

114TH CONGRESS
2D SESSION

H. R. 5668

To prohibit the Secretary of Energy and the Administrator of the Environmental Protection Agency from taking the social cost of carbon or the social cost of methane into account when taking any action, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2016

Mr. JENKINS of West Virginia (for himself, Mr. WOMACK, Mr. CULBERSON, Mr. LAHOOD, and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the Secretary of Energy and the Administrator of the Environmental Protection Agency from taking the social cost of carbon or the social cost of methane into account when 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”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following—

1 (1) As a tool to justify Federal actions by the
2 Department of Energy and the Environmental Pro-
3 tection Agency (hereinafter in this section referred
4 to as the “EPA”) addressing greenhouse gas emis-
5 sions, including those regulating or prohibiting the
6 exploration, mining, production, and use of coal as
7 well as other fossil fuels as energy sources, the So-
8 cial Cost of Carbon (hereinafter in this section re-
9 ferred to as the “SCC”) and the Social Cost of
10 Methane (hereinafter in this section referred to as
11 the “SCM”) in theory represent the hypothetical
12 cost of an incremental ton of carbon dioxide (CO₂)
13 or methane emissions in a given year.

14 (2) Office of Management and Budget (herein-
15 after in this section referred to as the “OMB”) Cir-
16 cular A-4 guides Federal agencies on the develop-
17 ment of regulatory impact analysis required under
18 Executive Order 12866 as well as other authorities,
19 instructing agencies to include discount rates of 3
20 and 7 percent while also evaluating the cost and
21 benefits that accrue to citizens and residents of the
22 United States.

23 (3) First developed in 2009 by an interagency
24 working group, including the Department of Energy
25 and the EPA, the SCC estimates fail to comply with

1 OMB Circular A-4 prescribed discount rates of 3
2 and 7 percent.

3 (4) While OMB Circular A-4 specifies that an
4 evaluation of the global effects, when undertaken, is
5 to be reported separately from domestic costs and
6 benefits, the SCC instead calculated the global bene-
7 fits in lieu of and not in addition to the domestic ef-
8 fects.

9 (5) The use of the SCC estimates in Depart-
10 ment of Energy and EPA rulemakings prior to any
11 opportunity for public notice and comment violated
12 not only scientific peer-review requirements but also
13 the President's commitment to transparent and open
14 government as outlined in his January 21, 2009,
15 memorandum to the heads of executive departments
16 and agencies.

17 (6) In July 2015, as part of a revision of the
18 SCC in response to over 150 substantive comments
19 and in acknowledgment of the faulty process by
20 which the SCC estimates were developed, the OMB
21 requested the National Academies of Science, Engi-
22 neering and Medicine (hereinafter in this section re-
23 ferred to as the "NAS") review and make rec-
24 ommendations for the improvement of the SCC esti-
25 mates.

1 the social cost of carbon or the social cost of methane as
2 part of any cost benefit analysis required under law or
3 under Executive Order 12866 or 13563, in any rule-
4 making, in the issuance of any guidance, or in taking any
5 other agency action, or as a justification for any rule-
6 making, guidance document, or agency action, unless a
7 Federal law is enacted, after the date of enactment of this
8 Act, explicitly authorizing such consideration.

9 **SEC. 4. REPORT OF THE ADMINISTRATOR OF THE EPA.**

10 Not later than 120 days after the date of enactment
11 of this Act, the Administrator of the Environmental Pro-
12 tection Agency, in coordination and consultation with the
13 Secretary of Energy, the Secretary of the Interior, and
14 the Council on Environmental Quality shall submit a re-
15 port to the Committees on Energy and Commerce and on
16 Natural Resources of the House of Representatives and
17 the Committees on the Environment and Public Works
18 and on Energy and Natural Resources of the Senate, de-
19 tailing the number of proposed and final rulemakings,
20 guidance documents, and agency actions since January
21 2009 that use the social cost of carbon or the social cost
22 of methane, including as part of any cost benefit analysis
23 required under Executive Order 12866 and other relevant
24 authorities.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) The term “social cost of carbon” means—

4 (A) the social cost of carbon as described
5 in—

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

13 (ii) the document entitled “Technical
14 Support Document: Technical Update of
15 the Social Cost of Carbon for Regulatory
16 Impact Analysis Under Executive Order
17 12866” published by the Interagency
18 Working Group on Social Cost of Carbon,
19 United States Government, in May 2013,
20 and revised in November 2013 and July
21 2015, or any other successor or substan-
22 tially related document; or

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

1 (2) The term “social cost of methane” means
2 the estimate of the social cost of methane—

3 (A) as described in—

4 (i) the proposed rule entitled “Oil and
5 Natural Gas Sector: Emission Standards
6 for New and Modified Sources” published
7 by the Environmental Protection Agency in
8 the Federal Register on September 18,
9 2015 (80 Fed. Reg. 56593);

10 (ii) the final rule entitled “Oil and
11 Natural Gas Sector: Emission Standards
12 for New, Reconstructed, and Modified
13 Sources” published by the Environmental
14 Protection Agency in the Federal Register
15 on June 3, 2016 (81 Fed. Reg. 35824); or

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

- 1 (B) any other successor or substantially re-
- 2 lated estimate.

○