

TRANSPARENCY AND HONESTY IN ENERGY  
REGULATIONS ACT OF 2017

NOVEMBER 2, 2018.—Ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3117]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**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 Department of Energy, the Environmental Protection Agency, the Department of the Interior, and the Council on Environmental Quality without public notice and an adequate opportunity for comment violates 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 finalized 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 social cost of methane estimate to justify the costs and benefits of the final rule entitled “Waste Prevention, Production Subject to Royalties, and Resource Conservation” (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

(12) Executive Order 13783 of March 28, 2017 (82 Fed. Reg. 16093 (March 31, 2017))—

(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—
    - (i) the document entitled “Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866”, published by the Interagency Working Group on Social Cost of Carbon, United States Government, in February 2010; or
    - (ii)(I) the document entitled “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866”, published by the Interagency Working Group on Social Cost of Carbon, United States Government, in May 2013 and revised in November 2013 and July 2015, and published and revised by the Interagency Working Group on the Social Cost of Greenhouse Gases, United States Government, in August 2016; or
    - (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
    - (iv)(I) the document entitled “Addendum to Technical Support Document on Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide”, published by the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, in August 2016; 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 Analysis under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide”, published by the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, in August 2016; or
    - (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.

**SEC. 4. PROHIBITION ON CONSIDERING THE SOCIAL COST OF GREENHOUSE GAS, INCLUDING THE SOCIAL COST OF CARBON, THE SOCIAL COST OF METHANE, AND THE SOCIAL COST OF NITROUS OXIDE.**

(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 consider 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 review); or
  - (C) Executive Order 13563 (5 U.S.C. 601 note; relating to improving regulation and regulatory 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, guidance document, or agency action.

(b) EXCEPTION.—The Secretary of Energy, the Administrator, 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 authorizes 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.

(c) RESTRICTION ON USE OF ESTIMATES.—The Secretary of the Interior and the Chair of the Council of Environmental Quality in carrying out an activity described in subsection (a), may not use an estimate under subsection (b)(2) for—

- (1) the determination of indirect or cumulative effects;
- (2) the determination of localized or regional impacts; and
- (3) project-level review.

#### 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.

#### PURPOSE OF THE BILL

The purpose of H.R. 3117 is 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.

#### BACKGROUND AND NEED FOR LEGISLATION

The “social cost of carbon dioxide” (SC–CO<sub>2</sub>) allows agencies to compare the “benefits” of emission reductions with the costs of mitigation.<sup>1</sup> The SC–CO<sub>2</sub> has been used by the Environmental Protection Agency (EPA) and other agencies for regulatory actions that are subject to Executive Order 12866.<sup>2</sup> That Order directs agencies “to assess both the costs and benefits of the intended regulation. . . .”<sup>3</sup> Prior to 2009, multiple federal agencies, including the EPA, began developing their own analyses of the SC–CO<sub>2</sub> as part of the

<sup>1</sup>Jane A. Leggett, Social Costs of Carbon/Greenhouse Gas: Issues for Congress (2017), <http://www.crs.gov/Reports/IF10625?source=search&guid=6e7f5979caa44d48bbd4928a85c5509b&index=0>.

<sup>2</sup>*Id.*

<sup>3</sup>Exec. Order No. 12866, 58 FR 51735; October 4, (1993), [https://www.reginfo.gov/public/jsp/Utilities/EO\\_12866.pdf](https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf).

rulemaking process because of a November 2007 Ninth Circuit decision directing the Department of Transportation to consider the SC-CO<sub>2</sub> in a rulemaking process.<sup>4</sup> The Ninth Circuit premised this decision on an assumption that “the value of carbon emissions reduction is certainly not zero.”<sup>5</sup>

