

114TH CONGRESS
2D SESSION

S. 3508

To prohibit the Secretary of Energy and the Administrator of the Environmental Protection Agency from considering 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 in taking any action, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2016

Mr. LANKFORD 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 and the Administrator of the Environmental Protection Agency from considering 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 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency and
5 Honesty in Energy Regulations Act of 2016”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) as a tool to justify Federal actions by the
4 Secretary of Energy and the Administrator of the
5 Environmental Protection Agency to address green-
6 house gas emissions, including the regulation or pro-
7 hibition of the exploration, mining, production, and
8 use of coal and other fossil fuels as energy sources,
9 the social cost of greenhouse gases, specifically the
10 social cost of carbon and the social cost of methane,
11 represents the hypothetical cost of 1 incremental ton
12 of carbon dioxide or methane emissions in a given
13 year;

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

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

22 (B) instructs Federal agencies to include
23 discount rates of 3 and 7 percent and evaluate
24 the costs and benefits of the regulatory action
25 that accrue to citizens and residents of the
26 United States;

1 (3) the social cost of carbon estimates were first
2 developed in 2009 by an interagency working group
3 that included the Secretary of Energy and the Ad-
4 ministrator of the Environmental Protection Agency
5 and fail to comply with the 3- and 7-percent dis-
6 count rates prescribed by the document of the Office
7 of Management and Budget entitled “Circular A-4”
8 and dated September 17, 2003;

9 (4) while the document of the Office of Man-
10 agement and Budget entitled “Circular A-4” and
11 dated September 17, 2003, specifies that, in car-
12 rying out an evaluation of the global effects of a
13 rule, regulation, or action, the evaluation shall be re-
14 ported separately from domestic costs and benefits
15 of that rule, regulation, or action, the social cost of
16 carbon instead calculates the global benefits in lieu
17 of, not in addition to, the domestic effects of a rule,
18 regulation, or action;

19 (5) the use of the social cost of carbon esti-
20 mates in rulemakings by the Secretary of Energy
21 and the Administrator of the Environmental Protec-
22 tion Agency without an opportunity for public notice
23 and comment violates scientific peer review require-
24 ments and the commitment of the President to
25 transparent and open government, as outlined in the

1 memorandum of the President entitled “Trans-
2 parency and Open Government: Memorandum for
3 the Heads of Executive Departments and Agencies”
4 and dated January 21, 2009;

5 (6) in July 2015, as part of a revision of the
6 social cost of carbon in response to over 150 sub-
7 stantive comments and in acknowledgment of the
8 faulty process by which the social cost of carbon es-
9 timates were developed, the Director of the Office of
10 Management and Budget requested that the Na-
11 tional Academies of Science, Engineering, and Medi-
12 cine review and make recommendations for the im-
13 provement of the social cost of carbon estimates;

14 (7) shortly after the commencement of the re-
15 view referred to in paragraph (6), the Administrator
16 of the Environmental Protection Agency used the so-
17 cial cost of methane estimate developed by the Ad-
18 ministrator of the Environmental Protection Agency,
19 without appropriate peer review or opportunity for
20 public notice and comment, to justify the costs and
21 benefits of—

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

1 (B) the final rule entitled “Oil and Natural
2 Gas Sector: Emission Standards for New, Re-
3 constructed, and Modified Sources” (81 Fed.
4 Reg. 35824 (June 3, 2016)) and the accom-
5 panying regulatory impact analysis entitled
6 “Regulatory Impact Analysis of the Final Oil
7 and Natural Gas Sector: Emission Standards
8 for New, Reconstructed, and Modified
9 Sources”, prepared by the Environmental Pro-
10 tection Agency, Office of Air and Radiation, in
11 May 2016 and identified by docket ID number
12 EPA-HQ-OAR-2010-0505-7630;

13 (8) continued use of the social cost of carbon
14 and the social cost of methane by the Secretary of
15 Energy and the Administrator of the Environmental
16 Protection Agency ignores sound science for the pur-
17 pose of eliminating the exploration, mining, produc-
18 tion, and use of the abundant domestic sources of
19 fossil fuel energy of the United States; and

20 (9) the regulations of the Secretary of Energy
21 and the Administrator of the Environmental Protec-
22 tion Agency are costing families of the United States
23 billions of dollars each year and are justified, in
24 large part, by the social cost of greenhouse gases, in-

1 including the social cost of carbon and the social cost
2 of methane.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

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

8 (2) SECRETARY.—The term “Secretary” means
9 the Secretary of Energy.

