social
18 cost of carbon, social cost of methane, social cost of
19 nitrous oxide, or social cost of greenhouse gas
20 that—

21 (A) complies with the requirements of the
22 document of the Office of Management and
23 Budget entitled “Circular A–4” and dated Sep-
24 tember 17, 2003;

1 (B) uses only the discount rates specified
2 in that document;

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

5 (D) has been reviewed by the Director of
6 the Office of Management and Budget for—

7 (i) compliance with the document re-
8 ferred to in subparagraph (A); and

9 (ii) consistency across Federal agen-
10 cies.

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

12 Not later than 120 days after the date of enactment
13 of this Act, the Administrator, in coordination and con-
14 sultation with the Secretary of Energy, the Secretary of
15 the Interior, the Secretary of Transportation, and the
16 Chair of the Council on Environmental Quality, shall sub-
17 mit to the Committees on Environment and Public Works
18 and Energy and Natural Resources of the Senate and the
19 Committees on Energy and Commerce and Natural Re-
20 sources of the House of Representatives a report describ-
21 ing the number of proposed and final rulemakings, guid-
22 ance documents, and agency actions that, since January
23 2009, have used the social cost of carbon, the social cost
24 of methane, or the social cost of nitrous oxide, including
25 the use of the social cost of carbon, the social cost of meth-

1 ane, or the social cost of nitrous oxide as part of any cost-
2 benefit analysis required under Executive Order 12866 (5
3 U.S.C. 601 note; relating to regulatory planning and re-
4 view) or other relevant authority.

○