In 2009, an interagency working group was convened by the Council of Economic Advisers and the Office of Management and Budget (OMB) to determine how best to monetize the net effects (both positive and negative) of CO<sub>2</sub> emissions and sought to harmonize a range of different SC-CO<sub>2</sub> values across multiple federal agencies.<sup>6</sup> The purpose of this process was to ensure that agencies were using the best available information and to promote consistency in the way agencies quantify the “benefits” of reducing CO<sub>2</sub> emissions.<sup>7</sup> The interagency group was comprised of scientific and economic experts from the White House and federal agencies, including: Council on Environmental Quality, National Economic Council, Office of Energy and Climate Change, Office of Science and Technology Policy, EPA, and the Departments of Agriculture, Commerce, Energy, Transportation, and Treasury.<sup>8</sup> The interagency group identified a variety of assumptions, which EPA then used to estimate the SC-CO<sub>2</sub>.<sup>9</sup> EPA relied on three integrated assessment models, which combined climate processes, economic growth, and interactions.<sup>10</sup>

This metric, named the social cost of carbon (SCC), was used to validate many Obama administration environmental regulations that target direct and indirect carbon dioxide emissions from various sources. However, the SCC did not follow the specific, long-standing guidelines set forth by OMB in developing and calculating the SCC figures.<sup>11</sup> As a result, the estimates were significantly higher than they would have been had OMB’s guidance been followed. This in turn led to highly questionable—and often misleading—claims regarding the purported economic benefits that new regulations would provide.

Since its first use, the SCC has been re-calculated multiple times to inflate the supposed cost of small increases of CO<sub>2</sub> in the atmosphere and thus, the purported monetary benefits derived from reducing those emissions.<sup>12</sup> For example, the SCC metric was used to claim that EPA’s Clean Power Plan (CPP) would “lead to climate and health benefits worth an estimated \$55 billion to \$93 billion per year in 2030.”<sup>13</sup> However, the assumptions and parameters

<sup>4</sup>Linda Tsang, Courts Evaluate How Federal Agencies Put a Price on Carbon (2016), <http://www.crs.gov/LegalSidebar/details/1684>.

<sup>5</sup>Leggett, *supra*, note 1.

<sup>6</sup>Exec. Office of the Pres. Council on Environmental Quality, Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in the National Environmental Policy Act Reviews (2016). [https://obama.whitehouse.archives.gov/sites/whitehouse.gov/files/documents/nepa\\_final\\_ghg\\_guidance.pdf](https://obama.whitehouse.archives.gov/sites/whitehouse.gov/files/documents/nepa_final_ghg_guidance.pdf).

<sup>7</sup>*Id.*

<sup>8</sup>*Id.*

<sup>9</sup>*Id.*

<sup>10</sup>*Id.*

<sup>11</sup>*See Id.*; Office of Management and Budget, Circular A-4 (2003), <https://obamawhitehouse.archives.gov/omb/circulars/a004/a-4/>.

<sup>12</sup>U.S. Environmental Protection Agency, The Social Cost of Carbon—Estimating the Benefits of Reducing Greenhouse Gas Emissions, Climate Change (2017), <https://19january2017snapshot.epa.gov/climatechange/social-cost-carbon.html>.

<sup>13</sup>U.S. Environmental Protection Agency, FACT SHEET: Clean Power Plan Benefits—Why We Need a Cleaner, More Efficient Power Sector, Clean Power Plan (2015), <https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-clean-power-plan-benefits.html>.

used to calculate SCC overwhelmingly skewed the estimates in favor of cutting carbon emissions.

#### *Domestic costs versus global benefits*

During applications of SCC used to calculate the costs and benefits of U.S. climate regulations, the monetary benefits presented were global, not domestic.<sup>14</sup> That is, in these cost/benefit calculations, domestic costs were compared with worldwide benefits. Even if the estimated benefits are correct—a problematic premise in and of itself for many reasons—such a juxtaposition is misleading, far overstating the true benefits to the United States relative to the costs that the American economy will incur.

Further, the implicit argument made in weighing global benefits versus domestic costs is that any domestic regulation may be justifiable regardless of cost to our economy, if the benefits reaped by citizens of other nations around the globe outweigh the costs to the United States. For precisely this reason, OMB’s Circular A–4—designed to ensure sound regulatory analysis by federal agencies—explicitly states: “Your analysis should focus on benefits and costs that accrue to citizens and residents of the United States.”<sup>15</sup> Previous SCC calculations ignore this directive.