10 (3) SOCIAL COST OF CARBON.—The term “so-
11 cial cost of carbon” means—

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

13 (i) the document entitled “Technical
14 Support Document: Social Cost of Carbon
15 for Regulatory Impact Analysis Under Ex-
16 ecutive Order 12866”, published by the
17 Interagency Working Group on Social Cost
18 of Carbon, United States Government, in
19 February 2010; or

20 (ii)(I) the document entitled “Tech-
21 nical Support Document: Technical Update
22 of the Social Cost of Carbon for Regu-
23 latory Impact Analysis Under Executive
24 Order 12866”, published by the Inter-
25 agency Working Group on Social Cost of

1 Carbon, United States Government, in
2 May 2013 and revised in November 2013
3 and July 2015, and published and revised
4 by the Interagency Working Group on the
5 Social Cost of Greenhouse Gases, United
6 States Government, in August 2016; or

7 (II) any successor or substantially re-
8 lated document; and

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

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

15 (A) the social cost of any greenhouse gas
16 that is described in any successor document
17 to—

18 (i) the document entitled “Technical
19 Support Document: Social Cost of Carbon
20 for Regulatory Impact Analysis Under Ex-
21 ecutive Order 12866”, published by the
22 Interagency Working Group on Social Cost
23 of Carbon, United States Government, in
24 February 2010; or

1 (ii) the document entitled “Technical
2 Support Document: Technical Update of
3 the Social Cost of Carbon for Regulatory
4 Impact Analysis Under Executive Order
5 12866”, published by the Interagency
6 Working Group on Social Cost of Carbon,
7 United States Government, in May 2013
8 and revised in November 2013 and July
9 2015, and published and revised by the
10 Interagency Working Group on the Social
11 Cost of Greenhouse Gases, United States
12 Government, in August 2016; or

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

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

1 crease in greenhouse gas emissions in a given
2 year.

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

5 (A) the estimate of the social cost of meth-
6 ane described in—

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

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

16 (iii) the regulatory impact analysis en-
17 titled “Regulatory Impact Analysis of the
18 Final Oil and Natural Gas Sector: Emis-
19 sion Standards for New, Reconstructed,
20 and Modified Sources”, prepared by the
21 Environmental Protection Agency, Office
22 of Air and Radiation, in May 2016 and
23 identified by docket ID number EPA–HQ–
24 OAR–2010–0505–7630; or

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

12 (II) any successor or substantially re-
13 lated document; and

14 (B) any other successor or substantially re-
15 lated estimate.

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

18 (A)(i) the social cost of nitrous oxide de-
19 scribed in the document entitled “Addendum to
20 Technical Support Document on Social Cost of
21 Carbon for Regulatory Impact Analysis under
22 Executive Order 12866: Application of the
23 Methodology to Estimate the Social Cost of
24 Methane and the Social Cost of Nitrous Oxide”,
25 published by the Interagency Working Group on

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

3 (ii) any other successor or substantially re-
4 lated document; and

5 (B) any other estimate of the monetized
6 damages associated with an incremental in-
7 crease in nitrous oxide emissions in a given
8 year.

9 **SEC. 4. PROHIBITION ON CONSIDERING THE SOCIAL COST**
10 **OF GREENHOUSE GAS, INCLUDING THE SO-**
11 **CIAL COST OF CARBON, THE SOCIAL COST OF**
12 **METHANE, AND THE SOCIAL COST OF NI-**
13 **TROUS OXIDE.**

14 (a) IN GENERAL.—The Secretary, under any author-
15 ity, and the Administrator, under the Clean Air Act (42
16 U.S.C. 7401 et seq.), may not consider the social cost of
17 carbon, social cost of methane, social cost of nitrous oxide,
18 or social cost of greenhouse gas—

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

21 (A) any law;

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

1 (C) Executive Order 13563 (5 U.S.C. 601
2 note; relating to improving regulation and regu-
3 latory review);
4 (2) in any rulemaking;
5 (3) in the issuance of any guidance;
6 (4) in taking any other agency action; or
7 (5) as a justification for any rulemaking, guid-
8 ance document, or agency action.

9 (b) EXCEPTION.—The Secretary and the Adminis-
10 trator may consider the social cost of carbon, social cost
11 of methane, social cost of nitrous oxide, or social cost of
12 greenhouse gas in carrying out an activity described in
13 subsection (a) only if, after the date of enactment of this
14 Act, a Federal law is enacted that explicitly authorizes the
15 consideration.

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

17 Not later than 120 days after the date of enactment
18 of this Act, the Administrator, in coordination and con-
19 sultation with the Secretary, the Secretary of the Interior,
20 and the Council on Environmental Quality, shall submit
21 to the Committees on Environment and Public Works and
22 Energy and Natural Resources of the Senate and the
23 Committees on Energy and Commerce and Natural Re-
24 sources of the House of Representatives a report describ-
25 ing the number of proposed and final rulemakings, guid-

1 ance documents, and agency actions that, since January
2 2009, have used the social cost of carbon, the social cost
3 of methane, or the social cost of nitrous oxide, including
4 the use of the social cost of carbon, the social cost of meth-
5 ane, or the social cost of nitrous oxide as part of any cost-
6 benefit analysis required under Executive Order 12866 (5
7 U.S.C. 601 note; relating to regulatory planning and re-
8 view) or other relevant authority.

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