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(Original Signature of Member)

114TH CONGRESS
2D SESSION

H. R. _____

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

Mr. JENKINS of West Virginia introduced the following bill; which was referred to the Committee on _____

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”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

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

25 (3) First developed in 2009 by an interagency
26 working group, including the Department of Energy

1 and the EPA, the SCC estimates fail to comply with
2 OMB Circular A-4 prescribed discount rates of 3
3 and 7 percent.

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

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

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

1 ommendations for the improvement of the SCC esti-
2 mates.

3 (7) Shortly after the commencement of the
4 NAS review, the EPA, without appropriate peer re-
5 view and an opportunity for public notice and com-
6 ment, utilized the EPA-developed SCM estimates in
7 justifying the costs and benefits of the September
8 2015 proposed and recently finalized rules under the
9 Clean Air Act for methane emissions from new,
10 modified, and reconstructed sources in the oil and
11 gas sector.

12 (8) Continued use by the Department of En-
13 ergy and the EPA of the SCC and the SCM ignores
14 sound science in order to eliminate the exploration,
15 mining, production, and use of our abundant domes-
16 tic sources of fossil fuel energy.

17 (9) The Department of Energy and EPA regu-
18 lations, which are costing American families billions
19 of dollars per year, are being justified in large part
20 by SCC and SCM estimates.

21 **SEC. 3. PROHIBITION ON CONSIDERING THE SOCIAL COST**
22 **OF CARBON AND THE SOCIAL COST OF METH-**
23 **ANE.**

24 The Secretary of Energy, when acting under any au-
25 thority, and the Administrator of the Environmental Pro-

1 tection Agency, when acting under the authority of the
2 Clean Air Act (42 U.S.C. 7401 et seq.), may not consider
3 the social cost of carbon or the social cost of methane as
4 part of any cost benefit analysis required under law or
5 under Executive Order 12866 or 13563, in any rule-
6 making, in the issuance of any guidance, or in taking any
7 other agency action, or as a justification for any rule-
8 making, guidance document, or agency action, unless a
9 Federal law is enacted, after the date of enactment of this
10 Act, explicitly authorizing such consideration.

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

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

1 required under Executive Order 12866 and other relevant
2 authorities.

3 **SEC. 5. DEFINITIONS.**

4 In this Act:

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

6 (A) the social cost of carbon as described

7 in—

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; or

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, or any other successor or substan-
24 tially related document; or

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

7 (A) as described in—

8 (i) the proposed rule entitled “Oil and
9 Natural Gas Sector: Emission Standards
10 for New and Modified Sources” published
11 by the Environmental Protection Agency in
12 the Federal Register on September 18,
13 2015 (80 Fed. Reg. 56593);

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

20 (iii) the “Regulatory Impact Analysis
21 of the Final Oil and Natural Gas Sector:
22 Emission Standards for New, Recon-
23 structed, and Modified Sources” prepared
24 by the Environmental Protection Agency,
25 Office of Air and Radiation, in May 2016,

1 and identified by docket ID number EPA-
2 HQ-OAR-2010-0505-7630; or
3 (B) any other successor or substantially re-
4 lated estimate.