#### *Discount rates*

Prior SCC calculations used favorable discount rates to make the case for greater benefits. Discount rates are used to estimate the value of actions taken today on the economy of the future. Because of inflation and other factors, one dollar’s worth of benefit today is worth less. The higher the discount rate, the lower the projected benefit’s value in the future.

OMB’s Circular A–4 explicitly states that “a real discount rate of 7 percent should be used as a base-case for regulatory analysis.”<sup>16</sup> Previous calculations of the SCC, however, ignored this directive and instead opted to use the lower discount rates of 2.5, 3, and 5 percent.<sup>17</sup> The reason is simple: using a 7 percent discount rate, as directed by OMB, would lead to far smaller—or even negative—values for the SCC, greatly diminishing the calculated “benefits” of reducing carbon dioxide emissions.

#### *Additional concerns*

There are other problems inherent to historical applications of SCC as well, including the use of climate modeling that likely misinterprets the sensitivity of the earth’s climate to increased carbon dioxide emissions; the use of “co-benefits” of reductions of criteria pollutants such as ozone and particulate matter in climate policies; the projection of benefits over timelines that are decades longer than any other time horizons used in federal cost/benefit estimates; and failure to account for the economic benefits resulting from the use of the energy leading to the governed CO<sub>2</sub> emissions.<sup>18</sup>

<sup>14</sup> See Exec. Office of the Pres. Council on Environmental Quality, *supra*, note 6.

<sup>15</sup> Office of Management and Budget, Circular A–4 (2003), <https://obamawhitehouse.archives.gov/omb/circulars/a004/a-4/>.

<sup>16</sup> Office of Management and Budget, *supra*, note 15.

<sup>17</sup> U.S. Environmental Protection Agency, *supra* note 12.

<sup>18</sup> See Exec. Office of the Pres. Council on Environmental Quality, *supra* note 6.

*H.R. 3117*

H.R. 3117 would require certain federal agencies to use certain assumptions as part of their analysis if they consider the social cost of greenhouse gases (carbon dioxide, methane and nitrous oxide) as part of any rulemaking, guidance issuance or justification for an agency action. Specifically, the agencies are required to comply with OMB Circular A-4 (including discount rates), consider only domestic rather than international costs and benefits; and use the most up-to-date and empirically estimated equilibrium climate sensitivity distributions and realistic time horizons for climate change scenarios. As ordered reported, the bill places further restrictions on the use of social cost of greenhouse gases estimates by the Secretary of the Interior and Chair of the Council on Environmental Quality. The bill would also require EPA to submit a report to Congress describing the number of agency actions that have used estimates of the social costs of greenhouse gases since 2009.

## COMMITTEE ACTION

H.R. 3117 was introduced on June 29, 2017, by Congressman Evan H. Jenkins (R-WV). The bill was referred to the Committee on Energy and Commerce and additionally referred to the Committee on Natural Resources. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Energy and Mineral Resources. On July 27, 2017, the Subcommittee held a hearing on the bill. On November 29, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent.

Congressman Greg Gianforte (R-MT) offered an amendment designated 003; it was adopted by a roll call vote of 18 yeas to 15 noes, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 11-30-17

Recorded Vote #: 2

Meeting on / Amendment on: **FC Mark Up on Gianforte\_003 to 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. *"Transparency and Honesty in Energy Regulations Act of 2017"*

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
<b>Mr. Young, AK, Chairman Emeritus</b>				<b>Mr. Westerman, AR</b>			
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. McEachin, VA</i>		X	
<b>Mr. Gohmert, TX, Vice Chairman</b>	X			<b>Mr. Graves, LA</b>			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Brown, MD</i>			
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Hice, GA</b>	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Clay, MO</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mrs. Radewagen, AS</b>			
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Gomez, CA</i>		X	
<b>Mr. McClintock, CA</b>	X			<b>Mr. LaHood, IL</b>	X		
<i>Ms. Tsongas, MA</i>		X		<b>Mr. Webster, FL</b>			
<b>Mr. Pearce, NM</b>	X			<b>Mr. Bergman, MI</b>	X		
<i>Mr. Huffman, CA</i>				<b>Ms. Cheney, WY</b>	X		
<b>Mr. Thompson, PA</b>	X			<b>Mr. Johnson, LA</b>	X		
<i>Mr. Lowenthal, CA</i>		X		<b>Ms. González-Colón, PR</b>			
<b>Mr. Gosar, AZ</b>	X			<b>Mr. Gianforte, MT</b>	X		
<i>Mr. Beyer, VA</i>		X					
<b>Mr. Labrador, ID</b>	X						
<i>Mrs. Torres, CA</i>		X					
<b>Mr. Tipton, CO</b>	X						
<i>Mr. Gallego, AZ</i>		X					
<b>Mr. LaMalfa, CA</b>	X						
<i>Ms. Hanabusa, HI</i>		X					
<b>Mr. Denham, CA</b>							
<i>Ms. Barragán, CA</i>		X		<b>TOTAL:</b>	18	15	



No other amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 18 ayes to 15 noes on November 30, 2017, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 11-30-17

Recorded Vote #: 3

Meeting on / Amendment on: **FC Mark Up on Favorably Reporting 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. *"Transparency and Honesty in Energy Regulations Act of 2017"*

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
<b>Mr. Young, AK, Chairman Emeritus</b>				<b>Mr. Westerman, AR</b>			
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. McEachin, VA</i>		X	
<b>Mr. Gohmert, TX, Vice Chairman</b>	X			<b>Mr. Graves, LA</b>			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Brown, MD</i>			
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Hice, GA</b>	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Clay, MO</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mrs. Radewagen, AS</b>			
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Gomez, CA</i>		X	
<b>Mr. McClintock, CA</b>	X			<b>Mr. LaHood, IL</b>	X		
<i>Ms. Tsongas, MA</i>		X		<b>Mr. Webster, FL</b>			
<b>Mr. Pearce, NM</b>	X			<b>Mr. Bergman, MI</b>	X		
<i>Mr. Huffman, CA</i>				<b>Ms. Cheney, WY</b>	X		
<b>Mr. Thompson, PA</b>	X			<b>Mr. Johnson, LA</b>	X		
<i>Mr. Lowenthal, CA</i>		X		<b>Ms. González-Colón, PR</b>			
<b>Mr. Gosar, AZ</b>	X			<b>Mr. Gianforte, MT</b>	X		
<i>Mr. Beyer, VA</i>		X					
<b>Mr. Labrador, ID</b>	X						
<i>Mrs. Torres, CA</i>		X					
<b>Mr. Tipton, CO</b>	X						
<i>Mr. Gallego, AZ</i>		X					
<b>Mr. LaMalfa, CA</b>	X						
<i>Ms. Hanabusa, HI</i>		X					
<b>Mr. Denham, CA</b>							
<i>Ms. Barragán, CA</i>		X		<b>TOTAL:</b>	18	15	

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

*H.R. 3117—Transparency and Honesty in Energy Regulations Act of 2017*

H.R. 3117 would require federal agencies to use certain assumptions as part of their analysis when they consider the social cost of greenhouse gases as part of any rulemaking or justification for an agency action.<sup>1</sup> For regulatory analysis, federal agencies currently may use estimates of the social costs of greenhouse gases as a way to quantify the costs or benefits of regulations that increase or reduce greenhouse gas emissions; agencies consider those effects along with other costs or benefits arising from proposed regulations. If federal agencies continue to use estimates of the social costs of greenhouse gases to evaluate a proposed rule or action, the bill would require them to:

- Use discount rates consistent with the Office of Management and Budget's (OMB's) Circular A-4 guidance to federal agencies;<sup>2</sup>
- Consider only domestic, rather than international, costs and benefits of the activity; and
- Use only the most up-to-date and empirically estimated climate sensitivity distributions and realistic time horizons for climate change scenarios.

H.R. 3117 also would require the Environmental Protection Agency (EPA) to submit a report to the Congress describing the number of agency actions that have used estimates of the social costs of greenhouse gases since 2009.

The costs of implementing the bill would depend on the extent to which federal agencies use estimates of the social costs of greenhouse gases as part of the analysis of agency actions. Based on a review of regulatory actions by federal agencies in 2017 and using information from EPA, CBO expects that federal agencies will con-

<sup>1</sup>The social cost of carbon, the social cost of methane, and the social cost of nitrous oxide are estimates of the net present value of economic and other damages caused by the climate change resulting from one ton of each of those greenhouse gases being emitted into the atmosphere in a given year. The estimates are expressed in terms of dollars per ton of each gas and use discount rates to combine the cost of damage incurred over long periods into a single, net-present-value estimate of the costs of climate change.

<sup>2</sup>Discount rates are used in cost-benefit analysis to account for differences between cost and benefits over time, allowing for all benefits and costs to be considered in equivalent units at the present time. OMB's Circular A-4 instructs federal agencies to use discount rates of both 3 percent and 7 percent as a default, base-case scenario when performing cost-benefit analysis of all regulatory actions.

tinue to use estimates of the social costs of greenhouse gases in the analysis of rules during the 2018–2022 period. Executive Order 13783, issued in 2017, already requires federal agencies to use OMB’s discount rates and to quantify only the domestic costs and benefits when using such social cost analysis.

To comply with the bill’s requirement that estimates of the social costs of greenhouse gases incorporate current assumptions about climate sensitivity and realistic time horizons, CBO expects that federal agencies would need to update estimates at least once over the 2018–2022 period to account for changes reported in the climate change literature. An interagency estimate of the social cost of greenhouse gases was first issued in 2010, and estimates were updated in 2013, 2015, and 2016. Based on information from EPA about the process for past updates of the social costs of greenhouse gases, CBO estimates that the update would cost \$1 million over the 2018–2022 period.

Enacting H.R. 3117 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3117 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3117 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

## DISSENTING VIEWS

We oppose H.R. 3117 because it is counterproductive to efforts to address climate change, one of the most pressing environmental, economic, public health, and national security issues of our time. Congressional Republicans have gotten used to failing to act to either mitigate or prepare for the harmful impacts of a changing climate, but with this bill they are attempting to go backwards, and take away a scientifically-derived and scientifically-endorsed tool for federal agencies to measure the impacts of their actions on future generations.

Responding to disasters such as storms, floods, and fires is a massive expense for the federal government: over \$350 billion in the past decade, not including the responses to the 2017 hurricanes that battered Texas, Florida, Puerto Rico, and the U.S. Virgin Islands. Climate change will make these costs rise through stronger storms and more intense fires, while adding new costs for infrastructure replacement from rising sea levels, additional health care due to worsening air quality, new efforts to combat invasive species, and considerably more. The Rhodium Group has estimated that by 2040, these costs could add up to \$316 billion each year, increasing to over 1 trillion dollars annually by 2080.<sup>1</sup> It will be up to our grandchildren, and their grandchildren, to bear this burden that we are placing on their shoulders.

Using the social cost of carbon allows us to understand the impacts that our decisions today will have on these generations to come. To avoid doing so is morally unjustifiable. The lack of certainty about the specific impacts of a single ton of carbon dioxide emissions, which the Majority uses to excuse complete inaction on the issue, is both a cop-out and completely irrelevant. No one knows exactly how many years they can add to their lives if they quit smoking, but that doesn't keep people from making the effort. Climate change is already occurring, and blithely ignoring how much worse we are making it by refusing to consider the social cost of carbon is nothing more than whistling past the graveyard.

While the underlying bill is bad in its own right, during markup the Majority adopted an amendment that even eliminates the ability to use outdated estimates of the social cost of carbon for indirect effects, cumulative effects, localized impacts, regional impacts, and project-level review. Understanding cumulative effects of decisions is a bedrock principle of federal environmental review, and "project-level review" would appear to eliminate the ability to do any sort of analysis whatsoever. The amendment simply digs the hole in the sand even deeper for Republicans to hide their heads in.

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<sup>1</sup>U.S. Government Accountability Office, GAO-17-720, *CLIMATE CHANGE: Information on Potential Economic Effects Could Help Guide Federal Efforts to Reduce Fiscal Exposure*, September 2017.

For these reasons, and to protect the health and economic well-being of future generations, we oppose H.R. 3117.

RAÚL M. GRIJALVA,  
*Ranking Member, Committee  
on Natural Resources.*

GRACE F. NAPOLITANO.

ALAN LOWENTHAL.

NANETTE BARRAGÁN.

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